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Title: **Bryan Foods, Inc. and United Food and Commercial Workers (UFCW) AFL-CIO, CLC Local 1991 (2004)**

K#: **400**

Employer Name: **Bryan Foods, Inc.**

Location: **MS West Point**

Union: **United Food and Commercial Workers (UFCW) AFL-CIO, CLC**

Local: **1991**

SIC: **2011**

NAICS: **311611**

Sector: **P**

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**I**  
**TERMS OF AGREEMENT**

This agreement is entered into by and between Bryan Foods, Incorporated, hereinafter called the Company, and the UNITED FOOD AND COMMERCIAL WORKERS AFL-CIO, CLC and ITS LOCAL 1991, hereinafter called the UNION. The terms of this agreement shall be from 12:01 a.m., January 30, 2004, until 12:01 a.m., January 30, 2007.

**II**  
**CONTRACT LANGUAGE CHANGES**

The contract language changes to the agreement that was in effect from 12:01 a.m. January 30, 2004, until 12:01 a.m. on January 30, 2007, are incorporated herein and made a part hereof as though fully set forth.

## ARTICLE 1

### RECOGNITION

1. The Company recognizes the Union as the exclusive bargaining representative of its production and maintenance employees, including truck drivers, regular construction employees and plant sanitation crews, at its West Point, Mississippi, plant, excluding all office employees, professional and technical employees, first-aid nurse, salespersons, buyers, office janitors, temporary, casual and summer employees, administrative personnel, shipping clerks, assistant supervisors, supervisors, and guards. Wherever the masculine or feminine gender is used in this contract, it includes both genders.
2. The specific terms of the contract shall be the sole source of any rights that may be exerted by the Union against the Company. Production, maintenance, and sanitation jobs currently being performed by bargaining unit employees at the West Point facility will not be subcontracted by replacing them on site with the employees of another employer. Contracting out situations, which are currently in place, may continue and increase so long as no current employee is displaced out of the West Point facility as a result. The Company reserves the absolute right to subcontract any and all truck driving operations as well as any and all maintenance designed to support its garage operation at the West Point facility and any and all yard work performed on the West Point facility property. If the Company chooses to use Company employees to perform truck driving or garage maintenance, those employees will be covered by this collective bargaining agreement. Any other subcontracting which may arise will not be finalized until the Union is given notice and an opportunity to discuss it with the Company. This provision shall not be used for the purpose of delay.

## ARTICLE 2

### CHECKOFF

3. During the period of this Agreement, the Company shall deduct from the pay of each employee, who shall authorize it by a signed checkoff authorization in the form set forth in Attachment "A" to this Agreement, or from each employee whose valid and effective authorization has been previously submitted to the Company and who is a member of the

Union as of the date of the signing of this Agreement, and for so long as such authorizations shall remain valid and effective, from the first day payable to such employee each month, the regular monthly Union dues or authorized initiation fee, if certified by the Local Union to be due and owing, and remain the same to the appropriate office of the Local Union at the end of the month in which deducted. The Local Union shall notify the Company in writing of the name of such appropriate officer, the address to which such dues collections shall be sent, and the amount due from each listed employee (or any change in amount since the last prior instruction) at least fifteen (15) days prior to the month in which the deductions are to be made.

4. Political Checkoff - The Company shall deduct an amount from the pay of each employee who is a Union member and who executes an authorization on the standard form used for that purpose by the UFCW Active Ballot Club. The deduction shall be in the amount specified in the checkoff authorization form signed by the employee. The deduction shall continue for each employee during the life of this Agreement unless such employee revokes his or her authorization in writing. The amounts deducted shall be transmitted properly to the UFCW Active Ballot Club in care of the local Union, along with an alphabetized list of the employees whose deducted amounts are being transmitted and the amount transmitted for each. The frequency and time of deductions and procedures to be followed in connection with this checkoff of political contributions will be as close as possible to those followed in connection with the checkoff of Union dues and initiation fees, subject to such modification as may be agreed upon locally, provided that, at the Company's option, deduction and payment may be made less frequently, but at intervals no greater than quarterly. No checkoff shall be made in violation of any state or federal law or regulation.
5. It is further agreed that in the event the Company is subjected to any civil or criminal proceedings as a result of its obligations undertaken pursuant to this Article, the Union shall save the Company harmless and shall reimburse the Company for all expenses, damages, or fines incurred by the Company in defending itself in such proceedings. The Union shall be notified immediately upon the initiation of any such proceedings and the parties shall cooperate and consult with one another in the defense thereof.

## ARTICLE 3

### GRIEVANCE PROCEDURE

6. For the purposes of the Agreement, the term "grievance" is defined as a dispute with respect to the alleged violation by the Company of a specific provision of this Agreement, with the procedure for settlement of such grievance being set forth in Paragraph 6 of this Agreement.
7. The procedure for the settlement of grievances shall be as follows:

**1ST Step** - The aggrieved employee must present the grievance or complaint to the departmental supervisor or assistant supervisor in charge of the employee's shift, with or without the assistance of the appropriate steward within forty-eight (48) hours from the time the aggrieved employee knew of the grievance or complaint. Management's answer to grievances presented in the First Step is due within forty-eight (48) hours.

**2ND Step** - If settlement is not reached in the first step, the Union Grievance Committee may appeal from the first step decision, in which event the grievance shall be submitted in writing to the area superintendent or area manager of the area in which the grievant works and the personnel department. The written grievance must state the facts of the incident on which the claim is based, the clause or clauses of the Agreement claimed to be violated, and the relief sought by the grievant. Irrespective of the timing of the discussions in the first step, the written grievance in the second step must be presented within seven (7) calendar days following the event which is the subject of the grievance. The area superintendent or area manager will give the Company's written answer within seven (7) calendar days after the grievance is presented to him.

**3RD Step** - If the parties fail to reach a settlement in the second step, the Grievance Committee may appeal to the third step of the grievance procedure by preparing a written "Notice of Appeal to Third Step" in triplicate and, within ten (10) days following the Step 2 answer or the time limit for that answer, presenting one copy to the Company's Senior Manager Human Resources and one copy to the Local Union and retaining the third copy. Within ten (10) days following its receipt of a valid "Notice of Appeal to Third Step," the Company shall make its representatives available to meet with the local representatives of the Union in the plant city for the purpose of attempting to settle the

**grievance. Management's written answer is due within ten (10) days following receipt of "Notice of Appeal to Third Step."**

- 8. Failure to comply with the above time limits will mean that grievance is null and void or resolved as requested by the grievance unless the time limits are extended by agreement in writing.**
- 9. The Union Grievance Committee shall consist of not over five (5) members. The Union shall notify the Company in writing of the names of its authorized Local Representative, International Union Representative, President, Assistant Vice President, other Vice Presidents and members of the Grievance Committee. The Company shall not be obliged to deal with any persons other than those so named, and it is understood that those so named are authorized to settle grievances or other matters between the parties.**
- 10. The purpose of the grievance procedure is to provide an orderly means for resolution of questions concerning the application of the contract without interruption of work or harm to the Company's business. Where it is essential due to the nature of the grievance, investigation of a grievance may be done on work-time but shall be limited to the President or his designee after permission has been granted from his immediate supervisor. Such requests shall not be unreasonably withheld. In all other instances matters relating to grievances or other Union business will not be conducted on working time, and Union representatives will not neglect their work or interfere with the work of other employees. In no case does an employee or Union representative have the right to stop work or to stop the work of other employees to take up a grievance or Union matter unless he has the specific permission of the Senior Manager Human Resources.**

#### **ARTICLE 4**

#### **ARBITRATION**

- 11. A grievance with respect to the alleged violation by the Company of a specific provision of this Agreement, which has been properly processed through the grievance procedure but not settled, may be submitted to arbitration as hereinafter provided.**
- 12. The party desiring arbitration shall, within ten (10) days following the Company's Step 3 answer or expiration of the time limit for that answer, notify the other party in writing identifying the grievance and**

requesting arbitration thereon. The party desiring arbitration shall initiate the request for a panel of arbitrators from the Federal Mediation and Conciliation Service. The parties will share equally the FMCS fee for obtaining the panel. Only the Union or the Company may require arbitration of the other.

