

K# 6336

ees 1,400

**MEMORANDUM OF AGREEMENT
BETWEEN
KROGER LIMITED PARTNERSHIP I
AND
UFCW LOCAL 536**

Effective 6/8/03 - 8/31/04

Kroger Limited Partnership I (Employer) and United Food and Commercial Workers Union Local 536 (Union) have agreed that, conditioned upon ratification by the Union's membership, the parties' new collective bargaining agreement shall be as follows:

1. Except as stated in Paragraph 2 below, all of the terms and conditions contained in the parties' pre-existing collective bargaining agreement remain in effect;
2. Effective for the period September 1, 2003 through August 31, 2004, the contribution rate for the employees' health benefits fund shall be \$2.51 per hour. Thereafter, the Maintenance of Benefits provision contained in Article 22, Section 22.1 of the pre-existing collective bargaining agreement will go back into effect;
3. The term of the new agreement shall be June 8, 2003 through August 31, 2004.

41 pp K + 1 pp MOA = 42 pp.

K # 6336

ees = 1,400



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UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 536
PEORIA CLERKS

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SCHEDULE "A" WAGES
APPENDIX "A" - PROFIT SHARING

TERM: June 6, 1999 thru June 7, 2003

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moA =
42 pp

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AGREEMENT

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This Agreement, mutually entered into by and between United Food and Commercial Workers Union Local 536, chartered by the United Food and Commercial Workers International Union, AFL-CIO, CLC, as party of the first part and hereinafter referred to as the Union, and The Kroger Co., or its successor, as party of the second part, and hereinafter referred to as the Company.

The parties to this Agreement agree that they will not discriminate against any employee, or prospective employee, because of age, race, sex, creed, color, national origin, disability or Union affiliation.

ARTICLE 1. INTENT AND PURPOSE

Section 1.1 The Employer and the Union each represent that the purpose and intent of this Agreement is to promote cooperation and harmony, to recognize mutual interests, to provide a channel through which information and problems may be transmitted from one to the other, to formulate rules to govern the relationship between the Union and the Employer, to promote efficiency and service and to set forth herein the basic agreements covering rates of pay, hours of work, and conditions of employment.

Section 1.2 The Company recognizes the Union as the sole collective bargaining agency for all of the employees, as hereinafter set forth in the stores locates in the counties listed below:

Livingston, McLean, Marshall, Peoria, Stark, Knox, Fulton, Warren, Mercer, McDonough, Logan, Woodford, Henry, Ford, Mason, Tazewell

ARTICLE 2. COVERAGE

Section 2.1 The term "Company" as used in this Agreement shall refer and relate to all retail food stores now owned and/or operated by the Company located within the geographical jurisdiction of the Local Union, and such new retail food stores as the Company shall operate during the term of this Agreement.

Section 2.2 The term "employees" as used in this Agreement shall include all employees working in the retail food stores of the Company except its employees in the meat department, the store manager and two (2) Co-Managers per store except in stores of 35,000 square feet or larger there may be a maximum of four (4) Co-Managers.

Section 2.3 It is agreed that only unit employees covered by the Collective Bargaining Agreement shall perform all work, services and handling or selling of merchandise in the Employer's stores and that the store manager, Co-Manager or other supervisor shall not perform bargaining unit work, except under the following conditions:

- (a) Any emergency occasioned by an accident, Act of God or mechanical equipment failure which required immediate action to remedy the emergency.
- (b) Routine customer assistance.
- (c) Sporadically re-shelving of stock displaced by customers.
- (d) Check-in of direct delivery by sales person.
- (e) Employee training.

In the event of a violation of this section, the most senior employee working in the store at the time of the violation shall receive four (4) hours straight-time pay or straight-time pay for the amount of time spent in such violation, whichever is greater. Prohibited work performed by more than one supervisory employee shall be treated as separate violations and payment will be made accordingly. Any pay due under this paragraph shall be reflected on the employee's time record at the time the violation is reported and the payment shall be incorporated in the next pay check due the employee. It shall not be a violation of this Section for a store manager, Co-Manager or other supervisory employee to assist a customer, but this is not to be as a replacement of a bargaining unit employee in the performance of his or her job.

ARTICLE 3. **UNION AFFILIATION**

Section 3.1 The Company agrees that there shall be no discrimination against any employee because of Union affiliation or activity.

Section 3.2 It is agreed that any employee of the Company, upon being elected or appointed to office in the Union, shall be granted a leave of absence for a period of up to three (3) years, and upon expiration of such leave shall be reinstated in a similar position as that held when granted the leave of absence.

Section 3.3 The Employer shall grant the necessary time off without discrimination or loss of seniority rights and without pay to any employee designated by the Union to serve in the capacity of organizer, provided the Employer is given at least fourteen (14) days notice in writing specifying the length of time off, but in no case shall the length of time off exceed one (1) year. (Article 14.4 will apply upon employee's return.)

ARTICLE 4. **UNION SHOP**

Section 4.1 The following shop conditions shall be effective:

It shall be a condition of employment that all employees of the Company covered by this Agreement who are members of the Union in good standing on the execution date of this Agreement shall remain members in good standing, and those who are not members on the execution date of this Agreement shall, on the thirty-first (31st) day following the execution date of this Agreement become and remain members in good standing in the Union. It shall also be a condition of employment that all employees covered by this Agreement and hired on or after its execution date shall, on the thirty-first (31st) day following the beginning of such employment become and remain members in good standing in the Union. The Company may secure new employees from any source whatsoever. During the first thirty (30) days of employment, a new employee shall be on a trial basis and may be discharged at the discretion of the Company provided, however, that the aforementioned thirty (30) day period may be extended up to sixty (60) days by mutual agreement between the Employer and the Union. Any extensions of the probationary period will be in writing signed by the Employer, the Union and the affected employee.

Section 4.2 During the aforesaid thirty-one (31) day period, all terms and provisions of this Agreement shall be applicable to the employees unless otherwise specifically provided.

Section 4.3 **Check-off** - The following provisions shall become effective for U.F.C.W. Local Union 536 if and when such Local Union desires to institute such checkoff procedure. Upon sixty (60) days notice to the Employer involved, the following shall become applicable.

"The Employer shall, for the term of this Agreement, deduct initiation fees as authorized and shall deduct Union dues from the last pay of each month of employees who are members of the Union who individually certify in writing authorization for such deductions. The authorization for such deduction may be revoked by the employee upon giving thirty (30) days written notice to the Employer and the Union. The Employer shall promptly remit all sums deducted in this manner to the Secretary-Treasurer of the Local Union."

Section 4.4 **A.B.C. Check-off** - The following provision shall become effective for U.F.C.W. Local Union 536 if and when such Local Union desires to institute such checkoff procedure. Upon sixty (60) days notice to the Employer involved, the following shall become applicable:

"The Employer agrees to honor and to transmit to the Union, contribution deductions to the United Food and Commercial Workers International Union Active Ballot Club from employees who are Union members and who sign deduction authorization cards. The deductions shall be in the amounts and with the frequency specified on the political contribution deduction authorization cards, however, such deduction shall be made in conjunction with regular monthly dues deductions."

ARTICLE 5. **MANAGEMENT RIGHTS**

Subject to the provisions of this Agreement, the management of the business, including the right to plan, determine, direct and control store operations and hours, the right to study and introduce new methods, facilities and products, the right to direct and control the work force, including the determination of its size and composition, the scheduling and assignment of work, and also including the right to hire, assign, demote, promote and transfer, to lay-off or reduce the hours of work because of lack of work, to discipline, suspend or discharge for proper cause, and to establish and maintain reasonable rules and regulations covering the operation of the store, a violation of which shall be among the causes for discharge, is vested in the Employer; provided, however, that these rights shall be exercised with due regard for the rights of the employees. The listing of specific rights in this Agreement is not intended to be, nor shall it be considered restrictive or a waiver of any rights of management not listed and not specifically surrendered herein, whether or not such rights have been exercised by the Employer in the past.

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ARTICLE 6. **UNION COOPERATION**

Section 6.1 The Union agrees to uphold the rules and regulations of the Employer in regard to punctual and steady attendance, proper and sufficient notification in case of necessary absence, conduct on the job, and all other reasonable rules and regulations established by the Employer.

