

AUG 13 1987 *Drwx 2/83*

**COLLECTIVE BARGAINING AGREEMENT
BETWEEN
UNITED FOOD & COMMERCIAL WORKERS UNION LOCAL 588
AND
CORTI BROTHERS**

THIS AGREEMENT entered into this 1st day of May, 1986, by and between **CORTI BROTHERS**, hereinafter referred to as the "**Employer**", and **UNITED FOOD & COMMERCIAL WORKERS UNION LOCAL 588**, chartered by the United Food and Commercial Workers International Union, AFL-CIO, CLC, hereinafter referred to as the "**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.

WITNESSETH:

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 RECOGNITION:** 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 meat department employees and supervisors within the meaning of the National Labor Relations Act, as amended.
- 1.2 CLERK'S 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** Such work as may be performed by employees working exclusively in the meat department and who are engaged in the handling, cutting, selling, processing, wrapping, or displaying of fresh, frozen or processed meats, poultry, fish and seafood products in said department;
 - 1.2.3** Work of employees heretofore expressly excluded from the provisions hereof by agreement of the parties; and
 - 1.2.4** Such work as is performed under prevailing practices within the geographical jurisdiction of this Union at the point of delivery by a driver-salesman engaged in servicing the retail food stores with merchandise directly from a delivery vehicle.

- 1.3 SUB-CONTRACTING 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 (such as washing windows, washing or waxing floors and cleaning restrooms) work or work hereinabove excluded, no work covered by this Agreement, as defined in **Section 1.2** hereof, shall be performed under any sub-lease, sub-contract, 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** hereof, and (2) that the Employer, party hereto, 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.
- 1.4** It is recognized that if the terms of the Employer's lease, contract or other agreement obligates the lessee or other party, as the case may be, 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 and that he shall be, and by these presents is, hereby released from any and all financial liability in connection therewith.
- 1.5 STORE MANAGERS AND ASSISTANT STORE MANAGERS:** None of the provisions of this Agreement need apply to one overall Supervisory Store Manager and Assistant Store Manager in stores of thirty thousand (30,000) square feet or more 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 Manager shall not be restricted as to the amount of non-supervisory work they may perform. No Assistant Manager shall be involuntarily reclassified as a direct result of this provision during the term of this Agreement.
- 1.6 OWNERS:** There shall be not more than two (2) employers in any store or group of stores having common ownership. In partnerships, "Employer" as used in this Sub-Section means only bona fide partners who own an interest in the assets, and in the profits of the partnership. In corporations, "Employer" as used in this Sub-Section means only two (2) officers of the corporation who own capital stock of the corporation. No more than two (2) shareholders of a corporation, or more than two (2) bona fide partners 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.
- 1.7 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) days. For employees who choose to be employed by such new owner, such sixty (60) 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 3.4** and **Section 4.1** of this Agreement.

- 1.8 SALESMEN:** The Employer assumes a particular responsibility to require observance of this Agreement on the part of book-salesmen. The Employer shall give to one clerk on each shift written authorization to request any book-salesman performing work in violation of this Agreement to cease such work. If the book-salesman does not comply with such request, then the authorized clerk shall report the matter to the Employer or Store Manager, who shall then cause the book-salesman to cease such work.

The Employer agrees to post in a conspicuous space in each store the following notice:

NOTICE TO SALESMEN: It is a violation of our Company policy and Union contract for persons not specifically authorized to do so by the terms of **Section 1.2** of the Union contract to stock, display or otherwise handle merchandise offered for sale in this store.

- 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.

- 1.11 ENFORCEMENT:** When the Employer has knowingly permitted non-bargaining unit persons to perform work in violation of the Agreement, he 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 knowing violation, an amount equal to one (1) day's wages at the regular clerk's rate plus equivalent health and welfare and pension contributions.

(2) At the time of a second knowing violation, an amount equal to two (2) days' wages at the regular clerk's rate plus equivalent 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 knowing violation.

(4) Following any known violation, if no subsequent violations are determined to have taken place for a period of six (6) months, such prior violations shall be considered null and void.

1.12 SUPERVISORY PERSONNEL: Nothing in this Agreement shall prevent an Employer from employing on his payroll non-bargaining unit supervisory personnel to perform supervisory work as opposed to unit work.

1.13 RETAIL SALES MERCHANDISERS: Employees working under sub-contracts for merchandising services for **PIA, BDI and Trademark Sales** hired after the date the 1986-89 Food Industry Retail Agreement is ratified, June 22, 1986, shall be paid as follows:

1st 1,040 hours	\$7.00
2nd 1,040 hours	7.35
Thereafter.....	7.70

Section 2. UNION STORE CARD

In consideration of the performance of the covenants herein contained, the Union agrees to lend Union Store Cards and/or Decals to Employers entitled hereto under the rules governing Union Store Cards set forth in the Constitution of the United Food and Commercial Workers International Union. Employers who are entitled to Store Cards and/or Decals agree to accept and display them in a public space in their stores. It is understood that such Union Store Cards and/or Decals are issued by and remain the property of the United Food and Commercial Workers International Union, and the Employer agrees to surrender said Union Store Cards and/or Decals at the Union's request upon his failure to observe the terms of this Agreement or the conditions under which said Store Cards and/or Decals are issued.

Section 3. EMPLOYMENT AND UNION MEMBERSHIP

3.1 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 remain 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 within seven (7) days from such notice.

3.2 UNEMPLOYED LIST: The Union agrees to keep an up-to-date list of known unemployed clerks with an accurate record of their experience or training, and the Employer agrees to notify the Union of vacancies in positions or job openings within the classifications covered by this Agreement in order that the unemployed clerks on the aforementioned list may be provided with a full opportunity to fill such vacancy. In filling vacancies, the Employer shall give preference to applicants with previous employment experience in the industry in the area covered by this Agreement.

3.3 REGISTRATIONS: The Union agrees to accept registrations for employment upon each list so maintained, and to dispatch applicants for employment from said list for vacancies or job openings with the Employer in accordance with his specification and this Agreement.

3.4 JOB REFERRAL AND NON-DISCRIMINATION:

3.4.1 The Union shall be allowed two (2) days on which its office is open to refer applicants. Selection by the Union of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on, or in any way affected by, union membership, bylaws, rules, regulations, constitutional provisions or any other aspect or obligation of union membership.

The Employer shall retain the right to reject any job applicant referred by the Union, provided such rejection is not in violation of this Agreement. The Union agrees that the Employer may employ persons from other sources when applicants satisfactory to the Employer are not available from the lists maintained by the Union.

3.4.2 The Employer shall not discriminate against any person in regard to hire, tenure of employment, or job status because of race, creed, religion, color, national origin, sex or age as provided by Title VII of the Civil Rights Act of 1964, the Fair Labor Standards Act and the Age Discrimination Employment Act.

SEMANTICS: When used, the term "he" and "Journeyman" refer to human beings of either sex and are used only for grammatical simplicity.

3.4.3 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.

3.5 OTHER HIRING: Whenever new employees are hired for jobs covered by this Agreement from sources other than the list maintained by the Union, the Employer shall:

(1) Promptly notify the Union of such employment in writing on forms provided by the Union, giving the date, place and job classification of the employment, and the name, address and telephone number of the new employee; and

(2) Promptly advise the new employee of the terms and provisions of this Agreement and of his obligations hereunder; and

(3) Direct the new 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 and of his obligations hereunder, and to complete necessary applications, forms and papers for qualifications under the Health and Welfare and Pension Plans provided by this Agreement.

(4) **EMPLOYMENT:** If the Employer obtains a new employee through a private employment agency or a private training school, he shall pay the employment agency fee, or any training fee paid by or required of the employee.