13. The parties shall jointly furnish a written submission of the issue or issues to be decided to the arbitrator. If the parties are unable to agree upon such submission, each party may file its version of the issue or issues to be decided and, based thereon, the arbitrator shall determine the scope of the arbitration within the limitations set forth in this Agreement.
14. The parties will request a panel of five (5) arbitrators from the Federal Mediation and Conciliation Service from which an arbitrator will be selected to hear any matter which has been processed to arbitration. The parties will alternately strike members of the panel until only one panel member remains. The panel member so chosen will be informed of his selection and the matter scheduled at the convenience of the parties and the arbitrator. In any event, a panel member will be selected within five (5) days following the notice of the desire to arbitrate. The party requesting the arbitration shall make its strike first. Unless the time limits and procedures are herein complied with, the matter shall be considered closed and arbitration waived.
15. The selected arbitrator shall hold a hearing within thirty (30) days following the date of his selection and shall render his decision in writing within thirty (30) days following the date of the hearing. Any case appealed to the arbitrator on which he has no power to rule shall be referred back to the parties without decision and, in any case involving a question of the arbitrability of the issue, the arbitrator shall rule on that question in advance of a hearing on the merits. The arbitrator shall have no authority to add to or detract from the provisions of this Agreement, or any written agreements made supplementary hereto, but shall have authority only to interpret and apply the Agreement. In cases of disciplinary action, the arbitrator shall determine whether or not the Company has violated the contract based upon his findings of fact and shall order a remedy if appropriate. The fees and expenses of the Arbitrator shall be paid equally by the Company and the Union. The expenses incurred by a party shall be borne by that party.
16. The decision of the arbitrator shall be final and binding upon the Company, the Union, and affected employees.

17. In the event the receiving party has asserted that the dispute contained in a request for arbitration is not arbitrable and has moved in court to stay arbitration within ten (10) days after receipt of a request for arbitration, the parties shall proceed to arbitration only after a final judgment of court has determined that the grievances upon which arbitration has been requested raised arbitrable issues and has directed arbitration of such issues.

## **ARTICLE 5**

### **SENIORITY**

18. Seniority shall be plant-wide seniority and shall be measured by continuous service since the employee's last date of hire. Seniority will be applicable to those situations and under those conditions and procedures specifically set forth in this Article 5.
19. In instances in which seniority is applicable, if two or more employees have the same seniority, preference will be given to the one with the greater number of hours of work performed in the six (6) months prior to the matter under consideration. A new employee shall not acquire seniority during his probationary period. If retained as a regular employee upon satisfactory completion of the probationary period, the employee's seniority shall be retroactive to the beginning of the probationary period.
20. The seniority list will be revised as of February 1, June 1, and October 1 of each year. A copy of the list will be given to the President, and a master copy will be kept for reference in the Personnel Office. Challenges may be made to the revised portions of such lists but must be made in writing to the Senior Manager Human Resources within thirty (30) days following distribution to the President, otherwise the right to challenge will be waived.
21. The selection of an employee, either (a) to fill a posted permanent vacancy or (b) to fill available remaining jobs in the department in a layoff, recall, or permanent force reduction, shall be on the basis of factors such as qualifications for the job, past performance, and relevant operating considerations. Where these factors relating to two or more employees are equal, preference will be given to the senior employee for the filling of the job. When no bidder meets the criteria for the job, the Company will make an effort to fill the permanent vacancy from within before hiring from outside.

22. Although all seniority shall be plant-wide seniority, in the case of promotions it shall first be applied between employees within the department in which the vacancy exists. When the seniority list is exhausted in that department, the vacancy shall be posted plant-wide for qualified employees from other departments who have one or more years of seniority.
23. A short term layoff is defined as a layoff lasting not more than six (6) days excluding weekends. During a short term layoff lasting more than one (1) day but less than six (6) days, the Company will as nearly as practical permit the senior qualified employees to displace the less senior employees within the affected department. Employees on short-term layoff are not eligible for guarantee pay during any week they are on short-term layoff.
24. Whenever a short-term layoff occurs, affected employees will choose from a list of available jobs based upon qualifications and seniority.
25. When a layoff exceeds six (6) days, the following procedure will be used:
  1. Provided in all cases that the affected employee can do the job or within a reasonable period learn to do the job, he will first displace the least senior employees in his department on his shift and, if he cannot do that, he will then displace the least, senior employee in his department on another shift and, if he cannot do that, he will displace the least senior employee plant-wide on his shift and, if he cannot do that, he will displace the least senior employee plant-wide.

In a long term layoff, Maintenance employees will have the same bumping rights as production employees described in Section 1, exercising those rights first within the Maintenance departments and then plant-wide.

2. Temporary jobs currently being worked will be made available to the affected employee by seniority and qualifications.
3. If the above is insufficient to provide jobs for the affected laid off employees, those jobs being performed by probationary employees will be made available to the affected laid off employees by seniority and qualifications.
4. It is the intent of this provision that when a layoff exceeds six (6) days that the least senior qualified employees will be on laid off status.

A laid off employee may not displace a less senior employee in a job pursuant to Paragraph 25 of this Article unless he or she has the ability to do the job or within a reasonable period of time can demonstrate an ability to do the job without any training.

If, as a result of exercising rights to displace employees under paragraph 25, it appears that a department receiving displaced employees will be depleted to the point where productivity and/or efficiency would be adversely affected, then the parties agree to meet and discuss to arrive at a resolution of the problem that will maintain productivity and efficiency while at the same time honoring to the greatest extent possible the displacement rights of employees.

26. In the event of a layoff, the Company will give the union as much notice as is possible under the circumstances.
27. Employees displaced from their regular jobs due to a layoff have the right to return to their full time jobs when they become vacant up to twelve (12) months.
28. When the Company determines that a permanent vacancy exists, such job will be posted for forty-eight (48) hours. Employees must sign the posted sheet within that period to have any right to consideration for the job. An employee who fails to sign the bid sheet as required shall have no right to consideration for the job, but such failure shall not preclude his selection by the Company for the job if he is qualified. Selection and assignment to fill permanent vacancies shall be made within a reasonable period of time. However, permanent assignments may be postponed while the job is used temporarily for training programs up to one hundred twenty (120) days. This procedure is not intended to preclude the Company from making job reassignments of personnel, but the Company will not fill a permanent vacancy by promoting a person from a lower rated job by a Company initiated reassignment until the bidding procedure for the job has been completed and has not resulted in filling the job. Where an employee has been moved into another job as a result of a bid or otherwise, the Company shall return the employee to his former job if it has determined that the employee is not satisfactorily performing the new job, provided such return is no earlier than ten (10) days and no later than ninety (90) days from the initial move.
29. It is understood that if an employee wishes to be considered for a job bid and he is absent from work at the time the bid sheet is posted, he

will have forty-eight (48) hours from the time he returns to work from the absence to inform the personnel office that he wished to be considered for the previously posted job bid. The Company will make a good faith effort to assign the successful bidder to a permanent vacancy within fifteen (15) working days of his selection. In cases where the assignment is not made within the fifteen (15) working days, the Company will meet with the Union representative to discuss the reasons for the delay. The Company will keep and make available to the Union an Aging Report showing placement of successful bidders. Where an employee has been absent for a considerable period of time, the Company and Union will meet to discuss whether that individual shall be considered for the previously posted job bid.

30. A new training program for production employees will be implemented on a departmental basis. Employees will be allowed to sign up in January of each calendar year for two jobs in grade four (4) or higher for which they want to be trained. The Company will offer training to as many of these signees, on a seniority basis, as practical in that calendar year. Sign up in each department will be January 1 through January 31. The training program will begin February 1 and continue through December 31.

If a job bid occurs and a senior employee who has been fully trained signs the bid, he will be awarded the position. If the Company fails to train any employee within a reasonable period and a bid becomes available for a trainable employee (one who signed to be trained), then the trainable employee with the seniority will be given a trial period in the job. If successful in the trial period, the employee will be awarded the job.

