



**CONTRACT
BETWEEN
UFCW LOCAL 911
AND
KROGER - GROCERY**

9/20/04

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AGREEMENT

This Agreement entered into by and between the Kroger Company, hereinafter designated as the Employer, its successors and assigns, and the United Food and Commercial Workers Union Local 911, chartered by the United Food and Commercial Workers International Union, AFL-CIO/CLC, hereinafter designated as the Union.

ARTICLE 1 INTENT AND PURPOSE

The Employer and the Union each represent that the purpose and the 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, and to provide for the orderly settlement of disputes that may arise.

ARTICLE 2 RECOGNITION AND COVERAGE

A. The Union shall be the sole representative and bargaining agent for all grocery department employees, as classified in Appendix "A", working in the Employer's retail stores in the counties of Lucas, Fulton, Henry, Putnam, Wood, Hancock, Ottawa, Sandusky, Seneca, Erie and the Village of Bluffton in Allen County in the State of Ohio, excluding store managers, co-managers, meat department employees, guards, demonstrators, professionals and supervisory employees and no more than a zone total of two management trainees per store, as defined in the National Labor Relations Act as amended. (Demonstrators duties shall be limited to securing, preparing and demonstrating products, but they will otherwise not perform bargaining unit work.)

B. It is hereby understood and agreed that the Employer may employ management trainees in its stores within the jurisdiction of Local 911, subject to the following provisions:

1. Management trainees shall become bargaining unit members after thirty (30) days.
2. The maximum for the training program shall be six (6) months.
3. The Employer may employ no more than a zone total of two (2) management trainees per store in the bargaining unit at any one time.
4. The work week for management trainees shall be no more than forty-five (45) hours.

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5. The Employer will make appropriate pension and health and welfare contributions in accordance with the Collective Bargaining Agreement. However, none of the other provisions of the Collective Bargaining Agreement shall apply to management trainees.

The employer will notify the union, in writing, of all employees hired or reinstated into this bargaining unit showing name, home address, store, social security number and/or employee work number, and job classification.

ARTICLE 3 UNION SHOP, CHECK-OFF, DUES

A. It shall be a condition of employment that all employees of the Employer covered by this Agreement who are members of the Union in good standing on the date on which this Agreement is signed shall remain members in good standing, or elect and maintain a non-member status, and those who are not members on the date on which this Agreement is signed shall, on the thirty-first (31st) day following the date on which this Agreement is signed, become and remain members in good standing in the Union, or elect and maintain non-member status. It shall also be a condition of employment that all employees covered by this Agreement and hired on or after the date on which this Agreement is signed shall, on the thirty-first (31st) day following the beginning date of such employment, become and remain members in good standing in the Union, or elect and maintain non-member status.

B. The Employer shall, for the term of this Agreement, deduct union dues, initiation fees or service fees, initial service fees and uniform assessments from the pay of the employees who are members of the Union, or who elect non-member status, who individually and voluntarily certify in writing the authorization for such deductions. Deductions shall be made weekly from the employee's check and remitted to the Union office on or before the tenth (10th) day of the following month. When given, such authorization shall be irrevocable for one (1) year or the duration of this Agreement, whichever comes first.

C. Any employee covered by this Agreement who fails to pay dues, initiation fees or service fees and initial service fees to the Union shall be relieved of his duties by the Employer not later than five (5) days after receiving notice from the Union that such employee is delinquent in his payment of union dues, initiation fees or service fees and initial fees, unless such employee has himself reinstated by paying his arrearage in full.

D. New employees, pending their application for and membership in the Union as aforesaid, shall with all other employees be uniformly subject to the provisions of this Agreement, including those pertaining to wages, hours and working conditions, except new employees within sixty (60) days of hire may be discharged or disciplined without recourse for any reason whatsoever.

E. The Employer agrees to deduct once annually an A.B.C. (Active Ballot Club) contribution on a uniform basis from all employees who voluntarily authorize this deduction, the date of deduction to be mutually agreed to by the

Employer and the Union. This deduction will be made on the same deduction schedule as union dues and will be part of the regular dues deduction and forwarded to the Union with same.

F. Any dispute which might arise as to membership in good standing shall be corrected by the Union and Employer immediately. When this fails, it shall be regarded as a grievance and shall be adjusted by the grievance and arbitration procedure herein.

G. Every effort will be made to report new hires within a week to the Local Union. For this purpose, the Union will provide membership applications and dues deduction authorization forms for each store manager, to be completed and forwarded to the Union.