(5) Whenever employees are transferred to jobs covered by this Agreement from outside the jurisdiction of the Local Union, the Employer agrees to notify the Union in writing of such transfer.

3.6 **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.

3.7 **EXTRA WORK:** Employees on the payroll of the Employer will be given preference for additional straight-time work before any other person who has worked during the same week on another job outside the retail industry is hired for such work.

Section 4. DISCHARGES AND LAYOFFS

4.1 The Employer shall not discharge or discriminate against an employee for upholding Union principles, for serving on a committee of the Union or any organization affiliated therewith, or for refusing to purchase stocks, bonds, securities, or any interest in the Employer's business should the Employer be operating as an individual, firm, company, partnership, joint stock company or corporation.

4.2 **PROBATION:** There shall be a probationary period of sixty (60) calendar days for all employees.

4.3 **TERMINATION:** Except for reasons beyond the Employer's control, regular employees who work three (3) days per week or more shall be given three (3) days' notice of layoff or the equivalent pay. Employees who work 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 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 ninety (90) days or longer).

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

4.4.1 Before a regular employee is discharged, suspended, or demoted for incompetency 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 months from date of issue.

- 4.4.2** 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 discharge is for cause, the Employer agrees to submit the reasons therefor to the Union upon request.
- 4.5** **RECORD:** Any employee who is terminated shall, upon request, be given a statement setting forth the date of hiring and the number of hours worked during his employment.
- 4.6** **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.
- 4.7** **TRANSFER:** Transfer of employees to other cities outside of the counties in which they are employed shall not be compulsory, nor shall any employee be penalized for failure to accept such transfer.

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.

No employee shall be required to accept a permanent transfer outside the jurisdiction of this Local Union unless approved by the Union.

Section 5. SENIORITY

- 5.1** **DEFINITION:** Seniority shall mean continuous service with the Employer and no employee shall suffer loss of seniority by reason of approved leave as provided for in this Agreement.
- 5.2** **CLASSIFICATION:** Seniority shall be by classification listed as follows in **Section 9** hereof:
- (1) Managing Clerks
 - (2) Senior Head Clerks and Senior Produce Clerks
 - (3) Head Clerks
 - (4) Journeymen and Apprentice Clerks
 - (5) General Clerks
 - (6) Courtesy Clerks - subject to the restrictions of **Section 9.8.4** 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.

Courtesy Clerks promoted by their Employer during the life of the February 27, 1977-February 29, 1980, Agreement shall have their original seniority date restored, provided that they have been continuously employed by the same Employer.

(7) In the event that an Apprentice Clerk or General Clerk who had previously served as a Courtesy Clerk is going to be laid off before the completion of the first 520 hours of the Apprentice progression, then in that event the Apprentice Clerk may step back temporarily into the Courtesy Clerk classification at the store in which they are currently working until recalled.

(8) Employees employed in classifications covered by addendum agreements shall be deemed separate classifications.

5.3 APPLICATION:

5.3.1 With respect to layoff, recall and promotion, seniority shall be based upon the length of service with the Employer in each of the areas covered by this Agreement as specified in **paragraph 5.3.2** of this Section; 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; provided, however, that for the affected employees in the Lake Tahoe Basin and Truckee area, the six (6) month period hereinabove provided shall be extended to eight (8) months.

5.3.2 The individual geographical areas referred to in **5.3.1** above are as follows:

- (1) Sacramento County, Yolo County and West portion of Placer County.
- (2) Amador County and West portion of El Dorado County including but not limited to the towns of Jackson, Placerville and Pollock Pines.
- (3) Eastern portion of Placer County, Eastern portion of Nevada County, Southwestern portion of Washoe County, Nevada, including but not limited to the towns of Truckee, Tahoe City, King's Beach and Incline Village, Nevada.
- (4) Eastern portion of El Dorado County and Northwestern portion of Douglas County, Nevada, including but not limited to the towns of South Lake Tahoe and Zephyr Cove, Nevada.
- (5) Stanislaus County.
- (6) Calaveras County and Tuolumne County.
- (7) San Joaquin County.

5.3.3 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.

5.4 PROMOTIONS: Possible openings for positions above Courtesy Clerk and/or General Clerk, excluding openings for Managing Clerks and Assistant Managing Clerks (Senior Head Clerks), shall be posted. Qualifications shall include such factors as experience, job performance, aptitude, attendance, etc. Where merit and ability are approximately equal, seniority shall control. No trial periods 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 or having his hours reduced in the higher classification, 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.

5.5 JOB POSTING: Job openings for positions above Courtesy Clerk or General Clerk (if the Employer implements the General Clerk classification), excluding openings for Managing Clerks, shall be posted in the Employer's store or stores within the geographical seniority area of the Local Union for a period of three (3) calendar days; and, subject to the provisions of the preceding paragraph, the senior employee bidding the job shall be promoted.

The Employer agrees to provide the Union with a list of employees, bi-monthly, who have been promoted to positions above Courtesy Clerk or General Clerk (if the Employer implements the General Clerk classification).

5.6 LAYOFF, REDUCTION IN HOURS, AND RECALL: Any reduction in the number of employees or in the hours of work of such employees shall be accomplished by seniority and by classification. Employees who are laid off or who have suffered a reduction in hours shall be afforded their seniority rights prior to the employment of any employee who does not have greater seniority rights within the jurisdiction covered by this Agreement, except as provided in **Section 5.13.4** with respect to part-time employees.

Employees who are to be recalled from layoff shall concurrently be notified by telegram or certified mail, a copy of which shall be sent to the Union, and shall have three (3) days to report after receipt of a copy of such notice of recall by the Union.

5.7 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; provided, however, that for employees in the Lake Tahoe Basin and Truckee areas, the six (6) month period hereinabove provided shall be extended to eight (8) months;

(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 12.12.5**;

(6) Fails to report for work when recalled as provided in **Section 12.12** of this Agreement.

5.8 SCHEDULE SELECTION: The word "schedule" shall mean the weekly work schedule, including work on premium days, early and late work schedules.

(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 and capricious manner to deprive an employee of his ability to exercise his seniority right to select a work schedule, in the manner hereinafter provided.

(2) Employees may select such work 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 appearance, job performance, aptitude, attendance, etc.

(3) Not later than 12:00 noon on Thursday, employees are to notify the Employer if they want a more desirable schedule.

(4) The Employer agrees to schedule qualified employees to the shift requested, in order of seniority, to the extent possible.

(5) The guidelines provided above shall not entitle part-time employees to select a full-time weekly work schedule.

(6) The Employer shall not recognize the shift 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 work days.

5.9 RELIEF WORK: Employees assigned to regular relief work may, after six (6) months on such work, request the Employer in writing to be assigned to work in one store. The rescheduling of such relief work shall be done within thirty (30) days and be based upon inverse seniority. This provision shall not apply to temporary relief work required as a result of illness, injury, vacation or other like temporary relief work.

5.10 LISTS: Upon request by the Union, the Employer agrees to provide a seniority list of his employees semi-annually.

5.11 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.

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

5.13 PART-TIME EMPLOYEES:

5.13.1 REQUEST FOR FULL-TIME WORK: Part-time Experienced Clerks may bid for full-time forty (40) hour job openings or part-time job openings with more hours (excluding vacation relief, illness or other authorized leaves of absence) within the geographical seniority area of this Local Union, 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. Written requests may be made every six (6) months. Employees submitting their written request outside the specified period shall be placed at the bottom of the list until the next request period. The time periods for requests shall be the first two (2) working weeks in February and August. Lists are effective the first shift of the month following the request period.