31. In the general maintenance, construction, auto and truck maintenance departments, the classes of mechanic are not jobs, but rather are levels of mechanical work competency or skill. Job bids for pay classes six (6) through eight (8) in maintenance will be posted plant-wide, and selection of the successful bidder will be in accordance with the same criteria for general bids as provided in Article 5, Paragraph 21. For maintenance vacancies in pay classes nine (9) and above, the Company will post within the department where the vacancy exists to allow senior qualified employees to bid within their department. The provisions of Article 8, Wages, Paragraph 53, shall not apply to maintenance bids for any pay classes. Movement from one pay class to another will be based upon Company evaluation of the individual's progress and skill. Maintenance new hires and transfers shall begin at a minimum of a pay class 6.

Maintenance employees will be allowed to down bid to an open position under the following conditions: 1) the employee bidding must have fifteen (15) or more years of service at the time of the bid; 2) there will be no more than one downward bid (out of a department) per department per calendar year; 3) there must be a qualified replacement currently available to fill the spot vacated by the downward bidder; and 4) an employee exercising a downward bid must remain in his new position for one year from the time he actually occupies the new position. Paragraph 35 does not apply to maintenance employees.

32. Consistent with efficient operations, the Company may utilize training programs or trial periods. An employee's prior training shall be a proper consideration in selection for filling a vacancy.

It is understood that entry into any training program will be determined by seniority and that continued participation will be determined by acceptable, continuous progress.

33. a. It is the intent of the Company to work employees in the department to which they bid. However, where a temporary transfer outside of a department for the convenience of the Company becomes necessary, the Company will first seek out volunteers within the department from which the employee is to be transferred based on seniority. If there are no volunteers or insufficient volunteers, then the trained employee(s) having the least seniority in that department shall be selected for the temporary transfer. No employee shall lose seniority as a result of such temporary transfer. The Company will not abuse the right to temporarily transfer employees and will not make such transfers in an arbitrary or capricious manner.
- b. Any employee whose job has been transferred to another department shall have the option to follow the job to such department and carry his full seniority to the new department, or remain in his original department and exercise his seniority to displace the least senior employee in the original department. If an employee exercises his option to follow his job to a new department and decides within fifteen (15) days of occupying his job in the new department to return to his original department, he may do so. In either case where the employee remains in his original department or returns within fifteen days from the new department, he must have the ability to do the job of the least senior employee or within a reasonable period of time demonstrate an ability to do the job.

- c. An employee whose job is permanently eliminated will be given the opportunity to displace the least senior employee in the department, provided he or she has the ability to do the job or within a reasonable period of time can demonstrate an ability to do the job.
34. When an employee is awarded a job involving his movement across departmental lines as a result of his bid, he shall have the right to bid on jobs as often as desired. When an employee is temporarily laid off from his department, he shall be able to bid in his new department as well as plant-wide.
35. When employees with retained seniority rights are on layoff, new employees will not be hired until such laid off employees have been considered for the vacancies in the same manner as set forth in Paragraph 21.
36. In the event the Company notifies the Union that it is permanently eliminating a department, the Company agrees to meet with the Union and discuss the status of any affected employee who has retained seniority.
37. Lateral or downward bids will be permitted but it is recognized that lateral and downward movements can create greater training burdens and interference with efficient production due to loss of a skilled person from a particular job or department. The Company will give consideration to awarding a job on the basis of a lateral or downward bid if in its judgment there is good cause without undue burden on operations. Downward or lateral bidding within a department shall be permitted only under the circumstances and under the conditions set forth in Paragraphs 38 and 40.

When a Class 2 vacancy has been posted and the vacancy has been filled as a result of a lateral bid, the vacancy or vacancies resulting from the lateral transfer need not be posted and bid after the Company has posted three (3) such vacancies.

In addition, it is understood by the parties that before the Company hires from outside to fill a vacancy in Job Classes 2 through 6, employees desiring to exercise a shift preference will be given the opportunity to move laterally or downward to another shift. Each department will be allowed a total of three shift preference moves per calendar year.

38. This paragraph is a special provision to provide additional opportunities for employees to move from one shift to another by permitting lateral and downward movement limited to the specific conditions set forth in this paragraph. Employees in the same department but on a different shift from the shift on which the job is declared vacant may bid for the job, even though the job will not result in a promotion for them under the following limits:

Classes 2 - 6 employees may bid laterally and downward to a vacant job.

Classes 7 and above employees may bid laterally to any job in the same class.

The award of the job shall be on the basis of the same factors and conditions set forth previously in Paragraph 21 for the filling of vacancies. If an employee bidding under the special provisions of this paragraph is awarded the job, the company may delay movement of the employee to the other shift until a replacement for him or her is trained and can perform the job to Company standards. An employee who changes shifts under this paragraph may not do so again within twelve (12) months.

39. In the event that a day operation is changed to night shift, the Company shall endeavor to staff the night shift for this operation with the most junior persons in the department on days who are currently qualified to do the jobs. The Company may make job assignments to insure qualifications and efficiency for operations on all shifts and may change job assignments of remaining day shift employees for that purpose irrespective of job class or seniority.
40. Downward movement will be allowed within a department based upon a bid for a permanent vacancy under the following conditions: a qualified replacement is currently available to fill the job from which the bidder is seeking to move; the bidder has greater seniority than other bidders and is qualified in the Company's judgment to perform the vacant job. This downward movement shall be limited to situations in which the employee has good and sufficient reason such as medical, length of service, and/or working conditions to the satisfaction of the Company. An employee who successfully bids down may not bid on any other job for a period of one year.
41. An employee's seniority shall be lost and his employment considered terminated by:

- a. Discharge for just cause.
  - b. Failure to return from layoff within five (5) working days after written notice is sent by the Company to the employee's last-known address on the Company's books unless excused in writing by the Senior Manager Human Resources. Actual notice to the employee of his recall by any other means shall satisfy the terms of this provision. In the event an employee shall, within five (5) days of the date of the notice herein referred to, notify the Company that he desires to return to work, he shall be granted an additional two (2) days over and above the original five (5) days within which to report to work.
  - c. Voluntary termination of employment.
  - d. Failure to report at the termination of leave of absence on the first scheduled day following the expiration date of such leave of absence, unless excused in writing by the Senior Manager Human Resources.
  - e. Engaging in a gainful occupation while on leave of absence, which shall also be cause of discharge.
  - f. Absence from work for three (3) consecutive working days without an excuse satisfactory to the Company, and such will be considered as a voluntary quit. (This is not to be construed as permission to be absent up to three days without disciplinary action.)
  - g. Separation from the Company's payroll for any reason for a length of time equal to his length of service with the Company, and in any case by a separation from the active payroll of more than twenty-four (24) months. Although seniority protection is for twenty-four (24) months, it is understood that if the employee wishes to continue health insurance coverage after the twelfth (12) month, he may do so only if he pays the entire premium for the health insurance coverage whether for single coverage or dependent coverage.
42. Changes in method of computation of seniority set forth in this agreement shall not have retroactive effect. The Company will issue new seniority lists as soon as possible following the signing of this Agreement and challenges must be made thirty (30) days following issuance.

## ARTICLE 6

### PENSION

43. Retirement: The Company shall maintain a pension plan during the term of this Agreement for retirement purposes for past and future services. Effective January 30, 2003, the retirement benefit will be \$25.50 per month for each year of service. Effective January 1, 2006, the retirement benefit will be \$26.50 per month for each year of service. Beginning in 1991, the Company will provide a retirement option at the aforementioned benefit levels for any employee with a combined length of service and age equal to or greater than eighty-five (85), commonly referred to as the Rule of 85.
44. The Company will provide a non-matching 401(k) Program to be implemented July 1, 1991.
45. Disability: Any employee who becomes totally and permanently disabled is eligible to be paid the total contributions which are credited to his account in the pension fund to provide his current service pension benefit. Benefit payments will be made in accordance with the provision of the plan and will be paid whether or not the employee is eligible for social security. Determination of the employee's eligibility for this disability benefit will be made by the pension committee who will seek the advice of the Company's physician. If the employee is dissatisfied with the decision of the pension committee, an independent physician agreeable to both parties will determine the eligibility.
46. The Company may provide these retirement and disability benefits in whole or in part under the pension plan already in effect or in whole or in part by other plans selected by it. The Company's obligation under this Article are subject to the provision that the Company's cost in any subsequent year will not exceed the cost of providing these benefits during the Company's fiscal year ending in 1977, and should the cost exceed such amount, the Company may alter the plan to preserve the best and soundest plan within the cost limits.
47. The benefits provided in the paragraphs captioned "Retirement" and "Disability" above are contingent upon approval of the proposed changes in the Company's pension plan by the Internal Revenue Service and other regulatory agencies or courts, and participation in the plan, eligibility, benefits and all matters relating to the plan shall be governed by the specific provisions set forth in the plan and trust agreement.

