

## **AGREEMENT**

This Agreement is made and entered into by and between Land-O-Sun Dairies, Inc., with its home office in Johnson City, Tennessee, (hereinafter referred to as the Employer or the Company, and Teamsters Local Unions 22, 28, 61, 509, 549, 592, and 822 and other such Local Unions affiliated with the International Brotherhood of Teamsters who may become party to this Agreement.

### **ARTICLE 1: RECOGNITION**

Pursuant to the terms of the certification granted by the National Labor Relations Board, the Employer recognizes the Union as the exclusive bargaining representative of the employees covered by this Agreement as described herein. This Agreement shall cover the Production, Distribution, Maintenance and Clerical employees of those Employer facilities in the bargaining unit as of October 1, 2004 in the states of Tennessee, North Carolina, South Carolina, Virginia and Georgia and other facilities as may be added to the bargaining unit by agreement of the parties or through an election in which the voters were advised that a union victory would result in their being placed in the bargaining unit.

District Managers, Distribution Managers, Officers of the Company, all Home Office Employees, Full-time Field Men, and Supervisory Employees as defined in the Labor Management Relations Act of 1947, as amended, shall be excluded from the bargaining unit.

### **ARTICLE 2: UNION SECURITY AND RELATED CLAUSES**

#### **SECTION 1: UNION SECURITY**

##### **Subsection A: Union Membership**

In states where it is legal, all present employees shall remain members of the Union in good standing as a condition of employment. All present employees who are not members of the Union and all employees who are hired hereafter in the states where it is legal shall become and remain members in good standing as a condition of employment on and after the thirty-first (31st) day following the beginning of their employment, or on the thirty-first (31st) day following the effective date of this section, whichever is the later.

### **Subsection B: New Employees**

The Company has the privilege of employing all new employees; however, when the Company needs additional employees, it shall give the Union equal opportunity with all other sources to provide suitable applicants, but the Company shall not be required to hire prospective employees referred by the Union.

The Company agrees to attach a Union membership application form, supplied by the Union, to each application for employment. When a new employee is employed by the Company, he or she shall be immediately introduced to the Union Shop Steward and the Steward shall be allowed twenty (20) minutes time to talk with the employee in private, so long as it does not interfere with the performance of work.

### **Subsection C: No Violation of Law**

Nothing contained in this section shall be construed so as to require the employer to violate any applicable law.

## **SECTION 2: DUES, DRIVE AND OTHER DEDUCTIONS**

### **Subsection A: Dues**

In accordance with the statement received from the Local Union, the Employer agrees to deduct from the first paycheck per month of all Union members covered by this Agreement the dues, initiation fees, and/or uniform assessments of the Local Union having jurisdiction over such employees and agrees to remit to said Local Union all such deductions prior to the twenty-second (22nd) day of the month for which the deduction is made. Where laws require written authorization by the employee, the same is to be furnished in the form required. The Local Union shall certify to the Employer in writing each month a list of its members working for the Employer who have furnished to the Employer the required authorization, together with an itemized statement of dues, initiation fees (full or installment), or uniform assessments owed and to be deducted for such month from the pay of such member, and the Employer shall deduct such amount within two (2) weeks following receipt of the statement of certification of the member and remit to the Local Union in one lump sum.

### **Subsection B: Drive**

The Employer agrees to deduct from the paycheck of all Union members covered by this Agreement voluntary contributions to DRIVE. DRIVE shall notify the Employer of the amounts designated by each contributing employee that are to be deducted from his or her paycheck on a weekly basis for all weeks worked. The phrase "weeks worked" excludes any week other than a week in which the employee earned a wage. The

Employer shall transmit to DRIVE National Headquarters, on a monthly basis, in one check, the total amount deducted along with the name of each employee on whose behalf a deduction is made, the employee's Social Security number and the amount deducted from that employee's paycheck. The International Brotherhood of Teamsters shall reimburse the Employer annually for the Employer's actual cost for the expenses incurred in administering the weekly payroll deduction plan.

### **Subsection C: Application of Law**

The Employer will recognize authorization for deductions from wages, if in compliance with state law, to be transmitted to the Local Union or to such other organizations as the Union may request if mutually agreed to. No such authorization shall be recognized if in violation of state or federal law.

### **SECTION 3: PROTECTION OF RIGHTS**

It shall not be a violation of this Agreement and it shall not be cause for discharge or disciplinary action in the event an employee refuses to enter upon any property involved in a primary labor dispute or refuses to go through or work behind any primary picket line, including the primary picket line of the Union's party to this Agreement. The liability of the Company for payment of wages in accordance with Article 7, Section 2, during a strike where such deliveries are made by managerial personnel shall be limited not to exceed thirty (30) days.

### **SECTION 4: STEWARDS**

The Employer recognizes the right of the Local Union to designate from the Employer's seniority list one or more Job Stewards and alternates. The authority of the Job Steward (or designated Alternate in the absence of the Job Steward) shall be limited to, and shall not exceed, the following duties and activities:

- (a) the investigation and presentation of grievances in accordance with the provisions of this Agreement, after notification to his/her supervisor (Permission to attend grievance matters as discussed above shall not be unreasonably denied);
- (b) the transmission of such messages and information which shall originate with and are authorized by the Local Union or its officers.

The Job Stewards and alternates have no authority to take strike action or any other action interrupting the Employer's business, except as authorized by official action of the Union. The Employer recognizes these limitations upon the authority of the Job Stewards and alternates.

The Company agrees to pay Stewards for time spent when required to attend grievance meetings during working hours. Whenever it is deemed advisable by the Company or the Union, the aggrieved employee's presence may be requested at any grievance procedure.

#### **SECTION 5: INSPECTION PRIVILEGES**

The Business Agent of the Union shall have access to the Employer's establishment during working hours for the purpose of investigating and adjusting disputes, investigating working conditions, signing up new members, ascertaining that the Agreement is being adhered to, and performing other bona fide Union business provided that the Business Agent notifies the Plant Manager or Supervisor of the employee with whom he/she intends to meet of his/her presence upon arrival at the facility and that such activities do not interfere with production.

#### **SECTION 6: TIME OFF FOR UNION ACTIVITIES**

The Employer agrees to grant the necessary and reasonable time off without pay, without discrimination and without loss of seniority rights, to any employee designated by the Union to attend a labor convention or serve as an elected or appointed officer, business agent or organizer, or to perform any other official Union business, provided forty-eight (48) hours' written notice is given to the Employer by the Union specifying the approximate length of time he/she may be off. However, time off shall not exceed thirty (30) days and the number of employees is limited to two (2) from any one location.

#### **SECTION 7: BULLETIN BOARD**

The Employer shall provide an adequate number of bulletin boards in each place of work for the posting of notices and other material pertaining to official Union business by authorized representatives of the Union.

The Employer agrees that it shall not interfere with the posting of said notices. The Employer assumes no responsibility for posting notices of the Union. The Union agrees that said notices will not be derogatory in character to the Company or management personnel. The Union agrees to keep bulletin boards in good order and current.

#### **SECTION 8: POSTING OF AGREEMENT**

The Employer shall post a copy of this Agreement in a conspicuous place in each facility.

## **SECTION 9: CORRESPONDENCE**

The Company shall only use union couriers only for correspondence sent to the Union for delivery by a commercial courier service.

## **ARTICLE 3: GRIEVANCES, DISCIPLINARY ACTION, AND RELATED CLAUSES**

### **SECTION 1: GRIEVANCES DEFINED**

A grievance is hereby jointly defined to be any controversy, complaint, misunderstanding, or dispute under this Agreement.

Except where otherwise specified, as used throughout this Article, a "day" shall be defined to be any calendar day except for Sundays and Holidays.

### **SECTION 2: GRIEVANCE PROCEDURE**

Any grievance arising between the Company and the Union or an employee represented by the Union shall be settled in the following manner:

- Step 1: Any employee who has a complaint, grievance, or dispute under this contract shall discuss it with his/her supervisor (if the employee desires, the employee may be accompanied by the Steward) within four (4) working days of the occurrence of the act giving rise to the grievance.
- Step 2: If no satisfactory settlement is reached, the employee and/or Union has an additional three (3) working days to submit a written grievance to the employee's supervisor. The Designated Management Representative shall provide the Shop Steward with a written decision no later than two (2) working days after the receipt of the written grievance.
- Step 3: If the grievance is not settled or adjusted in the manner set forth above, the appropriate Local Union Business Agent shall make an effort to settle the grievance with the Location Manager.

If the grievance is not settled or satisfactorily adjusted by the Location Manager and the Local Business Agent, the Business Agent shall present the grievance and all the evidence to the Regional Human Resource Manager within thirty (30) days after the Step 3 meeting.

Step 4: If the grievance is not resolved at Step 3, above, the parties agree to use the Piedmont Committee at Step 4.

Step 5: Any grievance which is not settled at Step 4, above, shall within ten (10) days be submitted to arbitration as hereinafter provided.