ARTICLE 4 MANAGEMENT RIGHTS

The management of the business and the direction of the working forces, including the right to plan, direct and control store operations, the methods of production and processing, the kind and operation of machinery and equipment, the determination of what products shall be processed and handled, the standard of quality to be maintained and the determination of where and how such products shall be processed, manufactured and distributed, are vested exclusively in the employer. The right to hire, suspend or discharge for proper cause, transfer or relieve employees from duty because of lack of work or for other legitimate reasons, the right to study or introduce new or improved production methods or facilities, and the right to establish and maintain rules and regulations covering the operation of the stores, a violation of which shall be among the causes for discharge, are also vested in the employer, provided, however, that this right shall be exercised with due regard for the rights of the employees and provided further, that it will not be used for the purpose of discrimination against any employee or for the purpose of invalidating any contract provision.

ARTICLE 5 DISPUTE PROCEDURE

A manager of the store will grant to any accredited union official, the right to communicate with the employees of the store on company time so long as there is no interference with efficient store operation. In addition, upon request, the store manager will make available to the union representative, store payroll sheets or time cards and work schedules. Further, the employer shall provide a bulletin board or other suitable arrangement within the establishment for the posting of any notice pertaining to union business in connection with the employees covered by this agreement.

A. **Job Steward** - The Union shall have the right to designate or elect a steward and/or alternate steward(s) for each store.

A list showing the names and addresses of stewards will be submitted to the Employer. The Employer will advise the Union before union stewards are transferred from one store to another. A union steward will be the last person transferred in his or her classification, providing he or she is capable of performing the work.

B. The Employer agrees not to require any employee to participate in any type of disciplinary interrogation without first being advised of their right, in writing, to have the union steward and/or union representative present. This in no way precludes the Employer's rights to investigate in an attempt to determine the facts.

C. Only management personnel from outside the bargaining unit will be permitted to issue constructive advice records.

D. Constructive advice records shall be discussed with the employee no later than the employee's third (3rd) working day, excluding Sundays and holidays, following management's knowledge of the incident.

Any constructive advice record not received by the Union within twenty-one (21) days from the date of consultation with the employee will be considered null and void.

E. Constructive advice records shall not remain in effect for a period of more than one (1) year from the date of issuance.

F. Should any difference, dispute or complaint arise over the interpretation of the contents of this Agreement, there shall be an earnest effort on the part of both parties to settle same promptly through the following steps:

Step 1. By conference between the aggrieved employee, the job steward or both, and the manager of the store. If the grievance is not settled in Step 1, it shall be reduced to writing by the grievant and referred to Step 2 within seven (7) calendar days after its initiation in Step 1. Grievance settlements at Step 1 are non-precedent setting. A union representative may be requested to be present at the meeting.

Step 2. After receiving a written grievance from Step 1, the union representative may request a Step 2 meeting with the zone manager or zone representative. The Step 2 meeting will be held within twenty-one (21) days of request. Grievance settlements at Step 2 are non-precedent setting. Grievances heard at the 2nd step shall be answered in writing to the union representative within fourteen (14) days of the hearing. If complaints aren't settled in Step 2, they may be referred to Step 3 as outlined below.

Step 3. A conference between the official or officials of the Union and a representative of the Employer so delegated by the Employer, will be held within twenty-one (21) days after the Step 2 conference. The Employer will give the Union the answer to the grievance in writing within seven (7) calendar days after the Step 3 meeting.

Step 4. In the event that no settlement is reached in the above steps, the complaint shall be reduced to writing and submitted to the Board of Arbitration. In the event that no settlement is reached in the above steps and the Union wishes to arbitrate the grievance, the Union must request arbitration within forty-five (45) calendar days of the Employer's written response in Step 3.

The Board of Arbitration shall consist of one (1) person appointed by the Union and one (1) person appointed by the Employer. Said two (2) persons shall, within three (3) days after disagreement, request the Federal Mediation and Conciliation Service to furnish a panel from which a third arbitrator shall be chosen and the decision of the majority shall be binding on the Union, the Employer and the aggrieved employee. The expenses of the third arbitrator shall be paid for jointly. The third arbitrator shall not have the power to alter or modify the terms of the Agreement, or any subsequent supplement thereof.

G. Grievances must be taken up promptly, and no grievance will be considered or discussed which is presented later than seven (7) calendar days after such has occurred, except a grievance arising from an error in the rate of pay or wages may be presented within two (2) years from occurrence. All time limitations in the grievance procedure may be extended by mutual agreement of the parties.