The Store Manager shall immediately upon receipt of said request forward same to the offices designated by the Employer. The Employer shall thereupon place the name of the employee on a list maintained by the Company for such purpose. The names of the employees shall be placed upon the list according to seniority. A copy of said list shall be forwarded at the end of each request period to the Union.

Provided the Experienced Clerk 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 geographic seniority area of the Local Union, before any new employee is hired.

5.13.2 REQUEST FOR ADDITIONAL HOURS: Part-timers may request additional available hours within their classification, up to forty (40) 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.

5.13.3 REMOVAL FROM LIST: Employees refusing an offer of full-time work, requesting part-time work after having been selected for full-time work, or refusing a job opening with more hours shall not be entitled to exercise rights set forth above until the next request period, at which time such employee must again register to be eligible for selection under this provision.

5.13.4 REDUCTION IN PART-TIME EMPLOYEES' HOURS shall be accomplished by seniority on a store-by-store basis.

- 5.13.5 WAGE CLAIMS:** It is understood that employees will not be able to claim wages under this interpretation, except for hours lost commencing with the weekly schedule immediately following the Union's written notification to the Employer of the claim and thereafter until resolved. If the employee or the Union gives written notice to the Employer within seven (7) days of his layoff, the above provisions do not apply.

Section 6. HOURS, OVERTIME AND SUNDAY PREMIUM PAY

PREAMBLE: In the event of 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 renegotiate this Agreement in order to preserve the intended work week and the rates pertaining thereto.

The industry recognizes the five (5) day, forty (40) hour week provisions except for layoffs and individual cut-backs 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 in a calendar week, Sunday through Saturday, shall constitute a week's work as provided in this entire Section. In stores operating seven (7) days per week, employees shall receive two (2) successive days off within each calendar week (new hires, hired after June 22, 1986, are no longer guaranteed successive days off; all employees on the job as of June 22, 1986, are still guaranteed successive days off). In stores operating not more than six (6) days per week, all employees shall receive two (2) days off within each calendar week and the Employer agrees to make every effort to give the employees successive days off, but reserves the right to designate one other day off for each employee in addition to the day when the store is closed. 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. Under special circumstances, a one-half (1/2) hour lunch period may be arranged by agreement of the Employer, the Union and the employee involved. No employee shall be required or permitted to work a split shift.

Work shall not be performed without pay prior to the beginning of a scheduled working day. 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. It is understood that the checking of produce or shelf prices shall be considered as time worked.

6.2 SUNDAY PAY & EMERGENCY PREMIUM RATE:

- 6.2.1** In emergency cases when employees are required to work on the seventh (7th) day worked in a regular calendar week, or on the sixth (6th) day in a holiday week, exclusive of the holiday, they shall be paid at the rate of double their regular straight-time rate of pay. It is agreed, however, that work on such days may be performed only in cases of extreme emergency and only when permission is granted through the office of the Union.

- 6.2.2** For work performed on Sunday, except as provided in **paragraph 6.3.4** of this Section, all employees shall receive the rates designated for their classification in **Section 8** under the heading "Sunday Hourly" except that for a one-year period during the first two (2) years of this Agreement the Employer may pay for Sunday work at the rate of time and one-fourth (1 1/4) of the employee's straight-time hourly rate of pay.

6.3 OVERTIME AND PREMIUM RATES:

- 6.3.1** The overtime and premium wage rate of time and one-half (1 1/2) the employee's straight-time rate of pay shall be paid for the following work:

- (1) Work in excess of eight (8) hours per day.
- (2) Work in excess of forty (40) hours in a calendar week.
- (3) Work on the sixth (6th) day worked in a calendar week.
- (4) Work on the fifth (5th) day worked (excluding the holiday) in a holiday week.
- (5) Work in excess of seven (7) consecutive days without regard to the calendar week until such consecutive days are broken by a day off.
- (6) Employees called in to work on a scheduled day off and given shorter notice than that required by this Agreement shall receive a minimum of eight (8) hours' pay on that day at the rate of two and one-half (2 1/2) times the employee's straight-time rate if the day is Sunday, or at time and one-half (1 1/2) the employee's straight-time rate if it is a day other than Sunday, 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.
- (7) Work performed within ten (10) hours from the time the last shift ended.
- (8) All hours remaining in employee's shift for the day at the time a violation of the meal period provisions of this Agreement occurs.

- 6.3.2** The overtime rate of double (2 times) the employee's straight-time rate of pay shall be paid for the following work:

- (1) Work on the seventh (7th) day worked in a calendar week.
- (2) Work on a holiday (in addition to holiday pay).
- (3) Work in excess of eight (8) hours on a holiday (in addition to holiday pay).
- (4) Work in excess of eight (8) hours on the sixth (6th) day worked in a work week or on the fifth (5th) day worked in a holiday week (not counting a holiday worked).

6.3.3 The overtime rate of two and one-half (2 1/2) times the employee's straight-time rate of pay shall be paid for the following work:

(1) Work where an employee is called into work on a Sunday which was a scheduled day off and given shorter notice than that required by this 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.

(2) Work on Sunday which is a day worked in excess of seven (7) consecutive days.

(3) Work in excess of eight (8) hours on the sixth (6th) or seventh (7th) day worked in a calendar week.

6.3.4 The overtime rate of double and one-fourth (2 1/4) times the employee's straight-time rate of pay shall be paid for the following work: Work in excess of eight (8) hours on Sunday.

6.4 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.

6.5 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.

6.6 HOLIDAY WORK WEEK: 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 the holiday falls. At least two (2) of the full-time employee's days off shall be successive in stores operating six (6) or more days in a holiday week, unless an employee has Saturday and Sunday off prior to the holiday or Saturday and Sunday off following the holiday. (The provision of two (2) successive days off shall also apply for members working for stores located in San Joaquin County.) Holiday pay for part-timers shall in all instances be prorated in accordance with **Section 10.1.5.**

6.7 DAILY GUARANTEE:

6.7.1 All employees who work forty (40) or more hours in a calendar week, when ordered to and do report for work and remain available for work shall receive a full day's pay based on the established rate of pay for that day.

6.7.2 All employees who work less than forty (40) hours in a calendar week, when ordered to and do report for work and remain available for work, shall receive at least four (4) hours' pay based on the established rate of pay for that day. Where school law conflicts with the four (4) hour daily guarantee on a school day, such employee shall be scheduled for not less

than three (3) hours on such days. It is further agreed that students shall not replace non-student employees. All part-time employees shall be covered by all other provisions of this Agreement.

6.8 WEEKLY GUARANTEE: Each part-time employee shall be scheduled for at least sixteen (16) hours' work in each week, excluding Courtesy Clerks who are covered by a fourteen (14) hour guarantee in **Section 9.8.3**. Part-time employees shall be scheduled for a minimum of four (4) hours per day.

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 work week;
- (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 sixteen (16) hours per week;
- (6) An unanticipated, significant business fluctuation;
- (7) During the week an employee is recalled from layoff or returns from leave of absence.

Section 7. WORK SCHEDULE

7.1 POSTING OF WORK SCHEDULE:

7.1.1 The Employer agrees to keep posted in each store a weekly schedule in ink of the working hours for all employees. Such schedule shall show the full name of each employee, the classification, starting time, meal time, quitting time and days off. It is further agreed that any change in this schedule must be made and the employee so notified no later than 12:00 o'clock noon Friday of the week preceding the week in which the change is to become effective.

If assignment of employees to schedules is inconsistent with the terms of **Section 5.8**, employees will have until 3:00 p.m. on Friday (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 5.8**. Such schedule shall be posted on the bulletin board or at a place where all employees and representatives of the Union may observe same.