Any and all disputes and controversies arising under this Agreement or in connection with the terms or provisions of this Agreement or in connection with or relating to the application or interpretation of any of the terms or provisions hereof or in respect to anything not herein expressly provided but germane to the subject matter of this Agreement, which the Representatives of the Union and the Company have been unable to adjust through the grievance procedures shall be referred to an arbitrator who shall be selected as follows:

When such disputes or misunderstandings shall arise, either the Company or the Union or both jointly shall request the Director of Federal Mediation and Conciliation Service or his duly authorized designee to submit a list of five (5) suggested Arbitrators from which list one will be chosen by each party "scratching out" two names and the remaining Arbitrator on the list shall become the Arbitrator. Arrangements shall be made to hold a hearing before said Arbitrator as quickly as convenient, within thirty (30) days of the final submission of the case. The decision of said Arbitrator shall be final and binding upon both parties hereto. It is agreed that during such proceedings, there shall be no lockouts, strikes, or stoppage of work. The expense of the Arbitrator shall be divided equally between the parties to this Agreement. The above mentioned procedure shall not apply to any disputes arising out of negotiations for any subsequent Agreement.

### **SECTION 3: DISCIPLINARY ACTION AND DISCHARGE**

#### **Subsection A: Just Cause**

The Employer shall not discharge nor suspend any employee without just cause.

#### **Subsection B: Notice of Discharge or Suspension**

In all cases involving the discharge or suspension of any employee, the Employer must immediately notify the employee in writing of his/her discharge or suspension and the reason therefor. Such written notice shall also be given to the Shop Steward, and a copy mailed to the Local Union office, via certified mail or other verifiable means within two (2) days from the time of discharge or suspension.

#### **Subsection C: Issuance of Warning Notices**

In respect to discharge or suspension, the Employer must give at least one (1) warning notice of the complaint against such employee in writing, and a copy of the same to the Union and the Shop Steward, except that no warning notice shall be required to discharge any employee if the cause for discharge is any of the following:

- (1) Dishonesty;
- (2) Any violation of the Company's substance abuse policy;
- (3) Carrying unauthorized persons on Company owned vehicles;
- (4) Willful destruction of public or Company property or the property of other employees;
- (5) Failure to report immediately an accident which has resulted in personal injury or damage involving the individual, the public, or the Company's property;
- (6) Willful failure to carry out direct instructions which do not violate Company policy or any applicable law;
- (7) Fighting on Company property;
- (8) Harassing or threatening another employee or other individual in connection with work or on Company premises;
- (9) Possession of firearms or other weapon on Company premises or within Company property; and,
- (10) Any unsafe act that results in injury to the employee or others.

**Subsection D: Duration of Warning Notices**

Except as provided below, the warning notice as herein provided shall not remain in effect for a period of more than six (6) months from the date of the occurrence upon which the complaint and warning notice are based.

**Subsection E: Avoidable Accidents**

1) Any employee who has an avoidable accident involving one or more Company vehicles in any manner, and such accident involves total damage to persons, vehicles, and/or property in the amount of Fifteen Hundred Dollars (\$1,500.00) or more will be subject to the following provisions;

a) The first accident, as described above, in any twelve (12) month period will result in a letter of reprimand to the employee involved, with a copy to the Steward and Local Union.

b) The second accident, as described above, in any twelve (12) month period from the date of the first accident will result in a three (3) day suspension without pay for the employee involved. The second accident, as described herein, will also result in a warning notice in writing of complaint being issued against the employee involved, with a copy sent to the Steward and Local Union.

c) The third accident, as described above, in any twelve (12) month period from the date of the first accident will subject the employee involved to discharge.

2) Any employee who has a DOT reportable accident that was avoidable by him or her will be disciplined up to and including discharge.

**Subsection F: Appeal of Discharge or Suspension**

Any employee desiring an investigation of his/her discharge must file a protest in writing with the Company and the Union within seven (7) days of the date the Local Union receives notice via certified mail or other verifiable means (all days counted except Sundays and Holidays as defined in this contract) of the date of discharge. The matter shall then be handled through the grievance procedure.

**SECTION 4: NO STRIKE/NO LOCKOUT**

The Union and the Company agree that there shall be no strikes or lockouts.

**ARTICLE 4: PROTECTION OF UNIT WORK  
AND RELATED CLAUSES**

**SECTION 1: PROTECTION OF UNIT WORK**

The Company agrees that supervisory personnel shall not perform work of employees in any of the classifications covered by this Agreement except in case of bona fide emergency. This Section shall not be applicable in the Company's distributing plants.



## **SECTION 2: MANAGEMENT TRAINEES**

The Company may at any time select from its regular employees or employ four (4) individuals as Production Management Trainees and four (4) individuals as Accounting Trainees. These trainees may be assigned to work in any of the Employer's facilities, however, no more than one (1) trainee will be assigned in any department of any plant at a time. These trainees will not replace regular employees except that they may be used as relief of an employee who was off due to vacation, sickness or injury. These trainees will not come under the provisions of this Agreement. Production Management Trainees will not be assigned to plants having production employees who have been on layoff status for less than twenty-four (24) months. It is mutually understood that participation in the management trainee program discussed above shall be strictly voluntary and in no case shall any employee be required as a condition of employment to participate in the program.

## **SECTION 3: EXTRA CONTRACT AGREEMENT**

The Employer agrees not to enter into any agreement or contract with bargaining unit employees, individually or collectively, verbally or in writing, which in any way conflicts with the terms and provisions of this Agreement. Any such agreement shall be null and void.

## **SECTION 4: SEPARABILITY AND SAVINGS CLAUSE**

If any Article or Section of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction or if compliance with or enforcement of any Article or Section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Agreement other than that which it has been held invalid or as to which compliance with or enforcement of has been restrained, shall not be affected thereby.

## **SECTION 5: DISCONTINUANCE OF EXISTING OPERATIONS**

Should the Company due to economic or other reasons decide to discontinue any operation or portion thereof, and move to a non-union facility or entity, it will notify the Union in advance so that seniority and other personnel problems can be worked out for the mutual benefit of both parties.

## **SECTION 6: OPENING/ACQUISITION OF NEW OPERATIONS**

The Company will notify the Union within ten (10) days of the acquisition and/or establishment of a new facility in the States of Virginia, North Carolina, South Carolina, Georgia, Kentucky (east of Lexington), and Tennessee (east of Crossville).

## **SECTION 7: NEW OR REVISED OPERATIONS OR CLASSIFICATIONS**

Where new or revised operations or job classifications are to be covered by this Agreement for which rates of pay and other terms and conditions of employment are not established by this Agreement are to be put into effect by the Employer, the Employer shall give the union as much advance notice as possible and shall likewise enter into negotiations regarding such matters.

## **ARTICLE 5: NON-DISCRIMINATION AND CLAUSES PERTAINING TO INDIVIDUAL RIGHTS**

### **SECTION 1: NON-DISCRIMINATION**

The Employer and the Union agree not to discriminate against any individual with respect to hiring, compensation, terms or conditions of employment because of such individual's race, color, religion, sex, national origin, age, handicap, veteran's status, Vietnam veteran's status, or marital status, nor shall they limit, segregate or classify employees in any way to deprive any individual employee of employment opportunities because of race, color, religion, sex, national origin, age, handicap, veteran's status, Vietnam veteran's status, or marital status or engage in any other discriminatory acts prohibited by law.

The Company and the Union agree that there will be no discrimination by the Company or the Union against any employee because of his or her membership in the Union or because of any employee's lawful activity and/or support of the Union.

Whenever the pronoun "he" is used within this Agreement, it is meant to refer to both sexes.

### **SECTION 2: EXAMINATIONS**

Subject to provisions of the Americans With Disabilities Act or other law, the Company shall have the right at any time to require any employee or applicant for employment to submit to a physical and medical examination at the expense of the Company by any medical practitioner chosen by the Company, and the Company shall not be required to employ or to retain in its employment anyone found by such examination to be physically unfit; however, that if the employee's condition is such that he/she is acceptable and able to do some work in the plant, then such work shall be given to the employee as far as it is practicable, and the employee's wages adjusted accordingly.

The employee may, if he/she believes an injustice has been done, be re-examined at the employee's expense. Should the two examination reports conflict as to the qualifications to perform work, the Employer and the Local Union shall jointly select a third examiner within ten (10) days whose decision shall be final and binding. If the third examiner agrees with the initial examiner, the employee must pay all costs associated with the third examination. If the third examiner disagrees with the initial examiner, the Company must pay all costs associated with the third examination.

### **SECTION 3: MILITARY LEAVE**

Employees enlisting or entering the military service of the United States, pursuant to the provision of the Veteran's Reemployment Rights Act, or as amended, shall be granted all rights and privileges provided by the Act.

### **SECTION 4: BONDS**

Employees shall be bonded in such manner and upon such conditions as the Company may elect; provided, however, that the cost of such bond shall be paid for by the Company.