Section 6.2 The Union agrees to cooperate with the Employer in maintaining and improving the safe working conditions and practices, in improving the cleanliness and good housekeeping of the stores, and in caring for equipment and machinery.

Section 6.3 The Union agrees to cooperate in correcting inefficiencies of members which might otherwise necessitate discharge. The Union shall be notified when an employee is suspended for cause.

Section 6.4 The Union recognizes the need for conservation and the elimination of waste and agrees to cooperate with the Employer in suggesting and practicing methods in the interest of conservation and waste elimination.

ARTICLE 7. **CLERKS WORK CLAUSE**

Section 7.1 No salesman shall handle or stock any merchandise in the store, excluding the meat department, except rack jobbers and drivers and/or salesmen engaged in servicing the retail store under prevailing practice. (A list of commodities being stocked will be given to the Union.) It is understood that the above shall not apply in new stores during the first week after the store is opened. In the event of violation of this Section, the most senior employee working in that store at the time of the violation shall receive four (4) hours straight-time pay or straight-time pay in the amount of actual time spent in such violation. If more than one (1) person is involved in the violation, the two (2) senior clerks shall receive the violation pay.

Section 7.2 It shall be a violation of this Agreement for General Merchandise Clerks or Deli/Bakery Clerks or Floral Clerks to perform Regular Clerk duties. Any such employee performing Regular Clerk duties shall be paid in accordance with 7.3 (b), (c) and (d) except at the rate of the next higher Regular Clerk rate bracket.

Section 7.3 It shall be a violation of this Agreement for Utility Clerks to perform any duties other than those set forth in 8.4 (d). In order to insure compliance with the provision, the parties agree as follows:

- (a) The Employer shall post in each of its stores a notice to the employees signed by an authorized Employer representative instructing all employees of the duties of Utility Clerks and instructing all employees that the performance of any other duties constitutes a violation of the contract.
- (b) Upon the first violation of this Section, the Utility Clerks in the store involved shall be paid the regular clerks starting rate for all hours worked in the week or weeks in which the violation occurred including hours worked in performance of Utility Clerks duties.
- (c) Upon the second violation in the same store, all Utility Clerks in the store involved shall be paid the regular clerks starting rate for all hours worked in the week or weeks in which the violation occurred including hours worked in performance of Utility Clerks duties.
- (d) Upon the third violation in the same store, all Utility Clerks in the store involved shall be paid double the Utility Clerks rate for all hours worked in the week or weeks in which the violation occurred including hours worked in performance of Utility Clerks duties.

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ARTICLE 8. SENIORITY

Section 8.1 Seniority shall be defined as the length of continuous employment with the Employer within the bargaining unit and shall begin with the employee's last date of employment. For seniority purposes, a "date of employment" shall mean a date the employee actually commences work on the job. Seniority ranking for employees commencing employment on the same date shall be determined by the day and month of birth. The employee whose day and month of birth is closest to January 1, within the calendar year, shall have the greatest seniority. Supervisors transferred back to the bargaining unit shall be credited for all seniority earned prior to the supervisor's promotion out of the bargaining unit.

Section 8.2 No employee shall acquire any seniority rights until he has been employed by the Company for at least thirty (30) days, provided that after thirty (30) days employment, the seniority shall revert to the last date of hire.

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Section 8.3 Seniority may be broken only by quit, justifiable discharge, layoff for one (1) year, employment with the Employer outside the bargaining unit for one (1) year or failure to return to work in accordance with the terms of a leave of absence or recall from layoff.

Section 8.4 In the application of the principles of seniority, there shall be six (6) seniority groups, ranked in the following order:

- (1) Regular Clerks
- (2) Bakery/Deli Clerks
- (3) Floral Clerks
- (4) Salad Bar Clerks
- (5) Nutrition Clerks
- (6) Utility Clerks

The seniority groups are defined as follows:

- (a) **Regular Clerks** are all employees other than classified employees, Bakery/Deli Clerks, Salad Bar, Nutrition, Utility Clerks and Floral Clerks.
- (b) **Bakery/Deli Clerks** are all employees working exclusively in Bakery and Deli Departments.
- (c) **Floral Clerks** are employees who shall order, display, arrange, care for, sell and inventory those items commonly sold by floral shops, including fresh or artificial flowers; potted plants; bulbs; seeds; garden plants; accessories to floral arrangements, i.e. ribbon, vases, baskets; gift items such as floral arrangements (*fruit baskets) corsages and combination gift packages. This department shall be part of the Produce Department.
- (d) **Salad Bar Clerks** are employees working exclusively with the Salad Bar.
- (e) **Nutrition Clerks** are employees working exclusively in the Nutrition Department.

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(f) **Utility Clerks** are all employees whose duties are limited to sorting, bagging and packaging sold merchandise; carrying and loading sold merchandise; sweeping floors anywhere in the store; cleaning the parking lot and other adjacent areas outside the store; filling bag racks; cleaning areas around and in front of the checker lanes; cleaning rest rooms; collecting and sorting returnable containers; disposing of trash and rubbish; washing and cleaning of shelves and fronts of cases, without handling merchandise; washing windows; posting of window signs; returning of merchandise left by customers from check stands to shelves or displays; changing light bulbs, tying paper/cardboard bales (over 18 years), cleaning employee break area and cleaning inside and outside the store; mopping of store and blocking shelves between the hours of 8:00 p.m. to 7:00 a.m. for a maximum of sixteen (16) hours per day per store.

* The above is intended to refer to gift baskets throughout the year. It is not the intent of the parties to change their present practice of mass fruit basket preparation at the holiday season.

Section 8.5

The transfer of an employee to a seniority group having a higher wage schedule shall be deemed a promotion. Such employees shall have two (2) seniority dates, to wit: the date of hire and date of promotion. Within the employee's new seniority group, the date of promotion shall apply. In the event an employee is returned to a lower seniority group, the date of hire shall apply. In the event an employee is returned to his higher seniority group, the time previously spent in the higher seniority group shall apply for the purpose of establishing the seniority date.

Section 8.6

The Employer shall prepare seniority lists as follows: The Employer shall prepare a master list for all stores covered by the contract and a separate list for each store. The Employer shall prepare the master list once each six (6) months. The separate store list for each seniority grouping shall be prepared each four (4) months. Copies of all lists shall be submitted to the Union and maintained in the store office. Additionally, copies of the separate store lists shall be posted in the store in a conspicuous place accessible to the employees. The list shall include each employee's name, rate of pay, date of hire, classification and promotion date where applicable. No employee shall be bound by a seniority date appearing on a list if, in fact, the seniority date is incorrect.

(9)

Section 8.7

In order to maximize the opportunity for employees to exercise seniority rights in a manner which will allow employees to work in stores convenient to their store of last employment, the parties agree that there shall be mutually agreed upon geographical groupings of stores. Employees' seniority rights shall be exercised on a store basis, geographic grouping basis as well as a local union basis as more specifically set forth below. By mutual agreement, the geographic grouping may include stores located within the jurisdiction of two (2) or more locals. In the event of a new store opening, the parties agree to meet prior to the date of posting the new store opening to discuss the geographic grouping and revise the same if necessary. In the event of a store closing, the parties agree to meet within seven (7) days following the store closing to discuss the geographic grouping and revise the same if necessary.

Section 8.8

Layoffs: Layoffs within the store shall be on a strict seniority basis within the affected seniority classification. The Employer shall offer employees a reasonable period of training, up to thirty (30) days if necessary, to comply with this seniority requirement. A laid off employee shall have the following options based upon seniority.

- (a) The laid off employee may elect to transfer within his seniority classification to any store in the geographic grouping provided that in the store selected by the laid off employee, there is at least one (1) less senior employee working in the same classification. If the transfer involves work which the employee has not previously performed, then the Employer shall offer the employee a reasonable period of training, up to thirty (30) days.
- (b) In the event the laid off employee's seniority does not permit a transfer within the geographic grouping, then the laid off employee may elect to transfer to any store within the jurisdiction of the local union in accordance with the employee's seniority, on the same basis and under the same conditions as set forth in paragraph (a) above.
- (c) A laid off employee may elect to take a demotion to a lower seniority grouping within his store (a seniority grouping with a lower wage schedule). The employee will then be placed upon the applicable seniority list based upon the employee's last date of hire.
- (d) Lateral transfer between equal wage structure seniority groups within the store.