7.1.2 Time worked by employees on the last shift during the period the store is open for business, for the purpose of serving customers in the store at the closing hour or performing other miscellaneous duties necessary in connection with the closing of store, shall be properly scheduled in their straight-time shift.

- 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 rescheduled 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 permitted or required to work after 7:00 p.m. on Christmas Eve and New Year's 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.
- 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 for work. Any employee who works in excess of five (5) hours without a meal period shall receive overtime compensation for all such work performed in excess of five (5) hours.
- 7.6 BREAK:** 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 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.
- 7.8 NIGHT PREMIUM:** All employees shall receive extra compensation in addition to the regular scale herein set forth of fifty cents (50¢) per hour for all work performed between the hours of 7:00 p.m. and 7:00 a.m. Courtesy Clerks shall receive fifty cents (50¢) per hour for work performed after 9:00 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 therefor 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.

Section 8. WAGES

- 8.1** 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.

- 8.2** SEE SCHEDULE A "WAGES" attached hereto and fully incorporated for schedule of minimum wage.

Section 9. CLASSIFICATION OF EMPLOYEES

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

- 9.1 MANAGING CLERK:** 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 (1) store.

In the event the Employer or Supervisor is absent from the store for one (1) or more eight (8) hour days in a week, a Clerk shall receive the wage scale of a Managing Clerk for said work.

- 9.2 SENIOR HEAD CLERK - SENIOR PRODUCE CLERK AND HEAD CLERK:** 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:

- 9.2.1 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.

- 9.2.2 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. This classification shall apply in all cases where an employee was classified as Head Clerk in the Employer's produce departments or sections under the 1964-67 Collective Bargaining Agreement, but shall not be applicable to Produce Managers or buyers employed under said contracts who shall not be reclassified and who shall receive the same wage increases over their present rates of pay as all other employees.

(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.

(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 HEAD CLERK:

(1) Acts as produce buyer at the store, or assists management in the operation of a produce section or department; provided that where there is an employee in the department classified as a Senior Produce Clerk, this provision shall not require the classification of any other employee in the department as a Head Clerk.

(2) 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.

In the interpretation of 9.3(2) above, it is agreed that any Clerk who is engaged for four (4) hours or more per day in the Employer's receiving department and is in charge of and responsible for the receiving of merchandise shall be classified and paid as a Head Clerk.

(3) Conducts the operation of the store in the temporary absence of the Supervisory Store Manager, Managing Clerk, Senior Head Clerk, or Owner, or is responsible for the opening or closing of a store.

(4) 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.

(5) It is understood that the Employer may so arrange the employee's duties and work shifts in order that the number of Head Clerks may be minimized, and further that the mere occasional or incidental performance of any of the Head Clerk's duties shall not be construed as a basis for classifying any employee as Head Clerk. It is agreed, however, that in the absence of the Supervisory Store Manager, Managing Clerk, Senior Head Clerk, or the Owner, there shall be at least one (1) Head Clerk on the job at all times.

When a Clerk, who is not normally classified and paid as a Head Clerk on a weekly basis, performs the duties of a Head Clerk on a day in which either the regular Head Clerk, Senior Head Clerk, Supervisory Manager, Managing Clerk or Owner is absent, he shall receive the Head Clerk's rate of pay for the day.

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

9.4.1 MANAGING CLERK, SENIOR HEAD CLERK, HEAD CLERK:

(1) When the Managing Clerk is absent for one (1) 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 Head Clerk (40 hours per week) in the store during such hours, he may continue to be paid at his regular Head Clerk's rate.

(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 Head Clerk (40 Hours per week) on duty in the store during said days he may continue to be paid at his regular Head Clerk's rate.

(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 Head Clerk (40 hours per week) in the store during such hours he may continue to be paid at his regular Head Clerk's rate.

(4) When the Senior Head Clerk is absent for any period because of illness, vacation or other reasons, another regular employee or a Head Clerk, 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.

9.5 JOURNEYMAN CLERK: A Journeyman Clerk is an employee who has gained 2,080 hours' experience in the retail food industry.

PREVIOUS EXPERIENCE: If a Journeyman employee has been out of the industry between five and ten years, he will be allowed to start at the 3rd Apprentice Clerk rate of pay. If a Journeyman employee has been out of the industry ten or more years, he will be allowed to start at the 2nd Apprentice Clerk rate of pay.

If a person has been out of the industry for five (5) years or more, who has not reached Journeyman status, he will be allowed to start at the 1st Apprentice Clerk rate of pay.

It is agreed the Union shall negotiate with the Employer an appropriate rate, during the probationary period, for employees who have gained food store experience outside the jurisdiction of the Northern California Retail Clerks Unions. The appropriate Apprentice or Journeyman rate shall be determined by the parties according to the employee's comparable previous 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.

9.6 APPRENTICE CLERK: An Apprentice Clerk is an employee who has gained less than 2,080 hours' experience in the retail food industry. An Apprentice Clerk may perform the duties of any classification except Managing Clerk or Head Clerk.

9.6.1 APPRENTICE RATIO: In each store where at least one (1) full-time Experienced Food Clerk is employed, there may be three (3) Apprentices employed. In stores employing more than one (1) full-time Experienced Food Clerk, the following formula applies:

No. of Apprentices	No. of Full-Time Experienced Food Clerks
4	5
5	9
6	13
7	17
8	21
9	25
10	29

and so on adding one (1) Apprentice for each additional four (4) full-time Experienced Food Clerks.

The aforementioned ratio shall not apply for a period of one (1) year following the opening of a new store to the public.

If a store is out of ratio for any reason, the Employer shall have thirty (30) days after receipt of written notice by the Union to re-establish said ratio without penalty.

It is understood that the aforementioned ratio applies only on a weekly basis. On Sundays and holidays only, the ratio shall be applied on a daily basis. If there is a Sunday or holiday violation, the most senior Apprentice Food Clerk who worked on that day shall be paid at the Journeyman Food Clerk's rate for said work.

In the event that qualified Journeyman Food Clerks are not available, or Journeyman Food Clerks employed by the Employer in other stores within the Union's jurisdiction are not available for transfer, the above ratio shall not apply.

9.6.2 UPGRADE: When any store has exceeded the permissible ratio of Apprentices for thirty (30) days, as hereinabove provided, and Experienced Clerks are not available, full-time Apprentices employed in the store will be promoted, on the next posted schedule immediately following the completion of the thirty (30) day period, to the Clerk's classification in sufficient numbers to re-establish said ratio. Such promotions shall be according to seniority where merit and ability are equal.

9.6.3 TRAINING: It shall be understood that Apprentices shall be guaranteed full training within the year including thirteen (13) weeks' work at the checkstand and at least thirteen (13) weeks' work in shelf stocking assignments.

9.7 GENERAL CLERK:

(1) A General Clerk is hereby defined as an employee who may perform any bargaining unit work except the duties of Head Clerk, Senior Head Clerk, Managing Clerk and the operation of the checkstands.

General Clerks may operate a cash register for no more than two hours per shift between the hours of 12:00 p.m. and 3:00 p.m. The use of General Clerks in this manner shall not cause replacement of any full-time or part-time Apprentices or Journeyman Clerks employed as of the effective date of ratification of this Agreement nor shall it cause a reduction of hours of such employees.

There will be no supplemental pay to those General Clerks, but hours worked in a checkstand will account for hours governing step-up toward Journeyman status. These accumulated hours will count when a Journeyman or Apprentice position becomes available which will be filled from General Clerks on the payroll.