### **SECTION 5: LICENSES AND PERMITS**

Applicants and employees shall acquire and maintain any legal or regulatory licenses and/or permits related to any applicant's or employee's job duties required by any government body having appropriate jurisdiction. In the event that an employee is required to utilize any equipment (i.e., truck) in acquiring and/or maintaining said licenses and/or permits, the Employer shall make said equipment available to the employee at no cost to the employee.

### **SECTION 6: UNIFORMS AND CLOTHING**

The Employer agrees that if any employee is required to wear any kind of uniform as a condition of continued employment, such uniform shall be furnished and maintained by the Employer, at a cost of Two Dollars and Fifty Cents (\$2.50) per week to each employee required to wear said uniform.

If an employee is required by the Company to wear safety shoes or boots, he or she shall receive \$80.00 credit per year toward the purchase of such footwear from an approved vendor.

Where Employees are required to work in hardening rooms, the Employer shall furnish and maintain, without charge, suitable coats and clothing for use in such rooms

with the express understanding that such coats remain property of the employer and may not be removed from the premises.

The Company will not change the Uniform policy during the term of this Agreement.

### **SECTION 7: IDENTIFICATION**

Should the Employer find it necessary to require employees to carry or record full personal identification, such requirements shall be complied with by the employees. The cost of such personal identification shall be borne by the Employer.

### **SECTION 8: SUBSTANCE ABUSE TESTING**

The parties recognize the regulatory requirements imposed by the Federal Government regarding substance abuse testing, and agree jointly to the Land-O-Sun Dairies, Inc. substance abuse policy.

The Company agrees to pay the mileage and hourly rate of any employee while he or she submits to substance abuse testing contemplated herein which is conducted off-site.

### **SECTION 9: FEDERAL LAW**

The parties agree to abide by the Americans With Disabilities Act and to comply with the Family and Medical Leave Act of 1993 at all locations.

## **ARTICLE 6: NEW HIRES, PROBATION AND SENIORITY**

### **SECTION 1: PROBATION**

All newly hired employees shall be considered to be on probation for a period of sixty (60) working days, including employees in positions involving the operation of commercial motor vehicles, in order to allow the employer sufficient time to receive driving record documents from the appropriate government agency necessary to conduct a background check for such employees. The duration of the probationary period may be extended by mutual agreement of the Employer and the Union, Probationary employees may be discharged without recourse to the Grievance and Arbitration procedures. At the end of this probationary period, they shall be placed on the seniority list effective their most recent date of hire.

The Employer shall not abuse the use of probationary employees in order to avoid adding additional employees to the seniority list or for the purpose or with the effect of subterfuging the terms and conditions of this Agreement.

## **SECTION 2: SENIORITY**

### **Subsection A: Seniority Defined**

(1) Company seniority shall be defined as the most recent hire date with the Company. In the event two or more employees are hired at the same location and time, the employee whose surname comes first alphabetically shall, for the purpose of this Article, be determined first hired. Should surnames be spelled the same, then the given name which appears first alphabetically shall control.

(2) Departmental Seniority shall be defined as the most recent date of hire into a department at any facility of the Employer. Laid off employees or employees confronted with layoff who bump into a different department in order to avoid layoff or notification of layoff and said bumping employee shall also acquire departmental seniority in the department into which he/she bumped in order to avoid or return from layoff.

Departmental seniority shall prevail in governing the layoff and re-employment basis; however, in case of layoffs when complications result, Management and the Union shall make exceptions when necessary to preserve normal plant operations.

The Departments shall be as follows:

- A. Office and Clerical Employees
- B. Milk and Ice Cream Delivery
- C. Shipping and Finish Storage
- D. Ice Cream Production
- E. Milk Processing
- F. Engineering (Maintenance)
- G. Refrigeration
- H. Garage
- I. Culture Processing and Manufacturing.
- J. Transport Drivers

### **Subsection B: Seniority List**

A Seniority List shall be posted by the Company at each facility and shall be revised on the first day of November each year. The Seniority List shall specify each employee's name, date of Company Seniority, date of Department Seniority, and job classification. A copy of this Seniority List shall be sent to the Union. The Company will notify the Union in writing of all layoffs, recalls, and new hires within ten (10) days.

### **Subsection C: Break in Seniority**

An Employee's Company Seniority shall be broken in the following instances:

- 1) Voluntary quit or resignation;
- 2) Discharge for just cause which if contested has been upheld by the grievance procedure contained herein;
- 3) Promotion within the Company outside the bargaining unit or acceptance of a Union position for twelve (12) months;
- 4) Layoff of continuous duration lasting two (2) years;
- 5) Failure to report to work within ten (10) days, excluding Sundays and Holidays, upon notice of recall to work being sent by registered mail, return receipt requested, to the employee's last known address;
- 6) Absence from work for a period of twenty-four (24) months due to injury, illness or in the event of occupational injury, illness or in the event of occupational injury on the job. In order to avoid termination under this provision, the employee must return to full, regular and continuous duty within the period of time specified herein.

**Subsection D: Application of Seniority**

The principle of seniority shall prevail at all times provided that employees are capable and qualified to perform the necessary job duties.

(1) Bid Positions and Bidding

(a) Posting of Bids

When any new hourly rate classification within the bargaining unit is created or vacancies occur in an existing classification, such classification shall be posted within four (4) days (all days counted except Sundays and Holidays) and shall remain posted for seven (7) days.

(b) Awarding Bids

- (1) The designated Company Representative and the Union Steward shall within seven (7) days (all days counting except Sundays and Holidays) after the posted notice has been taken

down select from among the signatories an employee to fill the new or vacated position.

(2) Bids shall be awarded as follows:

The senior qualified bidder from the department in which the posted notice exists shall be awarded the classification. If no qualified employee is available within the department in which the vacancy exists, then and only then will the classification be awarded to the senior qualified bidder from another department. Any dispute over the qualifications shall be submitted to the Regional Human Resource Manager of the Company and the Business Manager or Business Agent of the Union for settlement.

If the position is unfilled as provided above, the Employer may employ a new employee to fill the vacant position, mindful of the Employer's agreement to consider the Union's out-of-work list.

(c) The employee so selected shall be given a training period of thirty (30) calendar days. In the event such employee, at the end of said training period, has not demonstrated his or her ability to handle the new job duties competently in the opinion of the Company and the Union Representative, he/she will be returned to the employee's former position without loss of seniority.

(d) No employee selected under the terms of this Section shall be entitled to bid on another vacancy within his/her plant for a period of twelve (12) months, unless it results in a higher rate of pay or in order to avoid or return from layoff. This paragraph has no application to shift preference rights contained elsewhere in this Agreement.

(2) Layoffs

Departmental Seniority shall govern the layoffs and reemployment of employees when ability and mental and physical fitness for the particular job are equal as between or among two or more employees. The employee with the most seniority shall be last to be laid off and the first to be recalled from layoffs in the employee's department.

(3) Bumping

Laid off employees, capable and qualified (meaning a maximum of three (3) days for job orientation and/or training) to perform work of the employee with the least seniority in the bargaining unit shall have the right to replace the employee with the least

seniority in the bargaining unit. In the event the laid off employee is not qualified to perform the work of the employee with the least seniority at his/her location, the laid off employee shall be entitled to replace the employee with the least seniority in a department where the employee is qualified to perform the work. If the employee is qualified in more than one other department, he/she shall replace the employee with the least company seniority. This employee will not suffer a reduction in hourly rate and/or route guarantee as a result of the transfer. However, such employee must exercise seniority to fill the next opening for which the employee is qualified or else have the pay rate and or route guarantee reduced to correspond to the pay rate of the classification for work being performed.

(4) Additional Work Opportunities for Laid off Employees

In the event of a layoff at a plant covered by this Agreement in the areas defined below, a regular employee shall have the opportunity for employment at another plant covered by this Agreement in the area in which he/she is employed provided that there is a vacancy, provided the employee wishes to accept such opportunity, and provided the Employer believes the employee is qualified for such vacancy. The Company will notify laid off employees of opportunities for employment at other plants in the employee's area by registered mail, return receipt requested sent to the employee's last known address. Any employee so notified must notify the Employer no later than ten (10) days after notice has been mailed to the employee of his/her intentions. The Company will then offer the vacancy to the senior qualified employee.

In the event an employee refuses to accept transfer to another plant when offered, the Company's responsibility for offering the employee further transfer opportunities ceases. The Company will then offer the vacancy to the senior qualified employee. The refusal to accept opportunity for transfer to another plant will not cause the employee to lose his/her seniority in the plant from which the employee has been laid off.

The Company's liability in the event a laid-off employee is overlooked shall be limited to two (2) months from date of hire of the new employee who filled the vacancy.

The areas referred to above are as follows:

Area 1: Tennessee and Virginia

Area 2: North Carolina

Area 3: South Carolina and Georgia

**SECTION 3: PART-TIME EMPLOYEES**



Part-time employees and/or extra employees shall be considered regular employees and be paid in accordance with pay schedule set forth in Article 7, Section 1, and be covered by terms of this Agreement after working thirty-one (31) days. At no time will part-time help be employed to defeat the purpose of this Agreement and/or to bump a regular employee out of work, if said regular employee is available and willing to work. The guaranteed workweek shall not apply to part-time and extra employees. Part-time employees shall not work more than thirty (30) hours in any one workweek.