Contributions to the pension plan shall be made only during such periods of time as said plan qualifies as a tax exempt trust under the provisions of Section 401 of the Internal Revenue Code.

48. All employees retiring will be eligible to join the Sara Lee Retiree Medical Plan. Contributions for coverage will be based upon years of service with Bryan. Retiree Medical is provided subject to the terms and conditions of the Sara Lee Retiree Medical Plan. Employees hired after February 1, 2004 will not be eligible to participate in the Sara Lee Retiree Medical Plan.

## ARTICLE 7

### HOLIDAYS

49. The following days shall be observed as paid holidays during the term of this Agreement: New Year's Day, Dr. Martin Luther King, Jr.'s birthday (normally observed the third Monday in January), Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and one-half day New Year's Eve, and the employee's birthday.
50. Holidays which fall on a Saturday or Sunday will be observed on either Friday or Monday as designated by the Company, except that an employee's birthday shall be observed on the day on which it falls.
51. Employees who are not required to work on an observed holiday (or shift designated as a holiday shift where applicable) and who qualify under the provisions set out below will receive eight (8) hours' pay at their straight-time hourly rate.
52. Employees who are required to work on an observed holiday (or shift designated a holiday shift where applicable) and who qualify under the provisions set out below shall receive the above described holiday pay in addition to double time for the hours worked on the holiday. If an employee is scheduled to work his birthday and works on his actual birthday, he will be paid double time for all hours worked on his birthday in addition to holiday pay. Holiday pay for hours not worked shall not be counted as hours worked for any purpose. During a holiday week, weekly overtime will be computed for all hours worked in excess of forty hours less the number hours observed that week as a holiday (but not to exceed eight holiday hours in any one work week) for employees eligible for the holiday.

53. A regular, full-time employee shall be eligible for holiday pay provided he has completed the probationary period, is in an active working status with the Company at the time of the holiday, and has worked his last scheduled shift before the holiday and first scheduled shift after the holiday and on the holiday if scheduled, unless such absence is approved by the Senior Manager Human Resources. An employee who is in the hospital the day before or the day after a holiday will receive holiday pay provided he supplies verification of the hospital stay and further provided he meets the other conditions established for receiving holiday pay which are not inconsistent with this provision. When an employee has a death in his/her immediate family the day before or the day after a holiday, he/she will be paid both holiday and funeral pay. An employee who is serving on jury duty or is on a short term layoff when a holiday is observed will be eligible for holiday pay provided he has worked his last scheduled shift before jury duty or short term layoff and his first scheduled shift after jury duty or short term layoff, whichever is applicable. In applying these requirements, if an employee is late to work on any of the above enumerated shifts, the Company will have the option of refusing his services, but if he is permitted to work and fully performs the assigned work, he will be considered to have satisfied the work requirements for that shift.

## ARTICLE 8

### WAGES

54. The minimum rates during the term of this Agreement are as set forth in the attached Wage Rate Schedule.
55. New employees hired during the term of this Agreement will be paid at \$8.50 per hour for six (6) months at which time they will be paid the rate of the job they are performing pursuant to this Agreement.
56. Regular employees permanently transferred to a higher rated job up to and including Class 4 shall be raised to the rate for the job within thirty (30) days following the transfer and those transferred to higher rated jobs in Class 5 and above shall be raised to the rate for the job within ninety (90) days following the transfer. An employee temporarily transferred to, and working on, a higher rated job for a period of two continuous hours or more in a work day shall receive the higher rate for all work performed on that work day provided he fully performs the job to the Company's standards (this provision shall not apply to training periods or to "extra" or "utility" employees or to provide additional manpower on other jobs as needed).

57. When an employee is called in to work at a time not previously scheduled for him (either a regular shift or overtime), he will be guaranteed work equal to two hours at his straight time pay. Such work shall be in his regular department or the department for which he was called in. The call in guarantee applies only when the employee has already left the plant grounds and does not apply to shift changes or to situations when the employee is called in early or held over after a shift of work.
58. Unless previously notified, an employee who reports to work as scheduled shall be guaranteed four (4) hours of work or four (4) hours of pay at his regular rate of pay. This guarantee will not apply where acts of God or emergency situations beyond the control of the Company occur.
59. The following hourly increases are effective on the dates shown below:

<u>January 26, 2004</u>	<u>\$ .35</u>
<u>January 31, 2005</u>	<u>\$ .30</u>
<u>January 30, 2006</u>	<u>\$ .30</u>

All Class 2 Line Service positions will be paid Class 3 for holidays and sick pay benefits calculations.

60. The Company will place paychecks in envelopes or supply them in some other confidential manner as soon as possible.

## ARTICLE 9

### TRUCK DRIVER ALLOWANCES

61. On outbound runs the Company will pay either the jumper/pull-off service or the driver if he unloads, but not both. When the driver unloads, he will be paid at the rate of \$2.50 per thousand pounds. On backhauls, the Company will pay the driver \$1.45 per thousand pounds whether or not the driver loads.
62. Bob Drivers will be paid a Class 9. Bob Drivers will be paid a lump sum of \$20 each way for pulling an extra trailer behind their truck to and from West Point to New Orleans.
63. Driver meal allowance: Breakfast - \$6.00; Lunch - \$6.00; and Supper - \$6.00.

Driver meal allowance will be paid at the rate of \$6.00 for each meal under the circumstances set forth below:

A driver will be allowed one (1) road meal allowance per day provided there is no layover.

In the event of a layover, one (1) meal allowance will be given prior to the layover in keeping with "a." above.

For one day runs only, the meal allowance shall be \$10.00.

64. The Company agrees to discipline truckers, where appropriate, within thirty (30) days of an accident, unless because of unusual circumstances the investigation cannot be completed within thirty (30) days, in which case the parties will mutually agree upon an extension of time to administer discipline.
65. The parties agree to abide by the memorandum dated April 29, 1994. Item 3, First In - First Out Dispatch System for the life of this Agreement unless changed after first meeting with the Union to discuss changes.
66. Over the road drivers:

1. Mileage pay, per mile:

1-24-00	1-29-01	1-28-02	1-27-03
.2980	.3066	.3137	.3209

2. Stop-off rate to load or unload:

\$16.50 per stop-off.

The driver will receive both the stop-off rate and the unloading allowance.

3. Trip pay: \$12.00 per trip dispatch from West Point, MS and return.
4. Trailer Interchange:

Where a driver is dispatched to drop and hook up a trailer at an intermediate point away from the driver's home terminal, he will be paid \$10.00 each time a pin is pulled.

5. Motel Allowance:

\$20 on required layover in tractor or cost of actual motel. Motels will be designated by the Company.

6. Delay Time on Loadback Dispatch:

Will be paid if a driver is not dispatched on a load within twelve (12) hours of the time the driver checks in - unloaded from the driver's last stop. Delay time will be paid at the rate of \$17.78 per hour.

The driver will be paid a maximum of eight (8) hours for the 24 hour waiting period. The driver will be paid a maximum of eight (8) hours for each 24 hour waiting period thereafter.

7. Breakdown Delays:

In case of breakdowns, the driver will be paid \$17.78 for all time spent on such delays starting after the second hour, but not to exceed eight (8) hours out of every twenty-four (24) hour period. Each breakdown pay will be paid, provided the employee reports the breakdown to the home terminal dispatch as soon as possible after the breakdown.

The above provision will not apply if the employee has already driven seven (7) hours or more. In such cases, the driver must take an eight (8) hour break.