(10)

- (e) In lieu of exercising the above options, the employee may elect to accept lay-off status. Before hiring any employees or promoting an employee to a job within the laid off employee's seniority classification, the Employer will offer the job to employees who exercise the demotion option of paragraph (c) above or employees on the lay-off list, in accordance with seniority. An employee may decline to accept a recall to any store other than to one within the same geographic grouping from which the lay-off occurred without forfeiting the recall rights.

Section 8.9 All employees shall have recall rights up to one (1) year from lay-off. Employees shall be notified of recall by certified mail to their last known address if the Employer is unable to contact the employee by telephone.

Section 8.10 An employee who is reduced in hours by more than six (6) hours per week for four (4) consecutive weeks will be eligible to transfer as set forth above. The base period used to determine the six (6) hour reduction will be the average number of hours worked during the preceding four (4) weeks. Employees who wish to transfer under this provision must notify their store manager in writing, with a copy to the Union. The transfer will be made in accordance with 8.8 above and will be effective the beginning of the second week following receipt of such notice.

Section 8.11 Any employee laid off as a result of a store closing or any employee laid off as a result of transfer pursuant to the aforesaid transfer provisions, including a lay-off occasioned by the transfer of an employee from a closed store, shall have the same transfer rights as set forth above.

Section 8.12 **Promotions and Demotions:** Promotions and demotions shall be handled in the following manner, except as otherwise provided for in paragraph 8.8 (e):

- (a) When a job opening occurs within a store, it shall be filled either by a voluntary transfer in accordance with paragraph 8.13 or by an employee from the next lowest seniority group within the store. After giving due regard to seniority, the Employer shall have the right to exercise his judgment. Such decision shall be subject to the grievance procedure.
- (b) Promotions to classified jobs shall be within the sole discretion of the Employer, provided, however, that all classified jobs shall be filled by unit employees. This does not preclude the right of the Union to grieve such promotion.
- (c) The Employer shall afford every promoted employee a reasonable period of training in the position, up to thirty (30) days.

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- (d) An employee promoted to a classified job must perform the duties of the classified job.
- (e) No employee shall be demoted from any seniority group or any classified position specified in Section 10.3 without just cause.

Section 8.13 **Involuntary and Voluntary Transfers** - The Employer may transfer employees to meet the necessities of the business with the following limitations and under the following conditions:

- (a) No employee shall be involuntarily transferred outside of their geographical grouping.
- (b) In the event a transfer is required outside of the geographic grouping, the Employer will first seek volunteers. In the event no volunteers apply for a transfer, the Employer will make the transfer in accordance with inverse seniority.
- (c) No involuntary transfer will be made when it is known that a reduction in hours for the transferred employee will occur.
- (d) Should the regular employee be temporarily transferred from his or her regularly assigned store to another store and such transfer results in additional transportation expense, the employee will be reimbursed by the Company for such additional transportation expense. Transportation cost shall be computed on the basis of the Federal Travel Expense Standards in effect at the time or the Employer's regular mileage reimbursement rate.
- (e) An employee desiring a transfer to a store closer to home shall notify the Employer in writing of his or her desire to transfer to a specific store. In the event of a job opening in the specific store within the employee's seniority classification involving a comparable number of hours, the Employer will transfer the employee to the specific store. The employee requesting the transfer must have greater seniority than other employees on layoff in the geographic area or other employees in the store who have requested to fill the job opening.

ARTICLE 9. **WORKING CONDITIONS**

Section 9.1 The basic workweek shall be forty (40) hours to be worked in five (5) days, eight (8) hours per day, not necessarily consecutive, between Monday through Saturday. During the life of this Agreement, there shall be no change in the basic workweek without first obtaining the approval of the Union.

Section 9.2 Employees will be paid time and one-half (1½) at regular rate of pay for work performed on the sixth (6th) day of any week, regardless of total weekly hours, except in a case where an employee accepts a call-in that results in a sixth (6th) day's work or in a case where the sixth (6th) day results from the claiming of hours or scheduling pursuant to a claiming of hours in accordance with 9.13.

Section 9.3 Employees will be paid time and one-half (1½) their regular rate of pay for work in excess of forty (40) hours per week.

Section 9.4 Employees will be paid time and one-half (1½) their regular rate of pay for work in excess of eight (8) hours per day.

Section 9.5 Time and one-half (1½) shall be paid on the weekly basis or daily basis, whichever is greater, but in no case on both.

Section 9.6 No employee shall be scheduled for less than three (3) hours work on any day of the week. All employees reporting to work as scheduled shall be guaranteed the number of hours work as indicated on the work schedule for that day, or shall receive pay in lieu of such hours worked, except in cases of emergency due to Acts of God, civil disorder, strikes, or boycotts. All employees called in to work on an unscheduled day shall receive a minimum of three (3) hours work, or three (3) hours pay in lieu thereof. No employee shall have his workweek reduced or be required to take time off as a result of this paragraph of the contract.

Section 9.7 For employees on the payroll on November 10, 1987, work performed on Sundays shall be considered as premium work and such work shall be paid at the employee's straight-time hourly rate plus one dollar (\$1.00) per hour except Utility Clerks hired prior to November 10, 1987 who shall receive their straight-time rate plus fifty cents (50¢) per hour. Sunday work may be considered to be part of the basic workweek, 9.1 notwithstanding, for forty (40) hour employees provided they are scheduled to work at least eight (8) hours. If an employee works Sunday hours and receives time and one-half (1½) pay for working more than forty (40) hours in that week, the Sunday premium will not be paid for the number of time and one-half (1½) hours paid. Sunday and holiday work shall be scheduled by the Employer and shall be rotated among all employees who volunteer for Sunday work. Should an insufficient number of employees volunteer, the Employer shall have the right to schedule from the least senior in inverse order. Senior employees shall have the right to the Sunday and holiday schedule with the greatest number of hours.

Within the third week of the month, the Employer shall post a notice next to the weekly work schedule requesting volunteers for Sunday work and holidays, if any, during the following month. Once posted and scheduled, an employee who fails to meet their commitment will forfeit their right to rotation for the month. Employees requesting Sunday or holiday work shall have the right of the greatest number of hours scheduled for the day in question, by seniority.

Section 9.8 The Employer shall post in ink or other permanent means in each store the current work schedule for all employees working in the store. The schedule shall be posted by no later than Thursday, 4:00 p.m. of the week preceding the scheduled workweek. The schedule shall list the names of the employees in accordance with seniority and classification. All hours for the week shall be posted in accordance with seniority, on the schedule. Forty (40) hour employees shall have the right to select a day, Monday through Friday, as their scheduled day off in accordance with seniority and shall notify the store manager of their preference. Once so notified, the employee shall be regularly scheduled for the preferred day off. Work schedules shall be maintained in the store for a three (3) month period of time and shall be made available to an authorized representative of the Union for examination upon request. No employee who is called in to work out of the posted work scheduled shall be required to take compensatory time off from the posted work schedule. Schedules must be posted in an area that is accessible to all employees.

Section 9.9 An employee scheduled to work during any week shall be scheduled a minimum of twelve (12) hours. The employee's hours may be claimed below twelve (12) by a senior employee on the payroll on December 31, 1992 who is scheduled for less hours than his/her previous year's average. The senior employee may claim sufficient hours from the junior employee's minimum schedule to equal his/her previous year's average. This provision does not prohibit a senior employee from otherwise claiming up to eight (8) hours per day or forty (40) hours per week in accordance with 9.13. The previous year's average will be the average hours used for vacation purposes.

Section 9.10 Employees shall not be scheduled to work a split shift. A split shift is defined as two (2) shifts more than one (1) hour apart.

Section 9.11 The Employer agrees that a minimum of three (3) employees shall be scheduled during the hours the store is open for business.