Employees in this category are authorized prorated vacation time and pay, holiday pay, and participation in the retirement plan based on the total number of hours worked in each year. Should a part-time employee obtain full-time status, the time served in a part-time capacity will be credited toward eligibility for enrollment in the group insurance plan.

## **ARTICLE 7: HOURLY EMPLOYEES**

This article shall address conditions applicable to clerical, production, maintenance and shipping personnel.

### **SECTION 1: HOURS**

#### **Subsection 1: Regular Workweek**

Forty (40) hours within five (5) days shall constitute a regular workweek for all hourly paid employees, except part-time employees and extra employees.

#### **Subsection 2: Schedules**

Employee's work schedules are to be posted on Tuesday for the following week; however, the Company reserves the right to change work schedules in case of emergencies or on account of shortage of finished or raw product in the plant. There will be an eight (8) hour minimum between shifts.

#### **Subsection 3: Guarantees**

- (1) Guaranteed Workweek

The Company agrees to guarantee forty (40) hours of work or pay per workweek to all hourly paid employees, except part-time employees and extra employees, provided they are available and willing to work.

(2) Daily Guarantees

It is the intent of the parties to cooperate to eliminate marked deviations from normal workdays.

(a) If an employee reports for work at his/her scheduled time without having been previously notified not to report and no work is available in his/her regular job, he/she shall be given a minimum of four (4) hours' work if other work is available or if no other work is available, he/she shall be given four (4) hours' pay.

(b) If an employee is to work less hours on the last day of his workweek than are shown on his work schedule which was posted on the preceding Tuesday, and in the further event that he is not notified of this fact prior to quitting time on the preceding day, then he/she shall receive a minimum of six (6) hours' work or pay for his last day.

(c) No employee shall be scheduled to work less than four (4) hours on Sunday.

(d) Employees who are not scheduled to work on Sunday but are called in on account of an emergency shall receive a minimum of four (4) hours' work or pay at time and one-half their regular rate of pay; however, the Sunday will not be counted as the day worked for the purpose of computing pay for work on the seventh consecutive day in a workweek.

(e) Any employee who has completed his shift for the day and has left the plant and is recalled for work shall be paid at the rate of double time with a minimum of four (4) hours at such rate.

(f) No employees will be required to work a split shift.

**Subsection 4: Daily Hour Conditions**

(a) The Company will allow time for dressing and cleaning up at the beginning and end of the employee's workday and pay, such time not to exceed ten (10) minutes at the beginning of the workday and fifteen (15) minutes at the end of the day.

(b) No employee shall be required to work in hardening rooms over twenty-five (25) minutes out of every half (1/2) hour, and no employee shall be required to work in a hardening room without being properly dressed.

(c) No employee shall work more than six (6) consecutive hours without minimum time off for meals of one-half (1/2) hour, nor shall time off exceed one (1) hour, with the further understanding that exception will be permissible with the consent of the Shop Steward. Time off periods for meals shall normally be between 6:00 a.m. and 8:00 a.m., between 11:00 a.m. and 1:00 p.m., and between 5:00 p.m. and 7:00 p.m. Time card record shall be used in computing pay for hours worked by hourly paid employees. The Company will endeavor to schedule regular hours for eating periods.

#### **Subsection 5: Acts of God**

While an operation is inoperable due to an act of God or other disaster beyond the Company's control, obligations to provide work and pay are suspended.

#### **Subsection 6: Shift Preference**

(a) In milk plants, the employee with the most departmental seniority in a classification shall be granted shift preference. The employee shall be allowed to make his or her shift preference on or about June 1 and on or about December 1.

(b) In ice cream production plants, the employee with the greatest length of time in classification shall be granted shift preference. The employee shall be allowed to make his or her shift preference on or about November 1st and on or about April 1st.

#### **Subsection 7: Time Cards**

(a) It is agreed that each employee covered by this Agreement shall be required to commence and end each day's work at the time designated by the Company, and all hourly paid employees shall punch a time clock or other system as technology evolves upon commencing work, before and after lunch periods, and upon leaving before or at the end of the day's work.

(b) No employee will be permitted to work or to punch time clock or other system before starting or after quitting times designated for him except when expressly authorized by supervisory personnel.

(c) Any employee punching time card or other system of another employee shall be subject to dismissal without notice.

### **SECTION 2: WAGES**

#### **Subsection 1: Rates and Classifications for Office Employees**

A.	Office Rate	10/1/04	10/1/05	10/1/06	10/1/07	10/1/08
		\$ 12.03	\$12.48	\$12.93	\$13.38	\$13.83

**Subsection 2: Rates and Classifications for Other Hourly Employees**

	Eff. 10/1/04	Eff. 10/1/05	Eff. 10/1/06	Eff. 10/1/07	Eff. 10/1/08
<u>Rate 1.</u>	\$13.56	\$14.01	\$14.46	\$14.91	\$15.36
Chief Engineer					
Chief Truck Mechanic					
Diesel Mechanic					
Working Foreman					

<u>Rate 2.</u>	\$13.06	\$13.51	\$13.96	\$14.41	\$14.86
Plant Engineer					
Truck Mechanics					
Truck Chauffeur					
Refrigeration Servicemen					
Utility					
Pasteurizer Operator, Senior					
Senior Warehouseman*					

\*Requires at least two (2) years of experience as chief warehouseman.

<u>Rate 3.</u>	\$12.74	\$13.19	\$13.64	\$14.09	\$14.54
Multiple Machine Operator (Ice Cream Production Plants)					
Shipping Clerk, Sr.					
Laboratory Technician					
Blow Mold Operator					
Sanitarian					

	Eff. 10/1/04	Eff. 10/1/05	Eff. 10/1/06	Eff. 10/1/07	Eff. 10/1/08
<u>Rate 4.</u>	\$12.03	\$12.48	\$12.93	\$13.38	\$13.83
Chief Warehouseman (Ice Cream Production Plants)					
Pasteurizer Operator, Junior					
Ice Cream Freezer Operator					
Pure Pak Machine Operator					
Klik-Lok Operator					
Fork Lift Operator (Hardening Room-Ice Cream Plants)					
Receiving Room Operator (More than 4 tankers per day)					
Vita Freeze Operator					
Cup Machine Operator					
Filling Machine Operator					
Amerio-Shrinkwrap Operator					
Nutty Buddy & Sandwich Machine Operator					

<u>Rate 5.</u>	\$11.66	\$12.11	\$12.56	\$13.01	\$13.46
Shipping Clerk Junior					
Hardening Room Labor					
Chauffeur - Local					
Operator: Stick Machine					
Fruit Freezer, Extru-Wrap					
Mechanics Helper (Plant & Truck)					
Fork Lift Operator (Warehouse)					
Checker					

<u>Rate 6.</u>	\$10.77	\$11.22	\$11.67	\$12.12	\$12.57
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### **Subsection 3: Overtime and Overtime Rates**

(a) When at the end of a shift the Company deems it necessary to hold certain employees over on unscheduled overtime to complete the day's work, as many senior employees on duty in the classifications the Company deems necessary to complete the work, will be given the first opportunity to work such overtime.

(b) Time and one-half will be paid for overtime above ten (10) hours in any one (1) day or forty (40) hours in any one (1) week, whichever shall result in the greatest total pay to the employee.

(c) Double time the established hourly rate shall be paid all hourly paid employees for all time worked on the seventh day, which in no instance shall be less than six (6) hours worked in any regularly scheduled workweek. Such regularly scheduled workweek shall consist of seven (7) days from Sunday through Saturday. Hourly paid employees may exchange their seventh consecutive day's employment when such exchange is approved by the Designated Management Representative. Such an exchange shall excuse the Company from being liable for payment of double time in case they work the seventh consecutive day.

### **Subsection 4: Shift Differential**

All hourly paid employees required to commence work between the hours of 4:00 p.m. and 4:00 a.m. shall receive fifteen cents (\$.15) per hour in addition to their regular rate. Hourly paid employees who commence work before 4:00 p.m. and who are required to work after 9:00 p.m. shall receive fifteen cents (\$.15) per hour additional for all hours worked after 9:00 p.m. This provision does not apply to night watchmen.

### **Subsection 5: Employee Pay**

All hourly employees shall be paid weekly. The Company agrees that employees' checks or pay envelopes, whichever it may be, shall be ready for distribution at 12 o'clock noon on the regularly scheduled payday except in weeks wherein a holiday or Sunday occurs between the end of the pay period and the regularly scheduled payday. In such cases, the payday will be one day later. The correct classification of employees shall be the joint concern of both the Company and the Union. Any dispute over the classification of employees shall be handled under the terms as provided for in the grievance procedure as set forth in this Agreement.

Any and all items charged to employees covered by this Agreement shall be itemized on a statement delivered with the paychecks from which it is deducted.