8. Truck Drivers will be paid holiday pay at the rate of \$17.78 for eight hours. If a driver works the holiday in addition to his holiday pay, he will receive his mileage allowance and pay for all hours worked on the holiday at the \$17.78 hourly rate but shall not receive double time.
9. The Company will establish a procedure for working drivers back into the dispatch lineup where the driver is inadvertently left out or has requested to be taken out of the lineup. Procedure is subject to Union approval before implementation.
10. The Company will continue to exercise its right under paragraph 2 with respect to meeting its requirement to ship products by truck. The Company will seek to ship its products by the most economical method while at the same time exercising its best effort to utilize bargaining unit truck drivers.

67. The Company will issue appropriate tools to truck drivers under procedures and rules adopted for such issuance.
68. If a driver loses his/her license, the driver may replace a temporary employee in the plant. If there are no temporary employees, the driver will replace the least senior employee in the plant.
69. The Company believes there is no job so important and no service is so urgent that we cannot take time to perform our work safely. The Company recognizes truck drivers are responsible for handling company equipment as well as equipment owned by our customers. Truck drivers are expected to follow all employee rules for safe conduct. Safety issues encountered off Company property should be reported immediately to the Company's dispatch office.

## ARTICLE 10

### OVERTIME AND PREMIUM PAY

70. One and one-half time will be paid for all hours worked over forty (40) in a payroll week, but in no case shall there be included in the computation for the determination of this weekly overtime premium any hours otherwise paid for at overtime or other premium rates (except night shift differential). Plant employees shall receive one and one-half time for all hours worked over eight (8) in a workday. (This applies in a holiday week as well as any other week.) Daily overtime premiums shall not apply so as to duplicate or pyramid overtime and/or premium pay (except night shift differential).
71. Production employees will be paid two (2) times their regular rate of pay on Sunday provided Sunday is the seventh (7TH) consecutive day worked by the employee.
72. If a maintenance or sanitation department is scheduled to work seven (7) days in a workweek, any employee in that maintenance or sanitation department who works the Sunday will receive double time pay. (At least one employee per day must work in the maintenance or sanitation department to qualify the department for Sunday double pay.) Then anyone in those maintenance or sanitation departments working on Sunday will be paid double time. When a sanitation department has worked six days in a work week, the Sunday work for the sanitation department will be offered on a seniority basis and if not accepted by the senior employee, the junior employee will be required to work on Sunday. The same procedure or approach will be followed

in a sanitation department for work on a recognized holiday. Other weekend work that is not double time will be scheduled to qualified senior employees provided they have the least hours worked (Monday - Friday) of that work week.

73. It is understood that overtime is necessary to the Company's business and such work is a condition of employment. Where an employee has been working heavy overtime, preferential consideration will be given to him providing relief from additional overtime, and the Company will give consideration to a reasonable excuse of an employee to be excused from overtime, provided that it is understood that other qualified employees are available to perform the work efficiently and economically.
74. When it becomes necessary to have employees work double shifts, the Company will first solicit volunteers within the affected department based on seniority and qualifications to do the job. If there are not enough volunteers, the Company will require the least senior employee(s) in the department with qualifications to perform the work.

## ARTICLE 11

### HEALTH CARE AND LIFE INSURANCE

75. The following Preferred Provider Organization (PPO) Plan will be as follows.

Key Features:	In Network	Out of Network
Calendar Year Deductible:		
Individual	\$300	\$ 600
Family	\$900	\$1,800
Co-payment:		
Company Pays	80%	60%
Employee Pays	20%	40%
Out-of-pocket Maximum:		
Individual	\$1,200	\$3,000
Family	\$2,800	\$6,000
Office Visit:	\$15	60%
Preventive Care (\$500 maximum per calendar year)	100%	60%

The out-of-pocket maximum for in network will increase June 1, 2006. The out of network out-of-pocket maximum will not change at that time.

**IN NETWORK OUT-OF-POCKET MAXIMUM - JUNE 1, 2006**

Individual	<u>\$1750</u>
Family	<u>\$3500</u>

Details of the PPO plan are listed in the Summary Plan Description booklet.

**Reasonable and Customary Charges:**

Your plan pays for the reasonable and customary fees based on the prevailing rates for similar services in the same geographic area. However, if you use a PPO, you will not have to worry about reasonable and customary rates.

- a. **Dependent Coverage:** Dependents include your wife or husband and your unmarried children from birth to 19 years of age, or to age 23 if a full-time student.
- b. **Dental Plan for employees and dependents:** 100% coverage for preventive treatment, no deductible required. \$50 deductible per calendar year with a family deductible of \$150. Plan pays 80% for restorative charges up to \$1,000 per person per year. Details of dental provisions are listed in the Summary Plan Description booklet.
- c. **Prescription Drug Card:** Co-pay for prescriptions are as follows:

**EFFECTIVE FEBRUARY 1, 2004**

Generic	<u>\$10.00</u>
Name Brand	<u>\$20.00</u>
Non Preferred	<u>\$30.00</u>

**EFFECTIVE JUNE 1, 2006**

Generic	<u>\$15.00</u>
Name Brand	<u>\$25.00</u>
Non Preferred	<u>\$35.00</u>

**Mail Order Program:**

**EFFECTIVE FEBRUARY 1, 2004**

Generic	<u>\$10.00</u>
Name Brand	<u>\$20.00</u>
Non Preferred	<u>\$30.00</u>

**EFFECTIVE JUNE 1, 2006**

Generic	<u>\$15.00</u>
Name Brand	<u>\$30.00</u>
Non Preferred	<u>\$50.00</u>

- d. Lifetime Maximum: \$5,000,000.
- e. Cost Savings Improvements: Hospital pre-certification required.
- f. The Plan will have a non-duplication of benefits provision.
- g. Health Care Insurance Employee Weekly Contributions  
(Based on current premium rates)

February 1, 2004	\$17.00
June 1, 2005	\$19.38

- h. The Company will provide \$20,000 group term life and AD&D insurance, subject to eligibility requirements, at no cost. Employees may purchase an additional \$20,000 coverage at Company cost.
- i. The Company agrees to provide to all employees covered by this Agreement the opportunity to enroll in the Sara Lee Vision Plan. The terms and conditions of the Plan including the right to modify, change, alter or discontinue are solely vested with the management of Sara Lee Corporation.
- j. The Company will provide to all employees covered by this Agreement the opportunity to enroll in a long term disability plan. The terms and conditions of the plan including participation level requirements and the right to modify, change, alter or discontinue are solely vested with the management of Bryan Foods.

## ARTICLE 12

### SICKNESS BENEFIT PLAN

- 76. The Company agrees that during the life of this Agreement it will maintain a sickness benefit plan which will pay eligible employees with one year of continuous service, sixty percent (60%) of their regular base rate times forty (40) per week for a period of up to twenty-six (26) weeks. In case of illness such benefits will commence on the eighth day and in the case of an accident on the first day. Benefits shall not be applicable to injuries covered by Worker's Compensation. Proof of disability from a licensed medical doctor must be furnished as required by the Company and the Company reserves the right to require examination, at Company expense, by a Company selected doctor whose decision in such case shall be controlling. The Company may

make such changes in the plan as necessary to keep the cost of such plan within the 1977 cost with consideration for the additional percentage increase in wage rates, which would automatically increase such costs.

77. The Company may require employees returning to work after an absence due to illness to be certified as being ready for work by a doctor appointed by the Company and may require a physical examination at any other time at the Company's expense.
78. For compensable work related injuries, employees will be paid up to eight (8) hours of their regular rate on the day of injury. Mileage will only be paid for any subsequent doctor visits.

### ARTICLE 13

#### VACATIONS

79. A regular, full-time employee shall be entitled to a paid vacation on the following schedule:

Continuous Service (As of January 1)	Vacation Period
1 Year to 3 Years	1 Week
3 Years to 10 Years	2 Weeks
10 Years to 20 Years	3 Weeks
20 Years to 25 Years	4 Weeks
25 Years and over	5 Weeks

80. a. Vacation eligibility for the current year is fixed as of January 1 of that year. To be eligible for vacation pay in the current year, an employee (1) must have been in a current employment status on January 1 of that year, and (2) must have worked 1,400 hours during the previous calendar year. Current employment status for this purpose means any current employee whether actively at work or not. Vacation pay will be based on the average of the previous calendar year's earnings or forty (40) straight time hours whichever is greater. Pro-rata vacation will be based on the average of the previous calendar year's earnings or forty-five (45) straight time hours whichever is less. For employees who fall below the 1400 hour requirement for vacation eligibility, credit will be given for hours of work missed due to a short-term layoff, provided they worked all available hours offered during the year.