Section 9.12 **Call-in Hours and Additional Hours:**

- (a) Call-in hours are defined as replacement hours occasioned by absence of an employee. The Employer will make a reasonable effort to call in employees in accordance with seniority. Employees will have the right to refuse a call-in. The Employer shall not be obligated to call an employee in accordance with seniority if the replacement hours would result in overtime for the called in employee.
- (b) Additional hours are defined as hours added to the posted schedule due to business needs through the call-in of additional employees or through the assignment of additional hours to employees at work.
- (c) In the event additional hours are occasioned by the need for additional employees, the Employer will call in employees in accordance with paragraph (a) above.
- (d) In the event additional hours are occasioned by the need to assign additional hours to employees at work, such hours shall be offered to employees at work in order of seniority providing such work does not result in overtime. If overtime is necessary, such work shall be offered by seniority. Failure to obtain sufficient volunteers, the hours shall be assigned in inverse order of seniority.

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Section 9.13

- (a) Employees within their seniority group shall be eligible to claim available hours up to and including eight (8) hours per day, and up to and including forty (40) hours per week in a regular workweek, including any portion of a less senior employee's hours in accordance with seniority. It is understood and agreed that Sunday and/or holiday hours may not be claimed pursuant to this section. Hours claimed on the sixth (6th) day in a workweek or in excess of thirty-two (32) in a calendar holiday week, will be paid at straight-time.
- (b) Employees on the payroll on December 31, 1992 who were regularly claiming a "split shift" in accordance with this paragraph may continue such claiming. Such employee's right to claim available hours shall include the right to claim all or any portion of a junior employee's schedule commencing prior or upon the termination of the senior employee's schedule or within four (4) hours thereof, so long as the result of the claim permits the junior employee to work a minimum of three (3) unclaimed hours. A claim within such time period shall not be construed as a split shift.
- (c) An employee shall not be required to make the same available hours claim after three (3) successive weeks. Once an employee has claimed hours, the schedule shall be adjusted consistent with the employee's claim for future weeks. Failure to do so shall be a violation of this Agreement and the employee shall be entitled to pay for the hours in question.
- (d) Employees who regularly work forty (40) hours under the preceding labor agreement shall not have their hours claimed except on a seniority basis by other employees who worked forty (40) hours under the preceding labor agreement. Employees who have voluntarily reduced their hours below forty (40) hours per week may have their hours claimed in accordance with this section.
- (e) Once the work schedule has been posted, as per Article 9.8, employees wishing to claim additional available hours must make their wishes known to the store manager, or his designee, within twenty-four (24) hours of such posting or waive their rights to claim such additional hours for the balance of the work schedule as posted.

- (f) Employees who at any time have voluntarily limited their availability for number of total hours of work may thereafter claim additional available hours but may not claim previously scheduled hours of another employee until a vacancy occurs or additional hours become available. Employees who at any time have voluntarily limited their availability for work on any days of the week may thereafter claim additional available days but may not claim previously scheduled days of another employee until a vacancy occurs or additional days become available. The employee shall notify the Employer in writing of their intent to claim additional hours or days when their availability is again unlimited.
- (g) The claiming provision of the Article is applicable only to employees hired prior to December 31, 1992

Section 9.14 Senior employees with five (5) or more years of service will indicate in writing their continuing preference for day shift or night shift within their job function. Day shift is any shift scheduled to end at 6:00 p.m. or earlier. After such employees have notified the Manager of such continuing preference, such employees will be scheduled by seniority for the available shifts.

Section 9.15 All employees shall receive an unpaid lunch period during each eight (8) hour shift. The lunch period shall be either one-half (½) hour or one (1) hour by mutual agreement between the Employer and employee. Employees working six (6) hours or more, but less than eight (8) hours per day who request a lunch period shall be granted a one-half (½) hour lunch period. In the case of an eight (8) hour shift, the lunch break shall be scheduled no earlier than three (3) hours after the start of the shift and no later than three (3) hours before the end of the shift. In the case of a shift less than eight (8) hours, the lunch break shall be scheduled no later than two (2) hours prior to the termination of the shift and no earlier than two (2) hours after the start of the shift.

Section 9.16 Employees shall receive two (2) fifteen (15) minute uninterrupted rest periods without loss of pay, in any one workday. The rest periods shall be scheduled approximately within fifteen (15) minutes of the employees' half shifts. Employees working three and one-half (3½) hours but less than seven (7) hours shall be entitled to one (1) rest period. Employees shall be compensated at their straight-time hourly rate of pay for rest periods not taken in violation of the rest period provisions herein.

Section 9.17 **Night Crew Employees:**

- (a) Night crew employees are defined as any forty (40) hour per week employees who work a majority of their scheduled hours after 9:00 p.m. or before 6:00 a.m.
- (b) All full-time forty (40) hour night crew employees will be scheduled regular nights each week, five (5) nights per week, Monday through Saturday and shall be scheduled within two (2) hours of the same starting time each night.
- (c) Night crew employees shall receive a fifty cent (50¢) per hour premium for all hours worked. This premium shall be computed into vacation, holiday and sick pay.
- (d) Night crew employees shall not be scheduled without at least twelve (12) hours rest between their quitting time and starting time.

Section 9.18 Night crew work shall be assigned by inverse seniority or at the employee's request. After twelve (12) months of employment on the night crew, a night crew employee may request, in writing, a transfer from the night crew. A copy of such request shall be sent to the Personnel Office of the Employer and to the Union. When openings for day jobs within the employee's geographical grouping occur, night crew employees shall be offered the day jobs, by seniority among themselves, requesting the transfers in writing in accordance with Section 8.13 (e).

Section 9.19 With the exception of night crew employees, a premium of fifty cents (50¢) per hour shall be paid for all hours worked between 10:00 p.m. and 6:00 a.m.

Section 9.20 Premium pay based on Sunday hours shall be paid in addition to premium pay based on night hours on Sunday.

ARTICLE 10. **WAGES**

Section 10.1 Minimum wage rates - see Schedule "A" on following page:

SCHEDULE "A" WAGESDepartment Heads: (A)

	<u>6-06-99</u>	<u>6-04-00</u>	<u>6-04-01</u>	<u>6-06-02</u>
Head Grocery Clerk	11.50	11.80	12.10	12.40
Head Checker	11.35	11.65	11.95	12.25
Head Produce Clerk	11.35	11.65	11.95	12.25
Head Deli/Bakery Clerk	11.35	11.65	11.95	12.25
Head Dairy Frozen Clerk	10.55	10.85	11.15	11.45

Regular Clerks: (B)

00-06 months	5.50		5.70	
07-12 months	5.65		5.85	
13-18 months	5.75		6.00	
19-24 months	5.85		6.15	
25-30 months	6.05		6.30	
31-36 months	6.40		6.50	
37-42 months *(capped)	7.00		7.00	
43-48 months	7.50		7.50	
49-54 months	7.85		7.85	
55-60 months	8.25		8.50	
61-66 months	8.75		9.50	
Thereafter	10.30	10.60	10.85	11.15
Red-circled employees	0.30	0.30	0.25	0.30

*Part time cap - 32 hours

Bakery, Deli, Floral, Nutrition Clerks (C)	6/06/99	6/04/00	6/04/01	6/06/02
00-06 Months	5.50		5.70	
07-12 Months	5.65		5.85	
13-18 Months	5.75		6.00	
19-24 Months	5.85		6.15	
25-30 Months	6.05		6.30	
31-36 Months	7.00		7.00	
37-42 Months (pt cap/32 hr)	7.75		7.75	
43-48 Months	8.00		8.00	
49-54 Months	8.25		8.25	
55-60 Months	8.50		8.50	
Thereafter	9.00	9.00	9.15	
Utility Clerks (D)				
00-03 Months	5.30	5.30	5.40	5.40
04-12 Months	5.45	5.45	5.55	5.55
Thereafter	5.60	5.60	5.75	5.75

The Sunday following ratification, employees shall be moved to the next higher rate and progress on that schedule thereafter.

No employee shall suffer a wage reduction as the result of these negotiated rates.

All employees hired prior to January 1, 1982 shall receive a premium of twenty (.20) cents for each hour worked up to forty (40) hours a week in addition to their hourly rate.