### **Subsection 6: Work in Higher Classification**

When an employee is temporarily assigned to work in a higher classification, he shall be paid the higher rate for time spent doing work in a higher classification, provided he spends at least one (1) hour in any one day doing such higher classification work.

Any employee regularly employed in a classification shall not suffer a reduction in rate when temporarily assigned to perform work in lower classification unless he is permanently down-graded to a lower classification.

If an employee in the Plant Labor classification is used to fill in work in a higher classification for vacation relief or to fill temporary job vacancies, such work will be offered to the most senior qualified Plant Labor employee in the Department.

### **Subsection 7: Separation of Employment**

Any employee wishing to leave the employ of the Company shall give one week's advance notice. The Company shall give one week's notice, or pay in lieu of, to any employee who is to be discharged (except for the ten (10) causes of immediate discharge named in Article 3, Section 3(c)) or laid off. The notice, or pay in lieu of, shall be the Company's option.

### **Subsection 8: Tool Allowance**

Engineers and mechanics shall be eligible for a tool allowance of up to \$100.00 annually for the replacement of worn or broken tools provided a receipt is produced by the employee.

## **ARTICLE 8: TRANSPORT DRIVERS**

This article shall address conditions applicable to transport drivers.

## **SECTION 1: RATES AND CLASSIFICATIONS AND CONDITIONS FOR TRANSPORT DRIVER**

Truck Chauffeur Compensation

A.	Mileage Rate					
	Effective	10/1/04	10/1/05	10/1/06	10/1/07	10/1/08
		\$ .355	\$ .3625	\$ .37	\$ .3775	\$ .3875

B. Flat Service Rates

- |     |                                   |   |
|-----|-----------------------------------|---|
| (1) | Load or Unload Full Trailer*      | \$ 9.00 during 1st and 2nd years of agreement and \$10.00 beginning October 1, 2006 |
| (2) | Load or Unload Partial Trailer*   | \$ 9.00 during 1st and 2nd years of agreement and \$10.00 beginning October 1, 2006 |
| (3) | Unload Partial Trailer and Stock* | \$13.00 during 1st and 2nd years of agreement and \$14.00 beginning October 1, 2006 |

\*Employee may be required to unload product, verify count, and pick up empty cases or carts.

- |     |                        |   |
|-----|------------------------|---|
| (4) | Service to Route Truck | \$ 9.00 during 1st and 2nd years of agreement and \$10.00 beginning October 1, 2006 |
|-----|------------------------|---|

Driver will dispense product and verify product count and routeman's inventory, and pick up empty cases or carts.

- |     |                |   |
|-----|----------------|---|
| (5) | Drop Trailer   | \$4.00 during 1st year of agreement and \$5.00 beginning October 1, 2005.   |
|     | Driver Fueling | \$4.00 during 1st year of agreement and \$5.00 beginning October 1, 2005.<br>(when driver does the fueling himself) |
|     | Mail Bags      | \$4.00 during 1st year of agreement and \$5.00 beginning October 1, 2005.   |

C. Breakdown Time

Any Transport Driver detained more than 15 minutes for any single breakdown of equipment shall be compensated at Rate 2 for time lost, beginning with minute one, provided such delay is not attributable to the Transport Driver's own conduct.

D. Loading/Unloading and Delay

Should the time required to perform the flat service rates (1) per load, (2) per drop or (3) per route exceed 45 minutes (1) per load, (2) per drop or (3) per route then the time in excess of 45 minutes will be paid at Rate 2.

E. Guarantee

Transport drivers shall be guaranteed the equivalent of eight hours' pay at Rate 2 on any scheduled workday. Any driver who works each of his scheduled workdays within a workweek shall be guaranteed the equivalent of forty (40) hours' pay at Rate 2.

F. In the event a transport driver is called into work on an unscheduled workday, he shall be guaranteed the equivalent of four hours' pay at Rate 2.

G. Benefit Computation

Funeral and Jury Duty computed on the basis of eight hours/per day at Rate 2. (Vacation Pay is described in Article 13, Section 2).

H. Plant Work

Hourly Rate 2.

I. Meals/Lodging

If any employee is required to stay out of town overnight on deliveries, the Company agrees to provide a sleeper cab for lodging, or if a sleeper cab is not available, to pay up to Sixty-Five Dollars (\$65.00) per night for lodging without call-in advance approval, and to pay for meals at the rate of Six Dollars (\$6.00) for breakfast and Twelve Dollars (\$12.00) for the evening meal.

J. O.T.R. Drivers' holiday and sick pay shall be 1/5 of 1/52 of prior year's W-2 or average earnings if W-2 is not available.

K. An O.T.R. Driver who works seven (7) consecutive days within a workweek shall be paid two (2) times the 7<sup>th</sup> day's earnings achieved for the 7<sup>th</sup> consecutive day of work. A day of work shall be defined as the time that the driver commenced duty until the time that he either completes his assignments or is required by law to take his eight-hour statutory break. In order for this provision to apply, each of the seven consecutive days of work must consist of at least six hours on duty.



L. Safety Bonus: All O.T.R. Drivers will be eligible to participate in an annual safety bonus program. All O.T.R. Drivers who do not have a vehicle accident for each year from October 1, 2004 forward will receive \$200.00 per year with a \$25.00 per year increase for each consecutive accident-free year. If a driver achieves ten consecutive accident-free years, the increase from year to year shall become \$50.00.

## **SECTION 2: Acts of God**

While an operation is inoperable due to an act of God or other disaster beyond the Company's control, obligations to provide work and pay are suspended.

## **ARTICLE 9: ROUTE SALES**

This article shall address conditions applicable to route sales personnel.

### **SECTION 1: WORKWEEK**

The Company will establish a five (5) day workweek for Route Salesmen and Senior Route Salesmen. These employees shall be entitled to be off work two (2) days during the regular workweek (Sunday through Saturday). This does not necessarily contemplate that the Route Salesmen will be off work on a specific day or on specific days each week. These employees may trade the day or days off work with another employee who is employed in the same classification with the approval of the Designated Management Representative.

However, when for any reason, management cannot relieve the Route Salesman or Senior Routeman any day during any scheduled workweek, those individuals shall receive one-fifth (1/5th) of their weekly commission earnings in addition to their regular pay based on the average route commission earnings for the month involved. However, when for any reason the Route Salesman or Senior Routeman elects to work on the sixth day, the above premium will not apply.

When the Route Salesman or Senior Routeman elects to trade a day or days off during the workweek for their own convenience, the Company shall not be held liable for extra pay for the sixth or seventh consecutive day worked by the employee in question.

Regardless of a Route Salesman's classification as a Milk, Milk / Ice Cream or Ice Cream Salesman, he will receive the appropriate rate applicable for the nature of the sale or delivery made by him.

In the event Company needs require that one or more of its Route Salesmen work on a day on which they were not scheduled to work, the person(s) assigned such work

shall be the least senior employee who know the route and has sufficient hours remaining to legally run the route.

## **SECTION 2: COMMISSION RATES**

The Company agrees that the following rates of wages and/or commissions shall be paid for the following classifications:

(1) Unless otherwise set forth, Route Salesmen shall be paid on a commission basis of seven and four-tenths percent (7.4%) on net sales from milk products with a minimum guarantee per pay period as follows:

10-1-04 to 9-30-05	-	\$1,075.00
10-1-05 to 9-30-06	-	\$1,100.00
10-1-06 to 9-30-07	-	\$1,125.00
10-1-07 to 9-30-08	-	\$1,150.00
10-1-08 to 9-30-09	-	\$1,175.00

(a) In the case of limited service sales, bid sales, and contract sales, the commission shall be four point eight percent (4.8%) on net sales in year one, five point three percent (5.3%) in year two, five point eight percent (5.8%) in year three, six point three percent (6.3%) in year four, and six point eight percent (6.8%) in year five.

Limited Service is a one-time service in which the driver-salesman does not guarantee the sale. The driver-salesman will not be required to clean the case, but may be required to price the product the first time in.

For school sales, ice cream mix and other mixes, or delivery of eggs, butter and oleo, the commission shall be four point three percent (4.3%) on net sales.

(b) For a private label sale, the routeman shall be paid four and one-half (4-1/2) cents per gallon.

(c) Platform Sales and/or Platform Deliveries

- (1) Customer Pickup at the Company's Platform - no remuneration.
- (2) Company Delivery to Customer's Storage Cooler or Platform by other than Route Salesmen — no remuneration.

(d) Store Storage Cooler Delivery by Wholesale or Retail Route Salesman.

- Pet Brand - four (4) cents per gallon
- Private Label - three and one-half (3-1/2) cents per gallon.

(e) Store Platform (Cooler), Customer Warehouse or Customer Distribution Center delivery if made by other than a Route Salesman will be at either Chauffeur-Local or Truck Chauffeur rates depending upon the type of vehicle used to make the delivery.

(f) In the case of A.S.N. sales in which route salesmen generate the orders and stock the shelves, the route salesmen shall be paid on a commission basis of three percent (3%) on net sales.