- b. Vacations will be prorated for the First and Third calendar year of employment. In the calendar year in which an employee's First and Third anniversaries fall, the additional week of vacation will be prorated on the basis of calendar months worked that year from the employee's anniversary date to the end of the calendar year. This additional vacation will be paid in lieu of actual time off in order to facilitate vacation scheduling. In lieu of the prorata, employees shall be eligible on January 1 of the year in which their tenth and twentieth anniversaries fall to the additional vacation set forth for that length of service.
- c. Vacation pay will normally be paid on the employee's last work day prior to the vacation, provided the employee has followed the proper procedure for obtaining vacation pay at that time. Vacation pay may also be paid when the employee terminates; when the employee is laid off for a period exceeding the employee's accrued vacation; or with the Company's consent to such payment, when the employee is on a recognized leave such as illness. In no case shall vacation pay be required for any day for which the employee receives any other compensation such as sick pay, disability pay, worker's compensation or unemployment compensation, or while the employee is not at work during a strike.

81. Vacations for different years may not be taken consecutively, nor may a vacation be carried over to a succeeding year unless permission to do is granted by the Senior Manager Human Resources. Vacations may be scheduled throughout the year but are subject to the approval of the Company. In the event that two or more employees cannot be released at the same time, the employee with the longer service will be given preference. Vacation may not be scheduled for periods of less than a week at a time without the approval of the Senior Manager Human Resources.

## ARTICLE 14

### FUNERAL ATTENDANCE

82. When regular, full-time employees on the active payroll are absent from work for the purpose for arranging for or attending a funeral of a family member of their immediate family as defined below, the Company shall pay for eight (8) hours at the regular rate of pay for each day of said absence, up to a maximum of three (3) days, provided:
- 1. Employee notifies the department supervisor of the purpose of this absence on the first day of such absence.

2. The day of absence is one (1) of the three (3) days commencing with the day of such death or the day immediately following the day of such death.
3. The absence is the day during which the employee's gang worked, on which day the employee would have worked but for the absence.
4. The day of absence is not later than the day of such funeral, except for making funeral arrangements, at which time additional unpaid days may be allowed and permission will not be unreasonably withheld.
5. Employees will furnish proof satisfactory to the Company of such death, their relationship to the deceased, the date of the funeral, and the employee's actual attendance at such funeral.
6. Immediate family, for the purpose of this provision, consists of the employee's mother, father, mother-in-law, father-in-law, spouse, children, step-children, full brothers and sisters, grandparents, and grandchildren.
7. Pay for funeral leave will not consist as hours worked for purposes of determining overtime.

## ARTICLE 15

### JURY DUTY PAY

83. Any employee with more than ninety (90) days seniority who is called for jury duty shall be paid for time lost from his regularly scheduled work shift by reason of such service at his regular straight-time rate of pay (less the amount received for his service on the jury) up to eight (8) hours per day, subject to the conditions outlined below.
  - a. Employees must notify their supervisor within twenty-four (24) hours after receipt of notice of selection for jury duty.
  - b. Employees selected for jury duty who are on other than the day shift shall be assigned to the day shift on days they are required to serve as jurors.
  - c. Any plant employee who reports for jury duty and is released must

report for work if his shift has not worked more than six (6) hours. A truck driver who is released from jury duty by 12:30 p.m. must report to his supervisor and will be assigned available work for the remainder of the day.

- d. In order to be eligible for such payments, the employee must furnish a written statement from the appropriate public official showing the date and time served and the amount of pay received.
- e. Notwithstanding the foregoing provisions, the Company reserves the right to request the appropriate court authority to excuse an employee from jury service in the event such employee is working on a key operation in the plant where his absence would cause hardship because no qualified and trained replacement is available.

## ARTICLE 16

### BULLETIN BOARD

84. The Company will provide space on a plant bulletin board for the posting of official notices of Union meetings for employees covered by this Agreement. Such notices will be posted only in the designated space and only by the Company's Senior Manager Human Resources or his representative. No other Union notices will be posted without the written approval of the Company's Senior Manager Human Resources or his authorized representative.

## ARTICLE 17

### UNION REPRESENTATIVES

85. The Union shall notify the Company in writing of its duly authorized local representative and/or the Union's authorized international representative. The Company will not be obliged to deal with any Union representative except those so designated by the Union.
86. Union business will not be conducted on working time or on Company premises. Union officials, agents, or other representatives will not neglect their work or interfere with the work of other employees. In no case does a Union official, agent, or representative or any employees have the right to stop work or stop the work of other employees to take up a grievance or Union matter unless he has the specific permission of the Senior Manager Human Resources. Except as required by his

normal duties as an employee of the Company, no representative of the Union shall come on Company premises without first securing the specific permission of the Senior Manager Human Resources or in his absence his properly designated representative.

## **ARTICLE 18**

### **NO STRIKE - NO LOCKOUT**

87. For the duration of this Agreement there shall be no strikes, stoppages, slowdowns, sitdowns, picketing, boycotts, or other interruption of or interference with the operations of the Company for any reason including such action in sympathy for others.
88. The Company shall not lock out employees for the duration of this Agreement.
89. Neither the violation of any provision of this Agreement nor the commission of any act constituting an unfair labor practice, or otherwise made unlawful, shall excuse the employees, the Union, or the Company from their obligations under the provisions of this Article.
90. Employees who engage in conduct prohibited by this Article shall be subject to disciplinary action by the Company and only the question of the employee's participation in the prohibited conduct may be reviewed under the grievance procedure.

## **ARTICLE 19**

### **PROBATIONARY PERIOD**

91. All newly hired or rehired employees shall be considered as probationary until they have worked forty-five (45) days in a continuous period of employment. The Company shall have the right, upon giving notice to the Union and the employee to extend the probationary period of the employee for an additional period not to exceed forty-five (45) days of work (such notice will include the employee's address). During the probationary period, the Company may discharge the employee and such discharge shall not be subject to the grievance and arbitration procedure.

## ARTICLE 20

### MANAGEMENT FUNCTIONS

92. Except as otherwise specifically provided in this Agreement the Company retains the right to exercise all the rights and functions of management and such exercise shall not be subject to the grievance procedure, arbitration, or prior negotiation during the term of this Agreement.
93. The management rights include, but are not limited to, the following:
- General management of the plant and direction of the work, including the right to select, hire, and assign personnel, to discharge, suspend, or otherwise discipline employees for cause, to demote, transfer, or promote, to assign shifts, to determine the work needed, and to lay off; the selection of materials, products, equipment, methods and schedules; the setting of standards of quality, production, and efficiency; the determination of financial policy, accounting procedures, prices of goods sold, customer relations policies, facilities to be used, size of the workforce, qualifications for jobs, job duties and classifications; the establishment of work schedules and size and distribution of the workforce; the transfer of work from one job, plant, department, or division to another, and the allocation of work to persons within or without the unit or the cessation of operations in whole or part; the establishment of safety, health, and property protective measures for the plant and of work rules and personnel policies.
94. The failure of the Company to exercise any power, function, authority, or right reserved or retained by it, or the exercise of any function, authority, or right in a particular way, shall not be deemed a waiver of the right of the Company to exercise such power, function, authority, or right, nor preclude the Company from exercising the same in some other way not in conflict with the specific provisions of this Agreement.
95. The failure of the Company to invoke the strictest discipline for the infraction of a rule on one occasion shall not affect the right of the Company to invoke a different or stricter discipline for a later or different infraction of the rule.
96. The Company shall not use leadpersons in excess of an average of one per shift per department. By "average" it is understood that some shifts or departments may have no leadpersons while others may have more than one.