1. Regular Clerks shall progress through the 31-36 month bracket and cap at the 37-42 month bracket, pay level nine. However, any such employee who, during the 40th through 42nd months, averages thirty-two (32) hours or more per week shall not be capped, but shall continue to progress through all pay levels. Any capped employee who thereafter averages thirty-two (32) hours or more per week for three (3) consecutive calendar months, shall commence progressing through the higher pay levels, effective with the 4th calendar month. Students who are available for thirty-two (32) hours or more only during the summer months shall not have those hours counted for this purpose.
2. Employees who become "uncapped" and subsequently limit their availability and work less than thirty-two (32) hours will be frozen at that rate.

Section 10.2 In addition to the foregoing, the following employees shall receive premium pay of thirty-five cents (35¢) per hour additional for hours worked in the premium pay job. There shall be a minimum of one (1) hour when premium work is performed. (A fraction of an hour shall be considered to be a full hour.)

- (a) **Night Crew Leader** (as defined in Section 10.3, paragraph (f) below)
- (b) **Key Carrier** (as defined in Section 10.3, paragraph (g) below)
- (c) **Store Office Clerical Employees** other than Head Checker (as defined in Section 10.3, paragraph (h) below)
- (d) **File Clerk** (as defined in Section 10.3, paragraph (i) below)
- (e) **Receiver Clerk** (as defined in Section 10.3, paragraph (j) below)

Section 10.3 **Definitions**

- (a) A **Head Grocery Clerk** is defined as one who assists the manager in the operation of the Grocery Department.
- (b) A **Produce Department Head** is defined as one who operates the Produce Department under the direction of the store manager.
- (c) A **Head Checker** shall be defined for purposes of this contract, as an employee who is appointed and trained by the Company to handle the cash and the necessary reports to the General Office and such other work as required in supermarkets.
- (d) A **Dairy/Frozen Food Department Head** is defined as the employee who is responsible for the operation of the Dairy/Frozen Food Departments under the direction of the store manager. Such employees will perform ordering, stock and inventory duties normally performed by a department head.
- (e) A **Bakery/Deli Department Head** is defined as the employee who operates the Bakery/Deli Department under the direction of the store manager.
- (f) **Night Crew Leader:** Each night crew having four (4) or more employees shall have a lead member known as the Night Crew Leader appointed from among the four (4) or more employees.

- (g) A **Key Carrier** is an employee who has been assigned the responsibility for opening or closing the store.
- (h) **Store Office Clerical Employees** are defined as an employee who, in addition to the Head Checker, perform office clerical work for all or any part of their work schedule.
- (i) A **File Clerk** is defined as an employee designated by the Employer (maximum one per store) who has been assigned the responsibility of maintaining price/scan accuracy within the store. When such employee is on vacation, the employee appointed to perform his/her duties shall receive the premium for all hours.
- (j) A **Receiver Clerk** is defined as an employee designated by the Employer (maximum one per store) who is assigned the responsibility of on-line receiving of merchandise delivered to the designated receiving area of the store. When such employee is on vacation, the employee appointed to perform his/her duties shall receive the premium for all hours.

There shall be no pyramiding of premiums for any of the above listed assignments.

Section 10.4 There shall be a Head Grocery Clerk, Produce Department Head and Head Checker in all stores regardless of store volume.

Effective December 1st of each year, average sales shall be reviewed and in any store when the average weekly sales for the previous fifty-two (52) weeks is \$150,000.00 or more, all of the Department Heads set forth in paragraph 10.1 (a) above shall be appointed by the Employer provided that the Employer operates such departments. (A Night Crew Leader will be appointed pursuant to paragraph 10.3 above regardless of store volume.) In the case of a new or remodeled store, average weekly total sales for the purposes of department head appointment shall be computed at the end of a four (4) month period using in such computation the last three (3) months of the four (4) month period. Appointments, where required, shall be made no later than the first full week of the sixth (6th) month.

Section 10.5 Employees presently receiving, or who may hereafter receive in excess of the above pay schedules, shall not have their pay decreased because of provisions of this contract.

The negotiated wage increases are to apply to all employees who are presently receiving in excess of contract rates.

Section 10.6 Definition of "Service in Industry"

- (a) Proven comparable experience not terminating more than two (2) years prior to date of application and shown on application for employment shall be the basis for determination of a new employee's rate of pay. Such experience prior to two (2) years before date of application and ending within the two (2) year period must be continuous to be counted, U.F.C.W.I.U. Union card showing experience will be recognized as initial proof of experience.
- (b) Claims for rate adjustment based on previous "service in the industry" must be filed in writing within ninety (90) days from date of employment, otherwise the employee forfeits any claim under this provision, except where such experience is shown on the initial "application for employment" in which event said ninety (90) days should not apply.
- (c) Service in the Industry Formula: In the application of service in the industry, rehired or new employees shall receive experience credit on the following basis: Employees hired shall receive full credit for each month of service up to a maximum of twenty-four (24) months.

Section 10.7 Wages shall be paid each week by voucher or check to all employees and the Employer shall post on stubs the following information: straight-time, overtime, and holiday hours paid for, plus employee's straight-time hourly rate of pay. In lieu of such information on the stubs, the Employer will make available a payroll worksheet containing such information to the Union Representative at the store.

Section 10.8 Whenever a classified employee is assigned the responsibility of a store manager for five (5) working days or more, he or she shall be paid the store manager's base rate of pay. It shall be the right of said employee to refuse the assignment.

Section 10.9 Any employee acting as a relief for a classified employee for five (5) working days or more shall receive the classified employee's hourly rate of pay or his or her contract rate of pay, whichever is greater. Classified employees who are on vacation or leave of absence for five (5) working days or more shall be replaced.

Section 10.10 In the event the Employer creates a new job classification which involves new job duties, responsibilities, or skills, the Employer agrees to negotiate with the Union the rate of pay for the new job or classification.

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ARTICLE 11. HOLIDAYS AND SICK DAYS

Section 11.1 All employees, except Utility Clerks hired after December 31, 1992, shall be entitled to the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day or days legally celebrated in lieu thereof.

Section 11.2 All employees with one (1) year or more of service, except Utility Clerks hired after December 31, 1992, will be entitled to two (2) additional days off with pay to be used as personal holidays or sick days. Once qualified, the employee shall be entitled to these two (2) days as of January 1 of each year. Employees shall request a personal holiday in advance of the posting of the schedule for the week the employee desires the holiday. Personal holidays may be denied in weeks preceding or weeks in which holidays listed in 11.1 occur.

Effective January, 2002, all employees will be entitled to the following day off with pay to be used as a personal holiday and/or sick day in accordance with the following schedule:

One (1) additional day, for a total of four (4) after twenty (20) years of continuous service.

Section 11.3 The personal days in 11.2, not used, shall be paid to the employee upon termination, layoff or extended leave of absence. Any personal holidays not taken as of Thanksgiving shall be paid to employees the week prior to Christmas.

Section 11.4 Employees may use the personal holidays two (2) times each year for a three (3) day weekend mini vacation. In January and June of each calendar year, eligible employees in the store will select the available specific weekend on the basis of seniority.

Section 11.5 Utility Clerks hired after December 31, 1992 shall be entitled to one (1) personal holiday after each three (3) full months of service (maximum of four (4) each year). The personal holidays shall be taken at a time mutually agreeable between the employee and store manager.

Section 11.6 During the week in which holidays occur, other than personal holidays, employees shall receive time and one-half (1½) their regular rate of pay after thirty-two (32) hours work. However, should an employee volunteer to work over thirty-two (32) hours during said holiday week, they may do so at his/her straight-time rate.

Section 11.7 Employees hired prior to November 10, 1987 who work on legal holidays, as specified in 11.1 of this Article, shall be paid at the employee's straight-time hourly rate plus one dollar (\$1.00) per hour, except Utility Clerks hired prior to November 10, 1987 who shall receive their straight-time rate plus fifty cents (50¢) per hour. Forty (40) hour employees working on a holiday shall be scheduled for their regular basic workweek of four (4) days, in addition to the holiday worked.

Section 11.8 In order to be entitled to unworked holiday pay, as set forth in this Article, employees must work their scheduled day before the holiday, day of the holiday if scheduled, and their scheduled day after the holiday unless absence is excused by the Company or the employee presents a valid doctor's statement confirming the employee's illness.