(2) The Employer shall be permitted to have a maximum of three (3) General Clerks on duty at any given time.

(3) For reduction of hours purposes, a base period of average hours of part-time employees was established at the time of the implementation of the General Clerk classification during the life of the prior Independent Grocers Agreement.

(4) It is recognized that utilization of the services presently being performed by "rack-jobbers" pursuant to the provisions of **Section 1.2.4** of the Collective Bargaining Agreement may be required during the term of this Agreement.

However, in consideration of the implementation of the classification of General Clerks, good faith efforts will be made by the Employer to minimize the use of such "rack-jobbers".

(5) In the event the Employer is found to have required or permitted General Clerks to perform duties in violation of this Agreement, the most senior General Clerk in the store shall be promoted within seven (7) calendar days to the Apprentice Clerk classification step which will not result in any reduction in wages, unless the senior General Clerk is the employee involved in the violation, in which event the next most senior General Clerk shall receive the promotion.

When a General Clerk willfully violates the provisions of this Agreement by performing restricted duties without the knowledge of the Owner, Manager, Senior Head Clerk or Head Clerk on duty, said employee shall be issued a written warning; and in the event of a second violation by the same employee during the life of this Agreement, the Employer agrees, upon

request from the Union, to discharge said employee within seven (7) days after receiving notice of such violation.

(6) If identification badges are supplied by the Union, General Clerks shall wear them on their person at all times during working hours, and their failure to wear such a badge while working shall be considered a violation of these provisions. The Union will submit to the Employer and 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 Employer involved.

9.8 COURTESY CLERK:

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

(1) He may bag or box the merchandise after it has been checked out and take it to the customer's vehicle.

(2) Clean up throughout the store, clean the checkstands and the area around the non-selling foyer or vestibule area between the front of the checkstands and the entrances and general cleaning throughout the sales floor areas of the store.

(3) Collect and line up push carts and return them to the store from the parking lot.

(4) Maintain the upkeep of the parking lot and areas around the perimeter of the store including landscaping.

(5) He may stock the bags in the checkstand.

(6) He may collect bottles, take them to the designated area and sort them. No more than one (1) Courtesy Clerk shall be scheduled for the duty of sorting bottles at any one time.

(7) Cleaning of the checkstands; checking prices; cleaning up of spills; putting away "go backs"; replenish bags from the back room; obtain product from the selling area requested by customers being checked out.

(8) He may post and remove display signs and decorations. 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 Courtesy Clerk may post and remove decorations.

(9) 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 thirty (30) minutes before the opening of the store to the public and more than forty-five (45) minutes after the closing of the store to the public and under no circumstances is he to receive, stock, display, check, mark or perform any duties except those set forth above.

- 9.8.2 DAILY GUARANTEE:** 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 Saturday, Sunday or on holidays as set forth in this Agreement.
- 9.8.3 WEEKLY GUARANTEE:** Each Courtesy Clerk shall be offered at least fourteen (14) hours' work in each week. In the event said Courtesy Clerk cannot be scheduled to work or cannot work fourteen (14) hours in the week, he shall not work at all during that particular week.
- 9.8.4 NO REDUCTION:** The employment or continuation of employment of a Courtesy Clerk shall not cause the replacement of an existing regular full-time or part-time Clerk or Apprentice Clerk, nor shall it cause a reduction in the number of hours of work of such Clerks.
- 9.8.5 BADGES:** If identification badges are supplied by the Union, they shall wear them on their person at all times during working hours, and their failure to wear such a badge while working shall be considered a violation of these provisions. The Union will submit to the Employer and 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 Employer involved.
- 9.8.6 PENALTY FOR VIOLATION:** 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 week or the sum of five hundred dollars (\$500.00) 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 one thousand five hundred dollars (\$1,500.00) will be paid into the Retail Clerks and Food Employers Pension Fund.

- 9.9 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. 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

Demonstrator while such work is being performed in the Employer's retail store. It is understood that the handling of coupons is not Demonstrator's work. Demonstrators shall be covered by all the terms of this Agreement except pension and health and welfare.

Effective the first full pay period on or after ratification, June 22, 1986, the hourly rate of pay for Demonstrators shall be \$7.70 per hour.

- 9.10 TWO CLASSIFICATIONS:** Unless otherwise provided herein, 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.
- 9.11 LIMITED CLERK:** Any employee whose earning capacity is limited because of a physical or mental handicap, or other infirmity, may be employed on suitable work at a wage agreeable to the Employer, employee and Union.
- 9.12 PROVISIO:** It is recognized in smaller stores that the employment of a Senior Head Clerk, Senior Produce Clerk or Head Clerk may not be required. In those cases where an Employer requests a determination regarding the propriety of employing a Senior Head Clerk, Senior Produce Clerk or Head Clerk, two individuals appointed by the Northern California Grocers Association and two individuals appointed by the Union shall conduct a survey and analysis of the Employer's requirements for such classifications. The results of said survey and analysis shall be reduced to writing within ten days from the inspection of the Employer's premises. The decision of a majority of said individuals shall be binding on the Employer and the Union. In the event of deadlock, the Employer or the Union may within (10) ten days after notice of the results of such survey, submit the matter for arbitration. This proviso shall not affect employees presently employed in those classifications.
- 9.13 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 21¢). 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, not to exceed twenty dollars (\$20.00) per day, 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.

9.14 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.

9.15 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.

9.15.1 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:

(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.

(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.

9.15.2 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 transfer or removals shall be entitled to full pay at their regular rate of pay for all such loss of work or employment.

- 9.15.3** Notwithstanding the above, it is agreed that should the Employer intend to institute electronic checkout systems which would have direct material impact on employment covered by this Agreement, the Employer shall give to 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.

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.

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 19**.

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.

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, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. It is understood that the day of observance for Washington's Birthday, Memorial Day and Veteran's Day shall be those dates established by federal statute.
- 10.1.1 WORK:** In the event that employees shall be obligated to work on any of the above holidays, they shall be paid at the rate of double their straight-time rate of pay in addition to the normal holiday pay.
- 10.1.2 SAN JOAQUIN COUNTY ONLY: NO WORK:** No employee shall be permitted to work on any of the following holidays: Thanksgiving Day and Christmas Day.

If the Employer elects to open on New Year's Day or Labor Day, the store shall be staffed with volunteers. If more employees than are needed volunteer, assignment shall be by seniority.

VIOLATION: In the event any Employer violates this provision by allowing anyone to work in the store on any of the above holidays, the Union will be allowed to place pickets at the store as soon as possible and allow them to continue their activities for a maximum of three (3) days following each violation.

- 10.1.3 EMPLOYEE'S BIRTHDAY:** 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.

New employees will not receive an EMPLOYEE BIRTHDAY holiday until after one year of employment.

- 10.1.4 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 Day or New Year's Day that falls on Sunday shall be observed on Sunday.

- 10.1.5 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.

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

- 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) work day during the week in which the holiday falls.

- 10.2.1** Employees working on July Fourth or Veteran's Day, when the holiday falls on a Thursday, Friday or Saturday in a workweek, in addition to their earned holiday pay, will be given a day off the week before, the week of, or the week following the week in which the holiday falls. Employees who are required to work on one of the above holidays (July Fourth or Veteran's

Day), when the holiday falls on a Thursday, Friday or Saturday, will be guaranteed three (3) consecutive days off of Sunday, Monday and Tuesday, the week before, the week of, or the week following the week in which the holiday falls. In the event the Employer fails to give the additional day off the week before, the week of, or the week following the week in which the holiday falls, the employee will be paid double their straight-time rate of pay in addition to the normal holiday pay.