97. It is the Company's intent not to have supervisors performing bargaining unit work except as necessary to meet production requirements, maintain or repair equipment, or in cases of emergencies or to train employees.
98. It is not the Company's intention to fill regular job vacancies with temporary employees. Temporary employees will be employed for temporary jobs, but it is recognized that temporary employees may be offered a vacancy which occurs in a regular job and will be subject to the normal employment procedures and job conditions at such time. Temporary employees who work at least some time each week for a continuous three month period of employment will be classified as permanent employees. However, if at the time the temporary employee's continuous three month period of employment is to expire and the employee has not worked at least ten days in the department in which the employee is to become permanent employee, then the Company has the right to extend the employee's temporary status until the employee satisfies the ten working day requirement in the department in which the employee will become a permanent employee.

## **ARTICLE 21**

### **NIGHT WORK DIFFERENTIAL**

99. Hours worked by plant employees between the hours of 6 p.m. and 6 a.m. shall receive a nightwork premium of twenty-five (.25) cents. This premium shall be paid only for hours actually worked between those hours, the premium will be included in the computation of overtime pay for overtime hours worked between those hours.

## **ARTICLE 22**

### **GUARANTEED TIME**

100. Regular, full-time employees shall be entitled to a guarantee of thirty-six (36) hours of work, or pay in lieu thereof, at their regular straight time hourly rate, subject to the provisions below. For four (4) weeks each year, on a departmental basis, this guarantee may be waived by the Company. At such time, a guaranteed thirty-two (32) hours becomes effective. Employees will be notified no later than the end of their shift on Friday prior to the following week where the thirty-six (36) hour guarantee is waived. If the Company determines after posting on Friday that it is unnecessary to waive the guarantee, it must rescind the

posting by no later than the Thursday following the posting. If the waiver is rescinded by that time it will not be counted as one of the four (4) waiver weeks.

101. In a holiday, vacation or leave week, or in a week in which the employee is recalled from a layoff which commenced in a prior week, the guarantee shall be reduced by the holiday, vacation or leave hours, or by the hours lost due to time laid off during that workweek prior to the recall. Likewise, if an employee moves into another department or work group during the week to avoid a layoff, the employee's guarantee will be reduced by the number of hours already worked by that department or work group.

102. To be entitled to the guarantee, the employees must work all hours made available to them, or which would have been made available to them, except for their absence, incapacity or restriction (such as loss of health clearance, truck driver's license, etc.).

103. The guarantee will not apply to an employee in the week the employee quits or is terminated, or when an employee is displaced from the job by an employee with a greater seniority right (such as in the layoff or recall procedure), or when an employee is displaced from the job by the return of the employee regularly assigned to the job.

104. The Company will not be liable under this Article if worktime is lost because of the Company's inability to operate fully because of events or circumstances which were not in the direct control of the Company. Some examples of such events or circumstances include floods, adverse weather or other acts of God, power failure, fuel shortage, an equipment breakdown of such nature that it prevents a majority of the employees in the department from performing their normal duties, delay in delivery of materials or equipment, cancellation of contracts or orders, strike or work stoppage, or lack of sufficient personnel to proceed efficiently with the work because of absenteeism.

## **ARTICLE 23**

### **TEMPORARY SHUTDOWNS AND AVOIDANCE OF SPLIT SHIFTS**

105. It is recognized that on occasion circumstances may cause a temporary shutdown of an operation and it may be uncertain whether or not the operation can be resumed later that workday. In recognition of the

advantages to the employees in avoiding lost worktime and to the Company in avoiding lost production, the following alternative courses may be utilized in such circumstances.

- a. The Company may provide other available work for the employee while efforts are in progress to correct the problem causing the shutdown. An employee shall not be required to do such work if outside his department, but in such event he will not be entitled to any pay for time not worked. The lunch period may not be altered more than one hour, either way, to best accommodate to the downtime.
- b. The Company may discontinue work for the remainder of the day without liability for pay for the time not worked except to the extent that the time is compensable under Article 22 relating to guaranteed time.
- c. The Company may not require, in such an instance, the employees to return later in the day as if on a split-shift. However, if the employees desire to return to work to reduce their lost time and it is practical in the judgment of the Company to do so, this may be done by mutual agreement with pay for all time actually worked.

## **ARTICLE 24**

### **GENERAL**

106. The parties acknowledge that during the negotiation which resulted in this Agreement, each had the unlimited right to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining. Therefore, each party voluntarily and unqualifiedly waive the right for life of this Agreement to bargain collectively with respect to any matter referred to or covered in this Agreement or with respect to any subject or matter not specifically referred to or covered by this Agreement.
107. This contract and any written signed addendum hereto represents the entire agreement between the parties and no other agreements or practices are binding upon either party hereto with respect to wages, hours, or working conditions of the employees covered hereby.
108. Times expressed throughout this Agreement are calendar times unless specifically stated otherwise. Time limits may not be extended or waived except by the written agreement of the Union and the Company.

109. Any benefit or condition that the employees enjoyed prior to the signing of this Agreement shall continue for the duration of this Agreement except as changed by the current Agreement. Any right the Company had prior to this Agreement shall continue except as changed specifically by the current Agreement.

110. For the purpose of continuing past practices of economic programs sponsored by the Human Resources Department, the Company agrees that only the following Human Resources programs will be continued for the life of this Agreement:

- July 4th Gifts
- Christmas Dinner
- Service Awards
- Retiree Gifts
- Tuition Reimbursement
- Meat Products Provided to Union at Christmas

The specific programs, other than meat products provided to Union at Christmas, offered in any year are subject to change at the Company's discretion to recognize other events as it deems appropriate.

The Company may, but is not obligated to continue any other programs not expressly stated herein that are sponsored by the Human Resources Department and which might have been considered past practices. This provision is not intended to affect other past practices that are job related and covered by paragraph 106 of the Labor Agreement.

111. If in the opinion of the Company a provision or article of this Agreement is unduly burdensome or hinders efficiency of production, the Union agrees to discuss the problem with the Company.

## ARTICLE 25

### COMPLIANCE WITH LAWS AND NO DISCRIMINATION

112. Neither the Company nor the Union will discriminate against any employee because of race, color, sex, creed, religion, national origin or membership or non-membership in the Union. In the event such discrimination is alleged, the matter will be handled through the procedures of the applicable laws. The parties will comply with the provisions of the Family Medical Leave Act and those of the Americans with Disabilities Act.

## **ARTICLE 26**

### **SEPARABILITY**

113. If any provision or part thereof of this Agreement is in conflict with applicable federal or state law or regulation, such provision shall be deleted from this Agreement or shall be deemed to be in effect only to the extent permitted by such law or regulation. In the event that any provision of this Agreement is thus rendered inoperative, the remaining provisions shall nevertheless remain in full force and effect. Should the operation or application of any provision of this Agreement be temporarily barred, but not permanently nullified, by any law or regulation, it shall be reinstated and applied when such temporary bar is removed, but there will be no retroactive application or liability for the period in which its application was suspended.

## **ARTICLE 27**

### **MILITARY RESERVE**

114. When an employee who is a member of the Reserve, including the National Guard, is called to active duty, the following benefits will be extended ninety (90) days at no cost to the employee:

1. Elected medical and dental benefits will continue for ninety (90) calendar days with the government health plan (CHAMPUS) primary for the reservist but secondary for the dependents of the reservist.
2. Employee and covered dependents will be offered COBRA for continuation of health benefits at the end of the ninety (90) days period.
3. Life insurance will continue for ninety (90) days only and then conversion will be offered.
4. Pension credit will continue through the ninety (90) days of absence.

When a member of the U.S. military reserve is released from a period of active duty, federal law Requires his or her last employer to restore the individual to their former civilian job or another position of like "seniority, status, and pay." This right applies if the reservist seeks

reinstatement within ninety (90) days after receiving a discharge which is (1) honorable, (2) under honorable conditions, (3) medical, or (4) general, provided that his/her period of military service is not more than four (4) years (plus a one (1) year voluntary extension and any additional period in which the reservist cannot obtain a discharge from active duty).

115. It is understood that the Company will provide employees with one (1) or more years of service, who are required to report for reserve training for their two weeks summer encampment, the difference between their pay while performing such training and the compensation they would have received at their regular hourly rate (up to forty (40) hours) had they worked on such days. Such guaranteed pay differential shall be up to a maximum of two (2) weeks per year. Employees on two weeks military reserve training will receive holiday pay for any contractual holidays provided they occur during the training period.