Section 11.9 Holiday pay shall be determined by the number of hours which an eligible employee averages during the normal workweek as follows:

<u>Average Hours Per Week</u>	<u>Holiday Pay in Hours</u>
Less than 26 hours of pay	4 hours at regular rate of pay
26 hours to 32 hours of pay	6 hours at regular rate of pay
32 hours or more of pay	8 hours at regular rate of pay

The average number of hours per workweek, for the purpose of this Article, shall be computed in accordance with vacation pay computation, Article 12.2.

For new hires and employees returned from military service not eligible for vacation pay, the average number of hours per workweek shall be computed on the basis of the average for the four (4) weeks immediately preceding the holiday, or during the period of employment if the eligible employee has less than four (4) weeks' employment.

Section 11.10 Where a majority of employee's total weekly hours worked during the holiday week are at premium paid job classification, the employee's holiday pay will include premium pay.

Section 11.11 No employee shall be required to work after 5:00 p.m. on Christmas Eve or 5:00 p.m. on New Year's Eve and New Year's Day. No employee shall work on Christmas Day. Only volunteers shall work after 5:00 p.m. on Christmas Eve or 5:00 p.m. on New Year's Eve and New Year's Day. If an insufficient number of employees volunteer, then the Employer will schedule the required employees on the basis of reverse seniority.

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ARTICLE 12. VACATION

Section 12.1 All employees shall be entitled to a paid vacation on the following basis:

One (1) year of continuous employment - One (1) week
Two (2) years of continuous employment - Two (2) weeks
Eight (8) years of continuous employment - Three (3) weeks
Fifteen (15) years of continuous employment - Four (4) weeks
Twenty-five (25) years of continuous employment - Five (5) weeks

An employee will be eligible for his or her first week's vacation as of the first anniversary date of continuous employment. On January 1 following the first anniversary date of continuous employment, the employee will again be eligible for one (1) week's vacation. Upon completion of the second anniversary date of continuous employment, the employee will be eligible for an additional week's vacation during that calendar year. An employee qualifying for one (1) week's vacation as of January 1 may take the vacation prior to the second anniversary date of employment or await the second anniversary date of employment and take two (2) weeks vacation in that calendar year.

In years during which the employee qualifies for additional weeks of vacation, namely the eighth, fifteenth, and twenty-fifth years of continuous employment, vacation eligibility will be computed on the basis set forth above.

Section 12.2 Vacation pay shall be paid at the contract rate in effect at the time of the vacation. Vacation pay shall be computed as follows: If the eligibility date is the anniversary date, vacation hours shall be based on the total number of hours worked for the twelve (12) month period preceding the anniversary date, divided by fifty-two (52). If the eligibility date is January 1, vacation hours shall be based on the total number of hours worked for the twelve (12) month period preceding December 1, divided by fifty-two (52). Vacation hours shall be computed on the basis of all hours paid for excluding only pay for unused sick and personal days or pay received under Workmen's Compensation. Employees who work at least forty (40) hours per week for forty (40) weeks shall be paid his/her vacation based upon forty (40) hours per week.

Section 12.3 Medical leave of seventeen (17) weeks or less shall be counted as time worked for the purpose of computing vacation benefits. For medical leave in excess of seventeen (17) weeks, the divisor in paragraph 12.2 above shall be reduced to thirty-five (35).

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Section 12.4 An employee who has qualified for his or her first vacation and is subsequently laid off shall receive a pro-rata vacation for each full month of service completed since his last anniversary date of employment.

Section 12.5 An employee who is discharged or quits, except discharge for dishonesty, after having worked six (6) months or more since his last anniversary date, shall receive a pro-rata vacation for each full month of service completed since his last anniversary date of employment.

Section 12.6 If a holiday occurs during an employee's vacation, he or she shall be paid an additional day's pay or receive an extra day off in addition to the vacation pay.

Section 12.7 Vacations shall be scheduled on a store-wide seniority basis and may be taken any time during the year requested by the employee. Based on the operational needs of the store, the Employer may limit the number of employees on vacation in any week, provided that no week of the year shall be excluded from vacation scheduling. When there is a conflict between employees as to vacation dates, seniority shall apply.

No employee shall be compelled to take a vacation at a time not mutually agreed upon. A vacation once scheduled shall not be changed except by mutual agreement of employee and Employer. An employee with three (3) weeks or less vacation time shall not be required to split his or her vacation time.

Section 12.8 Any person who enters military service shall be paid his/her pro-rata vacation pay, for that which he has earned, up to the time of his/her entering military service.

Any veteran returning to work after military service shall receive his pro-rata vacation pay for time worked during the time from his return to the anniversary date of his original hiring date.

Vacation allowed shall be in compliance with the terms of the existing Agreement.

Section 12.9 An employee with more than six (6) months of service, but less than one (1) year of service, shall be allowed to receive up to one (1) week's unpaid vacation leave during his/her first year of employment, provided that a replacement employee is available.

Section 12.10 Vacation schedules shall be posted in all stores by April 1 of each year.

ARTICLE 13. JURY SERVICE - FUNERAL PAY - MILITARY RESERVE

Section 13.1 All employees who are subpoenaed for jury service and actually report shall receive the difference in pay for time lost and the amount received as jury pay, but in no case shall the total pay exceed forty (40) hours pay at the employee's regular straight-time hourly rate of pay.

The employee shall notify the store manager that he or she has been subpoenaed for jury service on the employee's first workday following receipt of such subpoena.

When an employee is released for a day or part of a day, he/she shall report to his/her store for work.

Any employee who reports for jury service for five (5) days, Monday through Friday, shall not be scheduled to work on Saturday during that week. If, however, an employee volunteers to work on Saturday, at the request of the Employer, the employee shall receive the appropriate hourly rate of pay for said days, which pay shall not be set off against or deducted from the forty (40) hours jury pay; provided further that hours worked on Saturday shall not be considered as hours in excess of forty (40) hours for overtime purposes.

Section 13.2 The Employer agrees to pay all employees for necessary absence on account of death in the immediate family up to and including a maximum of three (3) scheduled workdays at straight-time provided the employee attends the funeral. The term "immediate family" shall mean spouse, parents, child, brother, sister, father-in-law, mother-in-law, grandparents, grandchildren, step-parents, step-children, grandparents-in-law, or any relative residing with the employee or with whom the employee is residing.

Section 13.3 Any employee, who serves in the National Guard or Military Reserve Units which require annual training shall be granted the necessary leave without pay to fulfill the annual training requirements of the unit in which they serve. Such employee shall give the Employer two (2) weeks prior notice. An employee shall not be required to take military training duties as his earned vacation.

The Employer will comply with the applicable laws of the United States concerning the re-employment of persons leaving the military service of the United States.

ARTICLE 14. LEAVE OF ABSENCE

Section 14.1 All employees, after three (3) months employment, shall be granted a leave of absence not exceeding one (1) year for injury or certified illness including pregnancy. Leaves of absence in excess of one (1) year may be granted by the Employer provided, however, that the employee shall not accumulate seniority in excess of one (1) year. All employees, after three (3) months of service, may be granted a personal leave of absence not exceeding thirty (30) days upon the Employer's permission, without loss of seniority.

Section 14.2 All leaves of absence must be in writing by the employee to the Personnel Director of the Company and the Personnel Director of the Company will send a written approval or disapproval to the employee.

Section 14.3 Any employee who is granted a leave of absence and while on such leave of absence accepts employment with another Employer, or who goes into business for himself, is subject to discharge.

Section 14.4 Upon return to work from a leave of absence, the employee shall be restored to the job previously held, or to a comparable job with regard to work and rate of pay. Time spent on leave of absence in excess of thirty (30) days shall not count toward wage progression. Upon notice to the store manager of availability for work by no later than noon Wednesday, the employee shall be restored to the work schedule for the following week. If notice is given after noon Wednesday, the employee shall be restored to the work schedule for the second week following notice.

Section 14.5 Employees returning to work from a leave of absence due to sickness, accident or pregnancy may be required to pass a physical examination by the Employer before returning to work. Such physical examination shall be at the expense of the Employer.

Section 14.6 Employees while on illness leave shall be entitled to holiday pay during the first thirty (30) days of such leave.

Section 14.7 Employees injured on the job and unable to work as certified by the Employer's physician shall receive their regular hourly rate of pay, as scheduled, up to three (3) calendar days. The Employer shall maintain accident report forms in the store office.