- 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:** No employee will be refused time off between the hours of 12:00 noon and 3:00 p.m. on Good Friday for the purpose of attending religious services. 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.

Section 11. VACATIONS

- 11.1** All employees 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.
- 11.2 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, 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 calendar year immediately preceding the taking of the vacation; 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.

11.5 The parties, by the execution of this Collective Bargaining Agreement, agree to accept and be fully bound by the terms of the Northern California Retail Clerks Employer Vacation Fund, and any amendments thereto.

11.6 **EMPLOYER CONTRIBUTIONS:** The Employer shall contribute to the Trust provided for in **11.5** hereof, an amount per hour which is required to maintain in effect for employees the Joint Vacation Fund in effect as of January 1, 1971. Except as herein specifically provided, the amount of contributions shall be determined by the Trustees and such Trustee actions shall be binding on the Employer.

If the Trustees find, on the basis of an actuarial study, that the Employer contributions are insufficient for the payment of the benefits and sound funding of the Plan, they shall determine the amount of the Employer contribution necessary for such purposes. For hours worked during the month immediately following the month in which such determination is made by the Trustees, and thereafter, for the remainder of this contract term, the Employer shall pay the increased contribution so determined.

11.7 **NEW EMPLOYER:** Vacation seniority defined as the length of an employee's service which determines the length of vacation to which he is entitled 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 Funded Vacation Plan.

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 prorated to the time of the sale or transfer of the business.

However, if the selling or transferring Employer fails to comply, then the Employer who takes over or purchases the store shall assume the pro rata obligations.

11.8 **SCHEDULE:** The Employer agrees to post the available vacation dates for each classification by January 1st of each year so the employees will be better able to select their vacation periods. Vacations shall be selected by employees on the basis of seniority between January 1st and March 15th of each year.

Employees selecting vacation time after March 15th may not bump employees selecting between January 1st and March 15th.

11.9 **PRO RATA:** Any employee who is discharged, laid-off, or who resigns after three (3) months or more of employment shall receive vacation wages prorated on the basis of the period worked at the time of said interruption or termination of employment.

- 11.10 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 paid vacation.
- 11.11 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 (2) two-week periods; two (2) week and one (1) week periods; three (3) week and one (1) week periods; three (3) week and two (2) week periods; four (4) week and one (1) week periods; provided such vacation schedule shall be approved by the Employer, the employee involved and the Union.

Section 12. GENERAL PROVISIONS

- 12.1 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 a fully-equipped first aid kit in his store or other place of business.
- 12.2 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.
- 12.3 BONDING:** Wherever 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.
- 12.4 FLOOR COVERING:** Wood or suitable floor covering shall be provided for on all concrete floors behind checkstands.
- 12.5 UNIFORMS:** 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; except if the Employer furnishes drip dry uniforms, the employee shall maintain such uniforms. The Employer shall furnish rain jackets for employees required to perform work outside the store in inclement weather. 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.
- 12.5.1 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.

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

12.7 PAYDAY 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 payday, except 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. Employees may be paid on a bi-weekly basis after thirty (30) days' notification to the employees and the Union.

12.8 UNION BUSINESS: Employees shall be allowed time off without pay for the purposes of attending Agreement negotiations, adjustment or arbitration board hearing or for other bona fide Union business. In all such instances, the Employer shall be notified not less than three (3) days 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 employee per store or two 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 meetings 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.

12.9 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.

12.10 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 welfare, pension and sick leave contributions, the Employer agrees to supply the Union with the necessary payroll data.

- 12.11 JURY DUTY OR COURT APPEARANCES:** Employees who have six (6) months seniority and are 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.

Employees performing jury duty on a day on which they were scheduled to work shall have their schedule changed so that their schedule begins at the time of their reporting for such jury duty.

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 for at least half of the daily shift. Failure to so report shall render null and void any claim for jury service for that day.

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 appearances; but such time shall not be considered as part of the workweek under the terms of this Agreement.

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

- 12.12.1 SICKNESS AND NON-INDUSTRIAL INJURIES:** Up to six (6) months after one (1) year of employment.

- 12.12.2 INDUSTRIAL INJURIES:** Up to one (1) year, subject to review by the parties after one (1) year, for any employee incurring an industrial injury after his first sixty (60) days of employment.

- 12.12.3 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.

- 12.12.4** 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.

- 12.12.5** The foregoing notwithstanding, no employee shall suffer loss of seniority because of absence due to illness of ten (10) working days or less.

12.13 FUNERAL LEAVES: 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.

(6) Part-time employees shall be entitled to funeral leave pay for the actual day of the funeral if scheduled to work on said day.

For the purpose of this Sub-Section, a member of the immediate family means the employee's spouse, child, mother, father, sister, brother, grandparents and grandchildren, or any of the above related to the employee through marriage.

12.14 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.

12.15 BULLETIN BOARD: The Employer agrees to provide space for the posting of official Union meeting notices.

12.16 DUES CHECK-OFF:

(1) The Employer agrees to deduct Union dues and initiation fees either weekly or bi-weekly 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 10th day of the month following the month in which deductions are made. No deductions will be made from the wages of any employee until the Employer has received a signed copy of the 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 and 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.

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. Any dispute arising out of this provision shall be subject to **Section 19** of this Agreement.

Section 13. GROUP INSURANCE - HEALTH & WELFARE, DENTAL AND SICK LEAVE

13.1 EMPLOYER ACCEPTANCE: The Employer agrees to accept and be fully bound by the terms of that certain Declaration of Trust dated August 26, 1963, providing for the Valley Clerks Health & Welfare 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.

13.2 EMPLOYER CONTRIBUTIONS: Effective with straight-time hours worked on and after March 1, 1986, the Employer will contribute \$1.40 per straight-time hour worked.

It is the intent of the collective bargaining parties that the Board of Trustees maintain reserves in the amount of \$27,500,000. Should the reserves drop below \$25,000,000 then the Trustees are directed to increase Employer contributions in an amount necessary to restore the \$27,500,000 reserve over a nine-month period, or the remaining months in the term of this Agreement, whichever is less; however, in no event shall the contributions be increased to more than \$1.92 per straight-time hour worked from March 1, 1986, to March 1, 1987; \$2.02 per straight-time hour worked from March 1, 1987, to March 1, 1988; \$2.12 per straight-time hour worked from March 1, 1988, to March 1, 1989.

It is also understood that if the reserve exceeds \$30,000,000 anytime during the last 18 months of this Agreement, the Trustees are directed to adjust contributions to a level that is consistent with the \$27,500,000 reserve policy at February 1, 1989. During the last three months of this Agreement the contribution rate shall at least be equal to the cost of the Plan at that time.

Such contributions shall be made on all straight-time hours worked including Sundays and/or hours compensated for such as vacations and holidays. Contributions shall be made on or before the 20th 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 2,080 straight-time hours in any calendar year.

13.3 The Trustees are instructed by the parties to provide that employees who have retired or who may retire under the Northern California Retail Clerks Unions and Food Employers Joint Pension Plan prior to March 1, 1980, and their eligible surviving spouses will receive such health and welfare benefits for retirees which are in effect on February 1, 1980, or as improved as in accordance with Plan rules. Employees who retire on and after the dates below will be eligible for health and welfare coverage for retirees, provided:

(1) The employee maintained eligibility for active health and welfare benefits under the Valley Clerks Health and Welfare Fund for three (3) out of the last six (6) years immediately preceding his retirement date (effective March 1, 1981), and

(2) The employee has ten (10) years of credited service under the Northern California Retail Clerks Unions and Food Employers Joint Pension Plan (effective March 1, 1982).