(2) Unless otherwise set forth, Ice Cream Route Salesmen shall be paid on a commission basis of 6.025 percent (6.025%) on net sales for ice cream products in year one, 6.1 percent (6.1%) in year two, 6.2 percent (6.2%) in year three, 6.3 percent (6.3%) in year four and 6.4 percent (6.4%) in year five, during the month with a minimum guarantee per pay period as follows:

10-1-04 to 9-30-05	-	\$1,075.00
10-1-05 to 9-30-06	-	\$1,100.00
10-1-06 to 9-30-07	-	\$1,125.00
10-1-07 to 9-30-08	-	\$1,150.00
10-1-08 to 9-30-09	-	\$1,175.00

(a) In the case of limited service sales, school sales, bid sales or contract sales, the commission shall be on the basis of four point three percent (4.3%) on net sales during the month.

(b) For a private label sale, the Route Salesman shall be paid five cents (\$.05) per gallon.

(c) Platform Sales and/or Platform Deliveries

(1) Customer Pickup at the Company's Platform — no remuneration.

(2) Company Delivery to Customer's Storage Freezer or Platform by other than Route Salesmen - no remuneration.

(a) Store Storage Freezer Delivery by Wholesale Route Salesman.

- Pet Brand - four and one-fourth (4-1/4) cents per gallon.
- Private Label - three and three-fourths (3-3/4) cents per gallon.

(d) Store Platform (Freezer), Customer Warehouse or Customer Distribution Center delivery if made by other than a Route Salesman will be at either Chauffeur-Local or Truck Chauffeur rates depending upon the type vehicle used to make the delivery.

(e) The base pay component for all milk route commission drivers shall be as follows:

10-1-04 to 9-30-05	\$160 per pay period
10-1-05 to 9-30-06	\$180 per pay period
10-1-06 to 9-30-07	\$200 per pay period
10-1-07 to 9-30-08	\$220 per pay period
10-1-08 to 9-30-09	\$240 per pay period

The base pay component per pay period for all milk / ice cream commission drivers shall be as follows:

10-1-04 to 9-30-05	\$170
10-1-04 to 9-30-06	\$200
10-1-06 to 9-30-07	\$220
10-1-07 to 9-30-08	\$240
10-1-08 to 9-30-09	\$260

The base pay component, per pay period, for all ice cream route commission drivers shall be as follows:

<u>Timeframe</u>	<u>Nov, Dec, Jan, Feb.</u>	<u>Mar, April, Sept, Oct.</u>	<u>May, Jun, Jul, Aug.</u>
10-1-04 to 9-30-05	\$200	\$160	\$120

10-1-05 to 9-30-06	\$220	\$180	\$140
10-1-06 to 9-30-07	\$240	\$200	\$160
10-1-07 to 9-30-08	\$260	\$220	\$180
10-1-08 to 9-30-09	\$280	\$240	\$200

All commission drivers and senior route salesmen shall receive the gross sum of one thousand dollars (\$1,000.00) to represent back pay for the period of October 1, 2004 through May 1, 2005.

Commission Drivers shall be paid on the 10<sup>th</sup> and 25<sup>th</sup> of each month. If such day falls on a Sunday or holiday, the Company shall issue pay checks on the preceding Friday provided they are available.

Should a Commission Driver's applicable base pay component plus his commissions earned not exceed the applicable guarantee in a pay period, he shall be paid such guarantee for that pay period.

(f) Whenever the Company directs the Route Salesman to handle items not specifically mentioned in this Agreement, it shall set a commissioned rate based upon the product's market acceptance, competition and other applicable business considerations.

(g) Senior Route Salesmen shall receive as compensation a sum equal to the average of the earnings, less holiday pay, on all milk and/or ice cream routes, plus five percent (5%) of said average with a minimum guarantee per pay period as follows:

10-1-04 to 9-30-05	-	\$1,075.00
10-1-05 to 9-30-06	-	\$1,100.00
10-1-06 to 9-30-07	-	\$1,125.00
10-1-07 to 9-30-08	-	\$1,150.00
10-1-08 to 9-30-09	-	\$1,175.00

(h) Any DSD route which requires an overnight stay on the driver's part shall be guaranteed Two Thousand Five Hundred Dollars (\$2,500.00) per month worked.

### **SECTION 3: PLANT PAY**

The Company agrees that Route Salesmen who work in the plants will be paid the Utility classification rate for hours worked. Such plant work is to be optional on the part of the Route Salesman. Route Salesmen will only work in plants in case of emergency.

#### **SECTION 4: BREAKDOWN PAY**

Any Route Salesman detained more than 15 minutes for any single breakdown of his route truck shall be compensated at Rate 2 for time lost, provided such delay is not attributable to the Route Salesman's own conduct.

#### **SECTION 5: LOADING/UNLOADING AND DELAYS**

(1) Loading and unloading procedures shall be mutually agreed to between the Company and the Union at each location within ninety (90) days. The objective is that no Driver Salesman should have to wait more than thirty (30) minutes. Time spent after forty-five (45) minutes shall be paid for at the Rate 2 rate of pay. In the event the parties cannot agree upon such procedures in a location, the Joint Committee shall establish a procedure for the location. The Company will not be liable to pay such penalty in the event the delay is contributed to by the Route Salesman's own conduct, breakdown of equipment, power or energy failure, or any other circumstances reasonably beyond the control of the Company.

(2) The Company agrees that when products, properly ordered by a Route Salesman, are not available when the Route Salesman leaves the plant, he shall not be required to return to the plant for products.

#### **SECTION 6: SALES MEETINGS**

No Route Salesman shall be required to attend any meeting or school or instruction more than two (2) hours in any one (1) month. However, such employees shall be required to attend such meetings unless authorized to be absent by the department head, or in case of proven sickness. Notice of such meetings shall be posted in the sales room at least forty-eight (48) hours in advance. This provision shall not prevent the holding of meetings for other than Sales employees at any time during their scheduled workday, provided that no employee who attends such meetings shall suffer any reduction in his wages.

No meeting will be scheduled on Union meeting nights.

#### **SECTION 7: ROUTE SALES PAY STATEMENT**

All Route Salesmen and/or commission paid employees must be provided a monthly itemized breakdown of all earnings and deductions made from his total commission paid and will be provided a report for such period broken down by customer/account upon request.

**SECTION 8: CREDIT FOR LOST/DAMAGED PRODUCT AND MERCHANDISE**

(1) The Company will allow daily credit for all broken, stolen, spoiled, or sour products, provided that there is no evidence of carelessness or negligence, and that the driver concerned uses due diligence in handling merchandise to avoid excessive breakage, exercises due care not to overstock dealers, and properly rotates dealer's stock to avoid excessive amount of spoilage.

In an effort to eliminate adverse impact or product loss, the Company and the Union agree to the following program:

- (a) The performance stand will be:
  - (1) Wholesale Milk Routeman must have reported product loss of less than .75 of one percent of net sales for the period set forth below;
  - (2) Ice Cream Route Salesmen must have reported product loss of less than .50 of one percent net sales for the period set forth below;
- (b) The incentive bonus for meeting the standards shall be Three Hundred Fifty Dollars (\$350.00); and
- (c) The payment shall be made with the paycheck immediately preceding Christmas; and
- (d) The period of time for calculation of performance under this program shall be December 1 of one year to November 30 of the following year.

In the event product is lost due to the malfunction of a cooler in a customer location, the Route Salesman shall be paid his commission for product that is restocked at such location.

(2) The Union agrees that all bottles, cases, cans and merchandise may, at the discretion of the Company, be charged to Route Driver Salesmen and all such items are to be credited. Both charges and credits are to be at prevailing rates. The Company agrees that all Route Drivers may charge customers for bottles, cases, cans, etc., at the prevailing rate in the event the Company makes charges therefore to the Route Driver Salesman. No commission is to be paid on charges of this type made to customers.

## **SECTION 9: SPLITTING ROUTES**

Should the Company find it advisable to split a Wholesale Milk Route or routes and the splitting of such route or routes reduces the volume of business on the routes concerned, the Wholesale Route Salesman will be paid a sum equal to the commission on a three (3) month basis on the business split off at the regular commission rate. Such lump sum is to be paid at the time of split.

The Company agrees to post for bid within four (4) days (all days counted except Sundays and Holidays as defined in this contract) any open routes, either new, vacated and/or split, with all pertinent information as to average earnings, and indicate at the time of posting whether the Company intends to "split" the route at that time. The notice of an open route shall remain posted for four (4) days (all days counted except Sundays and Holidays as defined in this contract). Employees desiring these routes shall sign such posted notice. The Company (Designated/ Management Representative) and the Union Steward shall within seven (7) days (all days counted except Sundays and Holiday as defined in this contract) after the posted notice has been taken down, select from among the signatories an employee to fill the new or vacated route. Seniority shall prevail in bidding on open routes when qualifications are considered to be equal.