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ARTICLE 15. DISCHARGE OR SUSPENSION

Section 15.1 No employee shall be discharged or suspended without just cause.

Section 15.2 The Employer shall immediately notify the Union of any discharge, or suspension for investigative purposes, stating the date of discharge or suspension and reason. A telephone call from the Employer to the Union, no later than the next business day, shall be considered the immediate notice.

ARTICLE 16. GRIEVANCE AND ARBITRATION

Section 16.1 The properly accredited officers or representatives of both parties to the Agreement shall be authorized to settle any dispute, disagreement, difference or grievance arising out of the terms, application or interpretation of this Agreement.

Section 16.2 The Union shall submit all grievances in writing within the following time limitations:

- (a) Grievances involving discharge or suspension shall be submitted within fifteen (15) days from the date the Union receives notification of the discharge or suspension in accordance with Article 15 of the contract.
- (b) Grievances involving vacation pay shall be submitted within fifteen (15) days following the termination of the vacation.
- (c) Grievances involving hourly wage rates, wage brackets or premium pay shall be submitted in writing within fifteen (15) days from the date of the last occurrence of the grievance. The Employer's liability for such grievance shall not exceed one (1) year from the date of the filing of the grievance.

Grievances not filed within the time limitations set forth above shall be nullified.

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Section 16.3 Representatives of the parties shall attempt to resolve all grievances as promptly as possible. For this purpose, the Union agrees to notify the Store Manager in writing and/or by telephone. No earlier than the fifth day following such notification the grievance shall be reduced to writing and submitted to the Human Resource Department. The Company shall reply in writing to the Union's written grievance within fifteen (15) days following receipt of the written grievance and the Union shall reply in writing to the Company's response within fifteen (15) days following receipt of said response.

Section 16.4 When in the judgment of either party arbitration is necessary, either party may initiate same by notifying the other party in writing that it has invoked the arbitration provisions of the contract and that it has requested the Federal Mediation and Conciliation Service to submit a panel of arbitrators to the parties. In no event shall arbitration be initiated earlier than fifteen (15) days following the mailing of the written grievance. The parties shall promptly proceed to select an arbitrator from the panel and proceed to arbitrate the grievance all in accordance with the rules of the Federal Mediation and Conciliation Service. The decision of the arbitrator shall be final and binding on the parties. After receiving the Employer's written answer, the Union, if it desires to proceed to arbitration, shall make its written request known to the Employer within sixty (60) days. Failure of the Union to request arbitration within the time limits shall cause the grievance to be resolved on the basis of the Employer's written answer.

Section 16.5 Expenses incurred in connection with the arbitration, to wit, fees of the Federal Mediation and Conciliation Service, the arbitrator's fees and expenses and rental of a hearing room, if necessary, shall be shared equally by the parties.

Section 16.6 The failure of the Union to protest any constructive action notice or other written warning issued an employee, shall not be deemed as an admission on the part of the Union or the employee as to the truth of the content of such written notice or the propriety of its issuance. Any constructive action notice or written warning issued an employee shall be removed from the employee's records twelve (12) months after the issuance date.

Section 16.7 It shall not be a violation of this Agreement for any employee to refuse to cross a legal, primary labor picket line that has been recognized by the United Food and Commercial Workers International Union. The Employer shall be notified in writing when any picket line has been sanctioned by the Union.

ARTICLE 17. NO STRIKE - NO LOCKOUT

Except as otherwise specifically set forth in this Agreement, it is agreed between the parties hereto that there shall be no strikes, cessation of work, picketing, boycotts, or lockouts pending the final decision of any dispute submitted to arbitration in accordance with the provision of this Agreement.

ARTICLE 18. UNION ACCESS TO STORES

The Company agrees to permit an authorized representative or officer of the Union to have access to the stores at all hours when said stores are open for business for the purpose of communicating with the employees employed therein, but such representatives or officers shall not unnecessarily interfere with the duties of said employees or the business of the Company.

ARTICLE 19. NEW STORE OPENING - STORE CLOSING

Section 19.1 **New Store Opening** (includes a replacement store) - In the event the Employer opens a new store, the new store will be staffed by employees in accordance with the following procedures:

- (a) The Employer will post in each of the Employer's stores within the geographical area, notice of the new store opening at least four (4) weeks prior to the store opening date. The notice shall remain posted for at least ten (10) days including the date of posting and give a brief description of each position to be filled and the number of anticipated 40-hour and less than 40-hour jobs for each position. Further, the posted notice shall advise the employees that they may bid on the positions at the new store by signing the notice for the posted positions.
- (b) All non-classified positions will be filled in accordance with the seniority of the bidding employees. All positions not filled shall be offered to employees on layoff status in accordance with seniority.
- (c) The Employer will not hire new employees for the new store until the above procedures have been complied with.
- (d) Employees transferred from existing stores to a new store that is opened shall, if subject to layoff within a period of ninety (90) days after the store is opened, have the right to return to the store from which transferred and assume the job that their seniority warrants.

Section 19.2 **Store Closing** - In the event the Employer closes or sells a store and employees are terminated as a result thereof, pay equal to one (1) week's pay for each year of continuous service commencing with the third (3rd) year for employees who regularly worked forty (40) hours per week and the fifth (5th) year for employees who regularly worked less than forty (40) hours per week up to, but not to exceed eight (8) week's pay at their regular rate. However, for those employees who have an incomplete year of continuous service as an employee, will receive pro-rata severance pay for that year as follows:

- 0 - 3 months equals twenty-five percent (25%) of a week's pay*
- 3 - 6 months equals fifty percent (50%) of a week's pay*
- 6 - 9 months equals seventy-five percent (75%) of a week's pay*
- Over 9 months equals one (1) week's pay*

Severance pay shall be computed as vacation pay in Article 12.2.

Section 19.3 If a store is sold and the successor Employer offers employment to an employee who is otherwise eligible for severance pay under the terms of this Article and the new job is comparable, then the employee shall have the option of accepting the job or the severance pay.

Section 19.4 An employee who is laid off or involuntarily transferred within thirty (30) days of the store closing shall be entitled to severance pay as set forth above. In the event the store is sold, the store closing date shall be the last date the Employer operates the store.

Section 19.5 An employee who is displaced by the transfer of an employee from a closed or sold store shall, if otherwise eligible, be entitled to severance pay benefits applicable to eligible employees at the closed store.

Section 19.6 The Employer shall continue contributions to the Pension and Health and Welfare Trust Funds for three (3) months following termination for those employees who receive severance pay, except those employees who secure employment with a contributing Employer in the Pension and Health and Welfare Trust Funds.

Section 19.7 Holidays that fall within thirty (30) days after termination and employees who are eligible for severance pay shall be entitled to holiday pay.

Section 19.8 All moneys due employees shall be paid in a lump sum on termination or lay-off.

Section 19.9 An employee who is terminated or laid off and who is eligible for severance pay and accepts severance pay shall not retain seniority or recall rights.

Section 19.10 The Employer agrees to give the employees and the Union thirty (30) days notice in advance of a store closing or sale, or additional severance pay in lieu thereof.

Section 19.11 Employees who are eligible for severance pay and accept a transfer to a lower rated job will be paid the rate for the job.

Section 19.12 Letters of recommendation will be given to all laid off employees at time of layoff.

Section 19.13 The Company agrees to recall any laid off employees in any new locations opened under the jurisdiction of the Local Union covered by this Agreement.

Section 19.14 Payment of unused sick leave (Article 11) will be paid to employees laid off resulting from store closings.

ARTICLE 20. **GENERAL**

Section 20.1 The Union Store Card must be displayed in all places where members of the Union are employed. The Store Card shall not be removed in case of a dispute unless the dispute is taken up with proper officials of the Company first.

Section 20.2 The Union shall use its best effort as a labor organization to enhance the interests of the Company as an Employer of union labor.

Section 20.3 Members of the Union may wear their Union Buttons when on duty. Stewards appointed by the Union may wear Steward Pins.

Section 20.4 The Company shall provide a bulletin board on which the Union may post notices.

Section 20.5 Any uniform deemed necessary by the Company for its employees shall be furnished and laundered at the expense of the Company.