H. The Employer shall have the right to call a conference with the Union for the purpose of discussing its grievances, criticisms or other problems.

At any step of the grievance procedure, the Executive Board of the Local Union shall have the final authority in respect to any aggrieved employee covered by this Agreement, to decline to process a grievance. Further, if in the judgment of the Executive Board, such grievance lacks merit or lacks justification under the terms of this Agreement to the satisfaction of the Local Union Executive Board, the grievance(s) shall be withdrawn.

I. Discharge - The Employer may at any time discharge any employee for proper cause. The Union may file a written complaint with the Employer asserting that the discharge was improper. Such complaint must be taken up promptly and if the Employer and the Union fail to agree within forty-eight (48) hours, it shall be referred within twenty-four (24) hours to the Board of Arbitration. Should the Board determine that it was an unfair discharge, the Employer shall reinstate the employee in accordance with the decision of the arbitrator.

J. Any agreement reached between the Union and the Employer under the grievance procedure by their authorized representatives, and any decision of the arbitrator under Step 4 shall be final and binding upon the Employer, the Union and the employee or employees involved.

K. Accelerated Arbitration Procedure

1. The parties agree that in lieu of the previous procedures outlined

above in this Article, by mutual agreement a special expedited arbitration process may be utilized. However, all discharge grievances not resolved at the third step of the grievance procedure shall be referred to the accelerated arbitration procedure.

2. A panel of at least seven (7) arbitrators, shall be mutually designated by the parties. Their expenses and fees shall be borne equally by the Employer and the Union. The panel of arbitrators may be selected from any source whatsoever, provided that each one selected to serve as a member on the panel must agree to abide by all rules and time limits set forth in this arbitration procedure. The list of members of the panel shall be maintained alphabetically by the parties to be used on a rotating basis.

3. If the parties agree to use this method of arbitration, the hearing shall be scheduled within fourteen (14) days following the Step 3 meeting, provided the arbitrator is available. This time limit may be extended by mutual agreement of the parties.

4. The parties agree that briefs may be waived and no stenographic or mechanical transcripts of the proceedings are required unless either party desires the same.

5. It is further agreed that an arbitrator mutually selected to hear such a case must agree in advance to render a short and written decision within forty-eight (48) hours of the date of the hearings. Although it is not anticipated that such cases will involve substantial questions of contract interpretation, the decision of the arbitrator will have the same force and effect as an award rendered pursuant to the more formal arbitration procedure detailed in Section F. The arbitrator shall in no event have the power to disregard or modify any provision of the Agreement.

6. The parties agree in such expedited cases, to present a stipulated issue to the arbitrator in advance of the hearing. Either party may withdraw its consent to submit an issue to the expedited process up to, but not after the time that the hearing is convened.

7. Copies of the decision shall be mailed to the Executive Officer of UFCW Local 911 and the Marketing Area Manager of Labor Relations.

8. In all cases where the term "days" is used, Saturday, Sunday and holidays are excluded.

ARTICLE 6

NO STRIKE, NO LOCKOUT

A. During the term hereof, the Union agrees that there shall be no strike or any other interference with or interruption of the normal conditions of the Employer's business by the Union or its members. The Employer agrees that there shall be no lockout.

B. The Employer agrees that it shall not demand that employees go through a lawful picket line. The Union agrees that it will not refuse to cross a picket line unless such has been duly sanctioned by the Chief Executive Officer of the Local Union, and until the Employer has been officially notified by the Chief Executive Officer of the Local Union.

The Union agrees to give forty-eight (48) hours advance notice, in writing, from the Chief Executive Officer of the Union, prior to recognizing any picket line as a legal picket line. The Employer will not discipline an employee for refusing to cross a lawful primary picket line that has been sanctioned by the Chief Executive Officer of the Union.

C. Before the Union gives official recognition to any picket line, it will be discussed with the Chief Executive Officer of the Company or his authorized representative, and the Chief Executive Officer of the Union or his authorized agent, and notification will be given the Employer of action taken by registered mail.

ARTICLE 7 CONFLICTING AGREEMENTS

The Employer agrees not to enter into any agreement or contract with his employees, individually or collectively, which in any way conflicts with the terms and provisions of this Agreement.

ARTICLE 8 WORK CLAUSE

A. Employees shall perform any work which the manager of the store may direct with the understanding that when an employee is assigned to a job with a lesser rate, he will be entitled to his regular rate of pay, unless due to a decrease of work he has been regularly assigned to a lower rated job and desires to retain such job rather than accept a layoff.