## **ARTICLE 28**

### **CLOSING AND SEVERANCE**

116. The Company will comply with the WARN Act notice requirements in the event of a department or plant closing covered by the Act. At such time as a decision is made to close a department or the plant, the Company will enter into negotiations with the Union regarding the effects of the decision and severance arrangements.

## **ARTICLE 29**

### **COATS**

117. The Company will provide two (2) coats or aprons per year to all production employees required to wear them, including Sanitation and Kill Floor Department employees, commencing upon ratification and each year thereafter for the life of this Agreement. Commencing in January, 1994 and for each year of the Agreement, the Company will provide two (2) smocks for maintenance employees. The smocks will be signed out from and returned to the glove room. Commencing January, 1994 employees in the Sanitation, Kill Floor, Casing, and Rendering Departments will be provided an annual boot allowance of ten dollars (\$10.00) to purchase boots.

If the Company implements a Food Safety Program whereby employees are provided coats, boots or other safety or protective equipment at the Company's expense, then the paragraph above will not apply to those employees to whom such equipment is provided under this paragraph.

### ARTICLE 30

#### DURATION OF AGREEMENT

This Agreement shall become effective as of 12:01 a.m. on January 30, 2004, and shall continue in full force and effect until 12:01 a.m. on January 30, 2007, and thereafter shall automatically renew itself and continue in full force and effect from year to year unless written notice of election to terminate or modify any provision of this Agreement is given by either party to the other not more than ninety (90) days or less than sixty (60) days prior to January 30, 2007, or prior to January 27 of any succeeding year.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 30<sup>th</sup> day of January, 2004.

FOR THE UNION:

Louise O'Neal  
Stanley Lee  
Eddie F. James  
Betty L. Edwards  
Theirda Randle  
[Signature]

FOR THE COMPANY:

[Signature]  
John A. Reinken  
Jim Murray  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTACHMENT "A"**

**CHECKOFF AUTHORIZATION**

I, the undersigned employee of Bryan Foods, Inc., hereby authorize Bryan Foods, Inc. to deduct from my wages a sum specified to the Company by the United Food and Commercial Workers, Local Union No. 1991, AFL-CIO, CLC, as the regular monthly Union dues, and to remit the amount deducted to said Union. I agree to hold Bryan Foods, Inc. harmless from any and all claims and liabilities based upon or relating to the making of such deductions and the paying thereof to said Union. This authorization shall remain in effect for one year from the date shown below or until the expiration of the current Agreement between the Union and Company, whichever is shorter, and thereafter shall automatically renew for the successive periods of one year or for the period of the applicable Agreement, whichever occurs first unless I cancel or revoke this authorization by giving written notice to the Company with a copy to the Union, not more than thirty (30) days and not less than ten (10) days prior to the expiration of any one year period or prior to the expiration of the applicable Agreement between the Company and the Union, whichever occurs first.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Signature

Witness:

\_\_\_\_\_  
Signature of authorized  
representative of Local 1991,  
United Food and Commercial  
Workers, AFL-CIO, CLC.

\_\_\_\_\_  
Address

## WAGE RATES

<b>Class</b>	<b>Jan. 26, 2004</b>	<b>Jan. 31, 2005</b>	<b>Jan. 30, 2006</b>
2	11.42	11.72	12.02
3	11.55	11.85	12.15
4	11.68	11.98	12.28
5	11.81	12.11	12.41
6	11.94	12.24	12.54
7	12.07	12.37	12.67
8	12.20	12.50	12.80
9	12.33	12.63	12.93
10	12.46	12.76	13.06
11	12.59	12.89	13.19
12	12.72	13.02	13.32
13	13.65	13.95	14.25
15	13.95	14.25	14.55
16	14.15	14.45	14.75
18	14.60	14.90	15.20
19	14.65	14.95	15.25
21	15.65	15.95	16.25
24	16.65	16.95	17.25
27	17.65	17.95	18.25

The above rates are the minimum classifications rates allowed. The Company may pay higher rates for business reasons and may upgrade jobs in classifications or establish higher classifications based on re-evaluations or new circumstances.

## **LETTER OF UNDERSTANDING**

**RE: Job Bidding**

It is the understanding of the parties that the current practices relating to the job bidding procedure will be continued during the term of this Agreement which began January 30, 2000. Specifically, the practice of having the employees who sign the job posting report to the Personnel Office within forty-eight (48) hours of the posting in order to determine their continued interest or desire to be considered for the job will be followed. A separate letter of understanding deals with the situation in which an employee is absent from work at the time a job bid is posted.

## MISCELLANEOUS AGREEMENTS

1. For the purpose of assigning or reassigning work only, Sanitation will be divided into two areas: (1) Hot Area including Kill Floor, Rendering and Lard; and (2) Cold Area including all areas other than those in (1) above.
2. A joint Safety Committee comprised of four representatives from the bargaining unit and designated company representatives will meet monthly for inspections and recommendations.
3. Employees scheduled for weekend work will be notified no later than Thursday prior to the weekend. Sanitation employees who are scheduled for weekend work will be notified on their last shift prior to the weekend. If unforeseen circumstances arise after the notification and additional employees are required to work the weekend, they will be notified as soon as possible.
4. The Company has spent considerable time and effort with the assistance of maintenance bargaining unit employees to develop a new maintenance progression plan. It is agreed that the Company will cooperate with a three member committee to complete the few details that remain. Both parties agree that nothing will be done to undo what has been accomplished as of January 15, 2000. The parties will cooperate in an effort to reach mutual agreement on the final details so that the plan can be implemented by March 1, 2000. If the parties cannot reach an agreement, the plan will be implemented any time after March 1, but no later than April 1, 2000.
5. The maximum cost for a chargeable accident for internal purposes shall be increased from \$500.00 to \$1,000.00. Notwithstanding the dollar limitations, all accidents must continue to be reported.
6. *Effective January 1994, the Company agrees to allow two full-time Union representatives, as designated by the Union, to serve in that capacity with the rights and benefits provided to a regular employee, except that the Union will be responsible for paying the wage or salary of such individual. For payroll purposes only and to allow the designated individual to qualify for such benefits as the Employee Stock Purchase Plan, the 401(k) Plan, the Credit Union, etc., the Company will pay the designated individual on the basis of forty (40) hours per week at his/her otherwise regular rate of pay; and the Union will reimburse the Company in full for the wages paid as well as for any required withholdings on a monthly basis.*

7. Subject to the eight (8) hour requirement to entitle an employee to two (2) breaks on his/her shift, an employee will not be required to work more than three (3) consecutive hours without a break.
8. Equipment washers in Department 42 and Sanitation employees in Department 53 will have their class level increased to level 3 subject to an engineering study verifying the adjustment and assuming verification, the employees will be paid retroactively to January 24, 2000.
9. Employees with HACCP responsibilities will receive a minimum class 4 pay.
10. The Company agrees to implement a new department numbering procedure for use in job bids, layoffs, and recalls.
11. Twice a year the Company management team and the Union will meet to discuss workplace issues and attempt to correct problems in an effort to promote harmony and improve the Labor/Management relationship.
12. It is the intent of the Company to re-evaluate all Line Service positions to determine how many of these positions are:
  1. Class 2 Line Service positions
  2. Vacations/Sick Relief positions
  3. Other positions in the department that do not have a permanent owner

It is the intent of the Company to bid all jobs not determined to be Line Service at their title and class as well as the Vacation/Sick Relief jobs that are determined by the Company to be needed in each department.

13. When a bargaining unit employee is promoted to a supervisor position or placed in a supervisor training program, he shall accumulate seniority for up to a maximum of twelve (12) months. The employee may return or be returned to the bargaining unit without loss of seniority, provided his return is no later than twelve (12) months from the date he was removed from the bargaining unit.
14. The Company agrees to the evaluation of jobs by the Industrial Engineer no later than June 30, 2004. Jobs to be studied will include Class 2 Kill Floor Knife jobs, Class 2 Chitterling jobs, Worksaver, Boxmaker, Sanitation jobs, and Finished Product Knife jobs.