Eligible dependents of retirees are those persons who qualify as dependents on the retiree's first day of retirement except that a child born after retirement commences will become eligible at birth.

13.4 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 and 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 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 Plan which would result from the failure of an individual Employer to pay such monthly contribution 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 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 **COST CONTAINMENT:** The Trustees are authorized and directed to expand cost containment programs where appropriate, for both the active and retiree plans, including the following:

(1) Amend the existing coordination of benefits provision to provide that where this plan is coordinating benefits of an individual who is: (A) eligible as a retiree under this Plan or a dependent of such person; (B) or an employee whose eligibility under this Plan is a result of self-payment of contributions, or a dependent of such employee; or (C) an employee eligible for benefits under this Plan because of total disability extension of benefits, or a dependent of such person, payments by this Plan shall always be secondary. The Trustees are directed to study the

expansion of the coordination of benefit provisions so as to provide that disinsentives are not negated as it applies to this Plan.

- 13.6 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 as a business expense under the Internal Revenue Code as it presently exists or as may be amended subsequent to the date of this Agreement and under any similar state revenue or tax laws.
- 13.7 LEGISLATION:** In the event of legislation providing health and welfare or sick leave benefits which are also provided for under this Agreement, the Trustees are directed to immediately amend the Plan Document 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.
- 13.8 TRUST FUND ADMINISTRATION:** The Trustees are authorized and directed to establish a study committee for the purposes of determining if the administrative functions of the Valley Clerks Health and Welfare Trust Fund should be transferred to the Retail Clerks Employers Benefit Fund of Northern California Joint Administrative office located in Walnut Creek, California. If it is determined that the Trust Administration is to be transferred, then the Valley Clerks Health and Welfare Trust Fund will continue to operate as a separate Trust, with its present Board of Trustees, and retain its presently established policies and procedures as outlined by the terms of that certain Declaration of Trust dated August 26, 1963, providing for the Valley Clerks Health and Welfare Trust Fund, and any amendments thereto.
- 13.9 BENEFITS:** The Trustees are authorized and directed to amend plan benefits as follows:
- (1) Increase the basic payment for home and office doctor visits to \$25.00.
 - (2) Increase the basic payment for hospital doctor visits to \$25.00.
 - (3) Increase the conversion factor for surgery under basic to \$15.00.
 - (4) Cover anesthesia using the same conversion factor as surgery plus \$10.00.
 - (5) Increase the major medical maximum from \$200,000.00 per disability to \$1,000,000.00 lifetime.

(6) Annually review the RVS conversion factors under major medical and adjust same to reflect either community averages or contractual PPO rates whichever is the lesser of the two.

(7) Increase the maximum lifetime payment under the orthodontia benefit to \$2,000.00.

Section 14. PENSIONS

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

14.2 EMPLOYER CONTRIBUTIONS: The Employer shall continue to contribute to the Trust provided for in **14.1** hereof \$1.17 per straight-time hour.

Contributions shall be made on all straight-time hours worked including Sundays and all hours compensated such as vacations and holidays, by all employees covered by the Collective Bargaining Agreement between the parties hereto. Such contributions shall be made on or before the 20th day of each month for 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 2,080 straight-time hours per 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 40 hours per week and 2,080 hours per year.

14.3 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.

14.4 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.

- 14.5 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 newly 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.
- 14.6 REGULATIONS:** The Trust and the benefits to be provided from the Pension Trust Fund hereinabove referred to 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.
- 14.7 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 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.
- 14.8 LIMITATION:** The liability of the Employer shall be limited to the payment of the contribution required by the terms of this Agreement.
- 14.9** 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.
- 14.10** Because of the failure of tax qualification of the Supplemental Payment Fund, effective retroactive to January 1, 1981, the Declaration of Trust providing for the Northern California Retail Clerks Unions and Food Employers Joint Supplemental Payment Fund, and any amendments thereto, are hereby terminated and the Plan and Trust thereunder shall be deemed never to have been in effect. Effective retroactive to January 1, 1981, all assets and liabilities of the Trust shall revert to the Northern California Retail Clerks Unions and Food Employers Joint Pension Trust Fund, and the Trustees are authorized and directed to implement such transfer. The Trustees of the Pension Plan are authorized and directed to make periodic incidental payments to retirees in accordance with the Letter of Understanding executed on March 7, 1986.
- 14.11 DEFINED CONTRIBUTION PLAN:** The Trustees are authorized and directed to establish a Defined Contribution Pension Plan and Trust to be effective March 1, 1987, in addition to and supplemental to the current Pension Plan. Effective March 1, 1987, the Employers will contribute ten cents (10¢) per

straight-time hour to this Defined Contribution Plan. Effective March 1, 1988, the Employers will contribute an additional ten cents (10¢) per straight-time hour worked.

Section 15. FIELD ADMINISTRATION TRUST FUNDS

- 15.1** 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 Agreements. 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 16. STORE MEETINGS AND CHARITABLE DRIVES

- 16.1** 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.
- 16.2** All employee contributions to charity shall be voluntary.

Section 17. CONTRACT ENFORCEMENT AND STORE VISITS

- 17.1 VISITS:** It is agreed by both parties hereto that the business representatives 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.
- 17.2 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:

- (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.

(2) The Union shall promptly report in writing to the Employer any observed violations 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.

(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; retaining, however, his right to appeal any such discharge under the terms of this Agreement.

- 17.3** **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 18. STRIKE OR LOCKOUT

- 18.1** During the life of this Agreement, the Union agrees not to engage in any strike or stoppage of work.
- 18.2** During the life of this Agreement, the Employer agrees not to engage in any lockout.
- 18.3** Refusal of any employee covered by the terms of this Agreement to pass through any picket line which has been sanctioned by the Central Labor Council of proper jurisdiction shall not constitute a violation of this Agreement.

Section 19. ADJUSTMENT AND ARBITRATION OF DISPUTES

- 19.1** All claims, disputes and grievances arising between the parties during the term of this Agreement over the construction and application of this Agreement, or relating to working conditions arising out of this Agreement, in order to be valid must be presented in writing by the grieving party to the other party within ten (10) calendar days from the time the grieving party obtains knowledge of the initial occurrence of the dispute, claim or grievance. Failure to comply with this time limitation shall be deemed by the parties to constitute a waiver of said claim, dispute or grievance.
- 19.2** Upon the request of either party hereto, a Board of Adjustment shall be created, to be composed of two (2) representatives of each party to this Agreement, for the purpose of passing on all claims, disputes and grievances arising between the parties during the term of this Agreement over the construction and application of this Agreement, or relating to working conditions arising out of this Agreement, when such cannot be settled directly between the Union and the particular Employer involved. Said Board shall meet for consideration of any such matter referred to it within seven (7) calendar days subsequent to a request therefor by either

party. Failure on the part of the grieving party or respondent to make its two (2) representatives on the Board of Adjustment available within said time period shall be deemed to constitute a waiver of the claim, dispute or grievance, or a waiver of opposition to said claim, dispute or grievance, respectively, on the part of the defaulting party. If the Board cannot agree on such question referred to it within seven (7) calendar days, it shall then choose a disinterested person to act as an arbitrator. If the parties do not agree on an arbitrator within five (5) days, they shall obtain a list of five (5) arbitrators from the United States Mediation and Conciliation Service, and an arbitrator shall be selected therefrom by the strike-off method within seventy-two (72) hours upon demand. The award of the Adjustment Board or arbitrator shall be final and binding upon both parties.