Where the Company desires to furnish dacron or similar type uniforms to employees, such uniform shall be laundered by the employee and shall be returned to the Employer upon termination of employment, if so requested.

Section 20.6 The Company agrees to provide suitable rest area in the store.

Section 20.7 Where time clocks are not provided, the Employer shall institute adequate payroll procedures to insure that all hours worked are properly recorded.

Section 20.8 No employee covered by this Agreement shall be required by any representative of the Employer to be the subject of a lie detector test for any reason whatsoever.

Section 20.9 The Employer shall provide a first aid kit containing bandages.

Section 20.10 If a physical examination or health permit is required by the Employer, the medical fee for such examination shall be borne by the Employer.

Section 20.11 Any time spent away from the store on the legal business of the Employer, either at the request of the Employer or pursuant to a legal subpoena, shall be compensated by the Employer at the employee's regular rate of pay. Such hours shall not be considered as time worked in the computation of daily or weekly overtime unless it is part of the regularly scheduled workweek.

Section 20.12 For store meetings, minimum call-in shall be two (2) hours.

Section 20.13 Union Stewards, upon request made by the Union, shall receive time off without pay for the conducting of Union business. Such request must be made by Wednesday of the week prior to the requested absence. Such time off shall not exceed one (1) calendar week in a year.

Section 20.14 The Company will credit the Union Steward or store representative who is a member of the bargaining committee for time spent in negotiations for vacation and personal day averages effective with 1995 negotiations.

ARTICLE 21. TECHNOLOGICAL CHANGE

Section 21.1 The parties recognize that automated equipment and technology is now available for the retail food industry. The Employer recognizes that there is a desire to protect and preserve work opportunities. At the same time, the Union recognizes that the Employer has a right to avail itself of modern technology. With this common objective, the parties agree as follows:

In the event the Employer introduces major technological changes which for the purpose of this Article is defined as price marking and electronic scanners which would have a direct material impact affecting bargaining unit work, sixty (60) days advance notice of such change will be given to the Union.

In addition the Employer agrees:

- (a) Any retraining necessary will be furnished by the Employer at no expense to the employees.
- (b) Where retraining is not applicable, the Employer will make every effort to effect a transfer to another store.
- (c) In the event an employee is not retrained or transferred and is permanently displaced as a direct result of major technological changes, as defined above, the employee will be eligible for severance pay in accordance with the following provisions:
 - 1) All employees with two (2) or more years of continuous service will be eligible for one (1) week severance pay for each year of continuous service. Maximum severance pay of eight (8) weeks pay to be paid on a weekly basis.
 - 2) An employee shall be disqualified for severance pay in the event the employee:
 - (a) Refuses retraining

- (b) Refuses a transfer within a geographical grouping
- (c) Voluntarily terminates employment

ARTICLE 22. HEALTH AND WELFARE

Section 22.1 The Employer agrees to continue to pay by the tenth (10th) day of the month into the United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund on all straight time hours worked by eligible employees covered by this Agreement. The contribution shall also be made on hours for which employees receive holiday and vacation pay and hours worked on Sunday, except that no contribution shall be made on hours in excess of eight (8) per day or forty (40) per week. The amount of such contributions shall be determined by the Trustees from time to time in order to maintain the Fund's level of reserves and to fund the level of benefits established by the Trustees that were in effect on the ratification date of this Agreement. (Plan DH Rate: \$1.62)

Section 22.2 The Trust Fund shall be jointly administered by a Board of Trustees, with an equal number of Trustees representing the Union, and an equal number of Trustees representing the Employer.

Section 22.3 When an eligible employee covered by the Health and Welfare Plan changes employment from one (1) participating Employer to another participating Employer within a thirty-one (31) day period, the new Employer shall immediately pay the same contribution rate previously paid on behalf of said employee. Thereafter, eligibility and rate of contribution shall be determined in accordance with all provisions of this Article.

Section 22.4 The Employer shall contribute to the Health and Welfare Fund for all employees who are off work due to injury on the job for a period of one (1) month following the month in which the injury occurred. The contribution shall be based on the employee's previous month's hours.

Section 22.5 Utility Clerks shall be excluded from the contribution specified in Section 22.1 for their first twelve (12) months of employment. For employees other than Utility Clerks no contribution shall be required for their first six (6) months, contributions shall commence the first of the following month. When a Utility Clerk is promoted and he/she has been on the payroll for 6 months, contributions will commence the first of the following month.

ARTICLE 23. PENSION

Section 23.1 The Employer agrees to continue to make a contribution of fifty-two cents (52¢) per hour on all straight-time hours worked by employees covered by this Agreement. Such contributions shall be made to the United Food and Commercial Workers Unions and Employers Midwest Pension Fund. The contribution shall also be made on hours for which employees receive holiday and vacation pay and hours worked on Sunday, except that no contribution shall be made on hours in excess of eight (8) per day or forty (40) per week.

Section 23.2 For employees other than Utility Clerks, contributions shall commence the beginning of the month following one (1) year of service. When a Utility Clerk is promoted and he/she has been on the payroll one (1) year the contribution shall commence the first of the following month.

Section 23.3 Contributions shall be made to a jointly administered Pension Trust Fund to be trusteeed and administered in accordance with existing law and in accordance with the Pension Plan and Trust Agreement existing between the parties. Said contributions shall be for the sole purpose of providing pension for eligible employees as defined in such Pension Plan.

ARTICLE 24. COLLECTION OF DELINQUENT CONTRIBUTIONS

Section 24.1 Any Employer who is sixty (60) days delinquent in the payment of any or all of the contributions required of it by the above Articles 22 and 23 shall pay as liquidated damages, a sum of twenty dollars (\$20.00) or ten percent (10%) of the amount delinquent, whichever is greater. Such damages shall be computed monthly and on a separate basis for the Health and Welfare Fund and the Pension Fund. The amount of liquidated damages shall be added to the cumulative total of delinquent contributions and shall be included in the computation of the damages.

Section 24.2 In addition to the foregoing, an Employer delinquent sixty (60) days or more shall be liable for the payment of any benefits paid or otherwise payable to an employee or his dependents from the Health and Welfare Trust Fund as a result of any claim incurred during the period of delinquency. Said liability shall not be waived by payment of the amount delinquent, including the liquidated damages, or by payment of the claim by the Health and Welfare Trust Fund.

The above paragraphs shall not be applicable when, in the judgment of the Trustees, the delinquency results from a clerical error or a bona fide difference or dispute concerning eligibility.

The Employer agrees that applicable payroll records shall be made available for audit to employees of the Health and Welfare and/or Pension Fund as directed by action of the Board of Trustees of these Funds.

ARTICLE 25. CONFORMITY TO LAW

Nothing contained in this Agreement is intended to violate any federal laws, rules or regulations made pursuant thereto. If any part of this Agreement is construed to be in such violation, then that part shall be made null and void and the parties agree that they will, within thirty (30) days, begin negotiations to replace said void part with a valid provision.

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ARTICLE 26. TERM OF AGREEMENT

Section 26.1 This Agreement shall be effective from June 6, 1999 through June 7, 2003, at which time it shall automatically renew itself from year to year, provided, however, that either party may give to the other party, not less than sixty (60) days, notice in writing prior to the expiration date or to annual renewal date of its intention to change or terminate said contract.

Section 26.2 By execution of the Collective Bargaining Agreement, the Employer does hereby adopt, ratify and become a party to the United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund Agreement and Declaration of Trust and the United Food and Commercial Workers Unions and Employers Midwest Pension Fund Agreement and Declaration of Trust, and said Agreements and Declarations of Trust are hereby incorporated herein and made part hereof. Further, the Employer reaffirms and ratifies all acts of the Trustees performed pursuant to said Agreements and Declarations of Trust.

FOR THE UNION:

FOR THE COMPANY:

D. Roy Smith

Ben Carter

Ann Z. Hill

Cindy Bondaw

Harold D. Riley

31 December 1999
Date

12/17/99
Date

LETTER OF UNDERSTANDING

If an amicable agreement is reached between JFCW 536 and Kroger Limited Partnership I for the non-food group (expiring April 29, 2001), that agreement may be merged into the Peoria Clerk Agreement.

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U.F.C.W. LOCAL 536
2200 E. WAR MEMORIAL DR.
SPEORIA, IL 61614