If, for any reason, a Wholesale Milk route is split below Four Hundred Dollars (\$400.00) average daily sales in addition to the above, the Routeman will be paid on the portion split off below Four Hundred Dollars (\$400.00) on a four (4) month basis. The average daily sales are to be computed on a five (5) day basis or six (6) day basis, depending on the duration of the employee's workweek. Notwithstanding any of the provisions set out in Section 10 of the Article to the contrary, it is hereby agreed by the Company and the Unions signatories to this Agreement, that should it become necessary at any time during the term of this Agreement for the Company to split any route or routes in order for the Company to keep its Route Salesmen on all routes in compliance with all the provisions of the Fair Labor Standards Act of 1938, as amended, which routes contain a substantial amount of contract sales, or substantial amounts of school business, vending machine business or supermarket business, then, in such event, but only in such event, the Company shall not be required to reimburse the Routeperson serving such split routes for any loss of income which may be sustained by them as a result of such split routes. However, before a route is split for the above purposes, the Company agrees to so advise the Union of its proposed action in order to give the Union an opportunity to investigate the facts pertaining to the split in question.

Should the Company find it advisable to add a new permanent ice cream route which requires the splitting of an existing route or routes and splitting of such route reduces the volume of business on the routes concerned, the ice cream route salesman will be paid a sum equal to the regular commission on net sales by account for the month during which the route was split. A route will not be considered permanent unless it has



been in continuous operation for a period of seven (7) months, to include a period from April 1 to November 1. Route split payment will be made once a year on the payday preceding Christmas. This paragraph shall not apply to seasonal adjustments of accounts on an ice cream route.

#### **SECTION 10: ROUTE ABOLISHMENT**

In the event a route is abolished, the driver of that route may bump onto another route to which his departmental seniority will carry him. The driver bumped by that procedure may bump onto any route to which his departmental seniority will carry him. This procedure will be followed until no further bumping is available. Route splits do not apply to this provision.

Should any of the above methods of compensating Route Salesmen set out in Section 5 of this Article be declared not in compliance with the existing Regulations of the Wage and Hour Administration of the U. S. Department of Labor, the Company and the Union will immediately declare those parts of Section 5 which have been declared not in compliance with the Regulations of the Wage and Hour Administration of the U. S. Department of Labor to be null and void. Then, and only in such event, the compensation of the Company's Route Salesmen and/or Route Supervisors will be adjusted so as to conform with the Wage and Hour Administration's Regulations and so that the monthly compensation of each of the group of employees affected will not be less than would have been earned as of the date of the execution of this contract and nothing shall be done to reduce the benefits otherwise provided for in this contract.

It is clearly understood and agreed, however, that this contract may only be reopened during the period October 1, 2004 to September 30, 2009, due to the action of the Wage and Hour Administration in declaring the above methods of compensation not in compliance with the Wage and Hour Laws and for the sole purposes of the adjustment of wages and/or commissions of Route Salesmen, and for no other purpose.

#### **SECTION 11: ASSIGNMENT OF NEW BUSINESS OBTAINED BY SOME OTHER THAN THE ROUTE SALESMAN**

When new business that is to be served by a Route Salesman is obtained by someone other than the Route Salesman, the following procedures will be followed to establish the point in time when the Route Salesman will start servicing the account and receiving commission on the sales.

The Route Salesman to whom the Company chooses to assign the account will be informed of the time, place and volume of the original order. If the Route Salesman can serve the account without interrupting the service of other accounts, he will be given the opportunity to provide such initial service.

After the initial order has been filled and if the Route Salesman can provide the services required without interrupting the service of the remainder of the route, he shall be assigned the account and receive commission upon commencement of his service.

The Company will not require return service calls when the salesman has properly completed his duties.

## **SECTION 12: ACTS OF GOD**

While an operation is inoperable due to an act of God or other disaster beyond the Company's control, obligations to provide work and pay are suspended.

## **SECTION 13: SAFETY BONUS**

All Route Salesman will be eligible to participate in an annual safety bonus program. All Route Salesmen who do not have a vehicle accident for each year from October 1, 2004 forward will receive \$200.00 per year with a \$25.00 per year increase for each consecutive accident-free year. If a driver achieves ten consecutive accident-free years, the increase from year to year shall become \$50.00.

## **ARTICLE 10: HEALTH INSURANCE**

Central States Plan M-200 shall be maintained for employee health insurance coverage. For the five (5) years of this Agreement, employees' weekly contribution shall be frozen at current rates, as follows: family plan - Thirty-Three and 00/100 Dollars (\$33.00) per week; dependent plan - Twenty-Six and 91/100 Dollars (\$26.91) per week; single plan - Seventeen and 76/100 Dollars (\$17.76) per week.

## **ARTICLE 11: RETIREMENT AND 401(K) PLANS**

The amount of employee life insurance which will be continued for an employee who retires under a Company sponsored pension plan with ten (10) years and more service shall be \$6,000 and shall cease when the retired employee attains the age of 70.

The entire cost of this extended protection during retirement is paid by the Company.

The Group Benefits Plan (Summary Plan Description) shall be considered to be part of this collective bargaining agreement as if it were fully set out in this Agreement. If a question should arise concerning these benefits, the Plan will be used to resolve the question.

The Pet Model Retirement Plan shall continue in effect for all hourly and commissioned employees. The Plan shall be increased effective 3/1/05 to Nineteen Dollars (\$19.00) per month per year of service. The Plan shall be increased effective 3-1-06 to \$20.00 per month per year of service. The Plan shall be increased effective 3-1-08 to \$21.00 per month per year of service. Throughout the duration of this Agreement, the Retirement Plan is subject to changes deemed necessary by the Company to bring the Plan into compliance with federal laws.

Effective 1-1-97, all employees covered by this Agreement shall become eligible for participation in the Company's 401(K) Plan on the same terms as other Company employees.

### **ARTICLE 12: HOLIDAYS**

The following shall constitute paid Holidays:

1. New Year's Day
2. Memorial Day
3. Fourth of July
4. Labor Day
5. Thanksgiving Day
6. Christmas Day
7. Good Friday

Employees in the hourly rate classification who are not required to work on the above holidays shall be paid for the hours they normally work in their established workweek and shall suffer no reduction in the normal weekly wage because of absence from work on such holidays provided they work their regularly scheduled workday prior to and their regularly scheduled workday immediately following the holiday or were unable to work on those days due to sickness or accident.

All hours worked on a holiday shall be paid at the rate of 1-1/2 times the regular rate of pay, and in no instance shall such holiday hours be fewer than six (6). For the purpose of computing overtime during holiday weeks, the holiday hours shall be counted as hours actually worked.

Should the Company during a holiday week operate on the holiday and schedule the plant to operate three (3) days in addition to the holiday, the Company will offer eight (8) hours of work to employees who wish to work on the down day.

If any hourly rate classification employee's regular day off falls on any of the stated holidays, he may be compensated for said holiday not worked as regular pay and be given another day off during the week as his day off.

Route Salesmen when required to work on any of the above holidays shall receive one-fifth (1/5th) of their week's earnings in addition to regular pay, if working a five (5) day week, based on the average route earnings for the period of three (3) months preceding the holiday involved. Route Salesmen not required to work on a holiday will be paid \$70.00.

Should any of the above named holidays fall on Sunday, the following Monday shall be observed as the legal holiday.

Employees who perform no work as a result of an excused absence during the workweek in which a holiday falls, shall receive pay for such holiday not worked. Employees who are required to work on a holiday may have a day off at a later date in lieu of holiday pay provided for herein, but such day must be scheduled and taken within ninety (90) days of the holiday. Exchange of holiday pay for day off at a later day is to be worked out on an individual plant basis and day off must be taken at a time which will not interfere with normal operations. Employees desiring to exchange holiday pay for a day off must notify local plant management prior to the holiday. If the Company requires any Route Salesman to take out two (2) routes on the day before a holiday, the Route Salesman will be paid the holiday pay set forth herein.

### **ARTICLE 13: VACATIONS**

Any employee who has been employed for a period of at least twelve (12) months with the Company shall receive one (1) week's vacation pay; any employee who has been employed for a period of at least twenty-four (24) months with the Company shall receive two (2) week's vacation pay; and any employee who has been employed for a period of at least one-hundred and twenty months (120) months with the Company shall receive three (3) weeks' vacation with pay. Any employee who has been employed for a period of at least two hundred and forty (240) months with the Company shall receive four (4) weeks' vacation with pay.

In the event of layoff or termination with proper notice, an employee shall receive that part of the vacation he earned up to the time of the layoff or termination of employment in proportion to the number of days he has worked during the year.

Employment as used here includes such credit for time served in the Armed Forces as an employee may be entitled to under the provisions of the Selective Service Training and Service Act of 1940, as amended, time lost during periods of authorized leaves of absence, and shall include the time actually worked as a seasonal employee.

Vacation pay to be computed as follows: Hourly rate employees shall receive forty (40) hours pay for each week of earned vacation due.

Effective 1-1-97, O.T.R. Drivers shall receive vacation pay in the amount of 1/52 of prior year's W-2, or average of pay if W-2 not available.

Effective 1-1-97, for any pay period(s) in which commissioned employees are absent due to vacation, his or her earnings for such period shall be the higher of his or her commission earnings less premium pay for the 24 pay periods preceding the period in question divided by 24, or the actual earnings of the route during such pay period(s).