- 19.3** If any party refuses to participate in the selection of an arbitrator as provided above, then the other party shall be free to proceed to arbitration, whether or not the refusing party chooses to participate; provided, however, that prior written notice of such intent is given to said refusing party. Where one party proceeds to arbitration without the participation of the other party, as herein provided, the arbitrator shall be selected by the participating party from the panel listed above and any award rendered by an arbitrator so selected shall be final and binding on both parties.
- 19.4** The arbitrator shall not have the right to alter, amend, delete or add to any of the terms of this Agreement.
- 19.5** Any expense jointly incurred in the course of arbitration shall be borne one-half (1/2) by the Union and one-half (1/2) by the Employer party to said arbitration.
- 19.6** 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.
- 19.7** **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.

No wage or other direct compensation claim not involving interpretation of the contract can require the Employer to pay such claim or any portion thereof retroactively for a period of more than six (6) months immediately prior to the date of the Employer's receipt of written notice from the Union of such claims.

Section 20. SAVINGS CLAUSE

- 20.1** If any provision of this Agreement is held to be invalid in a decision of any court or federal or state agency of competent jurisdiction, the

remaining provisions hereof shall nevertheless remain in full force and effect. If such decision is reversed in further proceedings, overruled by the same tribunal or a court of last resort or suspended by remedial legislation, said provision shall be reinstated with full force and effect from the effective date of such reversal, overruling decision or legislation.

Section 21. TERM OF AGREEMENT

- 21.1** Except as otherwise indicated herein, this Agreement shall be effective **May 2, 1986**, and shall remain in full force and effect in all areas to and including **April 30, 1989**, 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 18** shall not be binding on either party.
- 21.2** It is understood and agreed between the parties that all prior Agreements between them are hereby terminated and cancelled and that this Agreement supersedes and replaces all such prior Agreements.
- 21.3** This Agreement shall be binding upon the heirs, executors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto by their duly constituted representative officers affixed their signatures this _____ day of _____, 19__.

FOR THE UNION:

UNITED FOOD & COMMERCIAL WORKERS
UNION LOCAL 588, AFL-CIO, CLC

President

By

FOR THE EMPLOYER:

Firm Name

Address

City

By

APPENDIX 'A'

WAGE RATES IN EFFECT MAY 1, 1986

CLASSIFICATION		HOURLY	WEEKLY	TIME AND ONE-HALF	SUNDAY
MANAGING CLERK		\$14.468	\$578.72	\$21.702	\$21.322
SR HEAD CLERK & SR PRODUCE CLERK		13.927	557.08	20.8905	20.5105
HEAD CLERK		13.813	552.52	20.7195	20.3395
JOURNEYMAN CLERK (2,080 hrs)		13.484	539.36	20.226	19.846
APPRENTICE CLERKS:					
4th 3 months	(1,560 hrs) 85%	11.461	458.44	17.1915	16.869
3rd 3 months	(1,040 hrs) 75%	10.113	404.52	15.1695	14.8845
2nd 3 months	(520 hrs) 65%	8.765	350.60	13.1475	12.90
1st 3 months	55%	7.416	296.64	11.124	10.915
UTILITY CLERKS Hired prior to 4/19/83:					
Experienced Clerk		9.063	362.52	13.5945	13.2145
3rd 520 hours		8.157	326.28	12.2355	11.893
2nd 520 hours		7.250	290.00	10.875	10.5716
1st 520 hours		6.344	253.76	9.516	9.25
GENERAL CLERKS Hired on/after 4/19/83: (Includes Utility Clerks)					
Experienced Clerk	60%	8.090	323.60	12.135	11.9076
2nd 1,040 hours	55%	7.416	296.64	11.124	10.915
1st 1,040 hours	50%	6.742	269.68	10.113	9.923
SERVICE DELICATESSEN:					
Hired on/after 6/25/80 and prior to 4/19/83:					
Head Clerk (Optional)		8.859	354.36	13.2885	12.9085
Experienced Clerk		8.459	338.36	12.6885	12.3085
3rd 520 hours	90%	7.613	304.52	11.4195	11.077
2nd 520 hours	80%	6.767	270.68	10.1505	9.8468
1st 520 hours	70%	5.921	236.84	8.8815	8.616
Hired on/after 4/19/83:					
Experienced Clerk		7.70	308.00	11.55	11.17
3rd 520 hours	90%	6.93	277.20	10.395	10.053
2nd 520 hours	80%	6.16	246.40	9.24	8.936
1st 520 hours	70%	5.39	215.60	8.085	7.819
COURTESY CLERKS:					
Hired prior to 4/19/83		6.055	242.20	9.0825	8.7025
Hired on/after 4/19/83		5.00	200.00	7.50	7.12
JUICE CLERKS:					
Experienced Clerk		4.75	190.00	7.13	6.75
4th 520 hours		4.50	180.00	6.75	6.37
3rd 520 hours		4.25	170.00	6.38	6.00
2nd 520 hours		4.00	160.00	6.00	5.62
1st 520 hours		3.75	150.00	5.63	5.25

APPENDIX 'A'

WAGE RATES EFFECTIVE NOVEMBER 1, 1987

CLASSIFICATION	HOURLY	WEEKLY	TIME AND ONE-HALF	SUNDAY
MANAGING CLERK	\$14.818	\$592.72	\$22.227	\$21.847
SR HEAD CLERK & SR PRODUCE CLERK	14.277	571.08	21.415	21.035
HEAD CLERK	14.163	566.52	21.2445	20.8645
JOURNEYMAN CLERK (2,080 hrs)	13.784	551.36	20.676	20.296
APPRENTICE CLERKS:				
4th 3 months (1,560 hrs) 85%	11.461	458.44	17.1915	16.869
3rd 3 months (1,040 hrs) 75%	10.113	404.52	15.1695	14.8845
2nd 3 months (520 hrs) 65%	8.765	350.60	13.1475	12.90
1st 3 months 55%	7.416	296.64	11.124	10.915
UTILITY CLERKS Hired prior to 4/19/83:				
Experienced Clerk	9.313	372.52	13.69	13.31
3rd 520 hours	8.157	326.28	12.2355	11.893
2nd 520 hours	7.250	290.00	10.875	10.5716
1st 520 hours	6.344	253.76	9.516	9.25
GENERAL CLERKS Hired on/after 4/19/83: (Includes Utility Clerks)				
Experienced Clerk	8.34	333.60	12.51	12.13
2nd 1,040 hours	7.416	296.64	11.124	10.915
1st 1,040 hours	6.742	269.68	10.113	9.923
SERVICE DELICATESSEN:				
Hired on/after 6/25/80 and prior to 4/19/83:				
Head Clerk (Optional)	9.059	362.36	13.5885	13.2085
Experienced Clerk	8.659	346.36	12.9885	12.6085
3rd 520 hours	7.613	304.52	11.4195	11.077
2nd 520 hours	6.767	270.68	10.1505	9.8468
1st 520 hours	5.921	236.84	8.8815	8.616
Hired on/after 4/19/83:				
Experienced Clerk	7.90	316.00	11.85	11.47
3rd 520 hours	6.93	277.20	10.395	10.053
2nd 520 hours	6.16	246.40	9.24	8.936
1st 520 hours	5.39	215.60	8.085	7.819
COURTESY CLERKS:				
Hired prior to 4/19/83	6.205	248.20	9.3075	8.9275
Hired on/after 4/19/83	5.15	206.00	7.725	7.345
JUICE CLERKS:				
Experienced Clerk	4.90	196.00	7.35	6.97
4th 520 hours	4.65	186.00	6.975	6.595
3rd 520 hours	4.40	176.00	6.60	6.22
2nd 520 hours	4.15	166.00	6.225	5.845
1st 520 hours	3.90	156.00	5.85	5.47