The Company and the Union agree and desire that each employee take a vacation each year, but if the Company does not provide time for vacation, such employee shall be paid for the time worked, plus one, two, three, or four weeks' vacation pay, as the case may be.

Employees may receive their vacation pay with the last pay check prior to taking vacation provided a request in writing is made to management one (1) week in advance of that payday.

On or before October 15 of each year, departmental vacation schedules will be circulated to the employees of the plant on which they indicate their first choice of a vacation period for the vacation year. An employee may indicate his choice of a vacation period, whether the vacation has been earned or not, so long as it will have been earned by the time chosen. Any employee not indicating his choice of vacation period by November 15 shall only be permitted to take his vacation during such period or periods that remain available after all other vacation periods in his department have been assigned to those who did indicate their choice on the vacation schedule. The vacation period shall extend from January 1 through December 31 of each year.

The Company may require that the number of employees on vacation at any time in any one department be kept to a minimum in order that the plant's operation will not be impaired. When more employees than can be permitted to be off without impairing the operation of the plant select the same time for vacation period, the employee with the most plant-wide seniority within that department shall be allowed this time and the employee or employees with less seniority will be required to select another vacation period.

After the vacation schedule has been checked and approved by the Union Stewards and Plant Management, it shall be posted and remain posted for the balance of the year, a copy of which shall be sent to the Local Union office within ten (10) days. When a holiday occurs during an employee's scheduled vacation period, he shall receive compensation for one extra day's pay or an extra day's vacation in lieu thereof.

Once an employee's vacation is scheduled, it shall not be subject to change unless acceptable to the employee involved and agreed to by the Union and Management.

#### **ARTICLE 14: SICK LEAVE**

The following shall apply for all employees employed prior to October 1, 1966. The Company agrees that when employees are absent from work as a result of sickness or injury, on or off the job, full wages (figured on same basis as if the employee were actually working) shall be paid beginning with the first workday. The liability for payment of such wages by the Company shall be limited not to exceed ninety (90) days for any one period of sickness or injury. The foregoing does not apply to sickness or injury resulting from the proven use of alcoholic beverages or narcotics.

The following shall apply for all employees employed between October 1, 1966 and September 30, 1978. The Company agrees that when employees are absent from work as a result of sickness or injury, on or off the job, full wages (figured on the same basis as if the employee were actually working) shall be paid, beginning with the second workday. However, should the employee's absence from work continue for a period of fifteen (15) successive workdays, or more, then such employee shall be paid by the Company from the first day of the employee's sickness or injury. The liability for payment of such wages by the Company shall be limited not to exceed ninety (90) days for any one period of sickness or injury. The foregoing does not apply to sickness or injury resulting from the proven use of alcoholic beverages or narcotics.

The following shall apply for all employees employed on or after October 1, 1978. Each eligible full-time employee covered by this Agreement will be granted one (1) full-time day of sick leave credit for each calendar month of full-time employment completed, provided that no such credit shall be granted which would cause the total accumulated and unused credit to exceed sixty (60) workdays. Once a full sixty (60) workdays sick leave credit has been earned, full-time employees shall only be granted sick leave credit as outlined above needed to rebuild sick leave credit to a maximum of sixty (60) workdays. The Company agrees that when employees are absent from work as a result of sickness or injury, on or off the job, full wages (figured on the same basis as if the employee were actually working) shall be paid, beginning with the second (2nd) workday. However, should the employee's absence from work continue for a period of fifteen (15) consecutive workdays or more, then such employee shall be paid by the Company from the first day of the employee's sickness or injury. Employees on the accrual plan will not have more than five (5) days charged against their sick-leave credit for any one week of absence. The foregoing does not apply to sickness or injury resulting from the proven use of alcoholic beverages or narcotics.

A committee comprised of Union and Management with equal representation shall jointly visit any employee claiming sickness or injury, where there is any doubt by

Management as to the valid claim of said employee, as to sickness or injury. The findings of this committee shall be final, subject to review by the Union Business Agent and a representative of Land-O-Sun Dairies, Inc., at its general office in Johnson City, Tennessee. Any employee taking unfair advantage of this clause will be liable to immediate discharge without notice and without pay in lieu of notice.

It is agreed that payment of wages during absence from work as a result of sickness or injury, as provided in Section 2 of this Article, shall be reduced by the amount of any worker's compensation insurance that may be paid to such employee.

#### **ARTICLE 15: FUNERAL LEAVE**

The Company agrees to compensate at the regular rate of pay for as many as three (3) days, any and all employees who are off on account of any death in their immediate family.

The immediate family is defined to mean spouse, children, parent, brother; or sister.

The Company further agrees to compensate at the regular rate of pay for as many as two (2) days, any and all employees who are off on account of the death of their mother or father-in-law, step-parent, stepbrother, stepsister, stepchild, grandparent, son-in-law or daughter-in-law.

It is further agreed that any employee may be off on account of other deaths occurring in their family without pay. No employee shall be compensated other than at their regular rate of pay, and shall receive no premium pay.

#### **ARTICLE 16: JURY DUTY**

It is agreed that all employees covered by this Agreement who serve on jury duty shall be paid at the regular rate of pay, less juror's pay, for time served. To receive such pay, the employee must provide proof of time served and juror's pay received, if any.

#### **ARTICLE 17: LEAVE OF ABSENCE**

Any employee desiring a leave of absence from employment shall secure written permission from both the Union and the Company. No employee shall be granted leave of absence for a period in excess of twelve (12) months.

Whenever an employee is granted leave of absence for ninety (90) days or more, his job shall be posted for bid for the period of his leave and the most senior qualified

employee who so desires shall be afforded the opportunity to take over the job duties. This will afford the senior employees the opportunity to train for better job classification.

Failure to comply with this provision shall result in the complete loss of seniority rights of the employee involved. An employee using a leave of absence as a subterfuge shall forfeit his seniority rights and job. An employee shall not accept employment elsewhere when on leave of absence unless mutually agreed between Employer and the Union. Inability to work because of proven sickness and/or injury, while on duty, shall not result in the loss of seniority rights.

## **ARTICLE 18: VEHICLE RELATED CLAUSES**

### **SECTION 1: DEFECTIVE EQUIPMENT**

No employee shall take out a vehicle that is not mechanically sound and properly equipped. Each driver is to report any mechanical defects to the garage, or to the Designated Management Representative daily on forms provided for this purpose.

### **SECTION 2: SERVICING OF EQUIPMENT**

Routemen will not be expected to change oil, change tires, change brake fluid, or be requested to do mechanical work or wash the exterior of trucks. The only exception to the above shall be in a case of emergency wherein the driver will be permitted to change the tire while on his/her route, provided he/she has a spare tire available. The Company will arrange to have service available in the early morning hours for the purpose of servicing tires and batteries on trucks that experience such trouble after leaving the plant.

All drivers of a Company vehicle shall be responsible to check all fluid levels and tire conditions and perform a pre-trip inspection reporting trouble promptly and to maintain the interior portion of vehicles in a clean condition.

## **ARTICLE 19: DURATION**

This Agreement shall become of full force and effect as of the first day of October, 2004, and will continue in full force and effect until September 30, 2009, and will continue thereafter from year to year unless written notice of termination is given by either party to the other at least ninety (90) days prior to September 30, 2009, or at least ninety (90) days prior to September 30 in any year thereafter.

If notice of desire to terminate or amend is given as provided above, negotiations for a new or amended Agreement shall begin as soon as possible after notification of either party. During the negotiations, this Agreement shall remain in full force and effect; provided, however, that if negotiations continue beyond September 30, 2009, or the termination of any annual period thereafter, either party



may then terminate this Agreement at any time upon ten (10) days' written notice to the other party.

This Agreement shall be binding upon the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of October 1, 2004.

INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS

LAND-O-SUN, DAIRIES, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

TEAMSTERS LOCAL UNION  
NOS. 22, 28, 61, 509,  
549, 592 and 822

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Teamsters Local Union No. 22

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Teamsters Local Union No. 28

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Teamsters Local Union No. 61

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Teamsters Local Union No. 509

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Teamsters Local Union No. 549

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Teamsters Local Union No. 592

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Teamsters Local Union No. 822

**MEMORANDA OF UNDERSTANDING**

- When using contract haulers, the Company agrees that its employees will first bid on available runs in the Company's normal delivery area and contract haulers may be assigned those runs that remain. Should it be necessary to assign contract haulers to a route selected by an eligible employee, the employee shall be paid the difference between the route he selected and the route he ran, if any, so that he is paid as if he ran the route selected. It is understood by the parties that Company employees may not be eligible for some runs, because the Company's need to have its own employees perform certain tasks such as making store deliveries.
- No memorandums will be posted at company facilities that relate to hours, wages, and working conditions without the approval of Dan Nix or Larry Coley. If the memorandums are approved for posting by above-mentioned management, the Local Union business representative for said facility shall be sent a copy of the memorandum.