B. The Employer may summarily discharge any employee for proven dishonesty, drinking on the job, being under the influence of liquor on the job, gross insubordination, the illegal use of or possession of illegal drugs and/or just cause, subject to the employee's rights to grieve. Under no circumstances will any grievance be considered more than seven (7) calendar days after discharge.

C. Any full-time employee with one (1) year or more of service who is separated for incompetence or who is permanently laid off due to a discontinuance of the job or reduction of force, shall be entitled to one (1) week's notice or one (1) week of pay in lieu of notice, except when discharge occurs for any reason outlined in Section E above.

D. Employees accused of qualitative and/or quantitative inefficiency may be subject to discipline, e.g. warnings, probations, etc. and ultimately discharged, provided that the Union is notified and has sufficient time to counsel with the employee as to the alleged deficiencies.

E. Store Closings

1. In the event the Employer permanently closes a store and full-time employees with at least five (5) years of continuous full-time service are terminated as a result of the closing or being displaced as a result of the store closing, the employee will be entitled to severance pay.
2. One (1) week of base pay for each two (2) years of full-time service, up to a maximum of five (5) weeks pay.
3. All money due employees shall be paid in a lump sum upon termination. An employee who is terminated and is eligible for severance pay and accepts severance pay, forfeits his seniority and has no recall rights.
4. However, an employee may elect a voluntary layoff not to exceed twelve (12) months. If an employee accepts layoff, he may, any time after a ninety (90) day period, elect to take his severance pay and lose his seniority rights.
4. An employee shall be disqualified for his severance pay in the event the employee:
 - a. Refuses a transfer within the jurisdiction of the Local Union.
 - b. Voluntarily terminates employment prior to store closing.
 - c. Employee refuses comparable employment with a successor employer within thirty (30) days of store closing.

ARTICLE 9 WORKING CONDITIONS

A. Full-time - Part-time Definition

A full-time employee is one who is hired as such or a part-time employee who works an average of thirty-two (32) hours or more per week (including Sunday and holiday work) within his classification for twelve (12) consecutive weeks. For an employee who meets the aforesaid requirements, seniority and continuous service as a full-time employee shall be dated back to the first day worked in the first of the twelve (12) qualifying weeks.

A full-time employee will revert to part-time status in the event he works an average of less than thirty-two (32) hours per week for twelve (12) consecutive weeks. This consecutive twelve (12) week period will be separate and distinct from any twelve (12) week qualifying period. The affected employee will be placed on the part-time seniority list effective with the date of reclassification, based on original hire date.

A full-time employee who has been reduced to part-time by failing to work an average of thirty-two (32) hours per week in a twelve (12) consecutive week

period will not be reclassified to full-time until such employee has worked an additional and distinct twelve (12) week period during which the employee averages more than thirty-two (32) hours per week. In other words, the twelve (12) week period necessary to re-qualify to full-time status will be separate and distinct from the twelve (12) week period used to disqualify the employee from full-time status.

Effective November 9, 1994, when a part-time employee works twelve (12) consecutive weeks an average of thirty-six (36) hours per week, excluding holiday weeks, for those twelve (12) weeks, he shall be reclassified as full-time status with full-time seniority for scheduling and layoff. Hours worked in replacement of an employee absent, on vacation or on a leave, or hours that are worked in replacement of another employee will not be considered in computing the thirty-six (36) hour average or counted as part of the twelve (12) consecutive week qualifying period.

Temporary assignments because of vacations and/or absenteeism to a thirty-six (36) hour week shall not be included in this criteria unless the temporary assignment exceeds twenty-six (26) weeks.

This full-time definition shall apply to all part-time employees as of November 9, 1994, and all employees hired after that date.

Employees hired after April 30, 2003 qualify for full time status after working thirty-six (36) hours per week for sixteen (16) weeks.

Time off due to illness, accident, jury duty, holidays, vacation or any excused absence will not count against an employee in maintaining full-time status.

B. Employer Meetings - In the event meetings are scheduled by the Employer and attendance is compulsory, time spent in attendance will be counted as time worked and paid at the employee's appropriate hourly rate. Should an employee be required to attend a meeting on his scheduled day off, such employee shall be guaranteed a minimum of four (4) hours pay.

C. Work Week

1. The basic work week for all full-time employees shall be forty (40) hours, Monday through Saturday, which shall be worked in five (5), eight (8) hour days, not necessarily consecutive, and contingent upon no circumstances beyond the Employer's control. For employees hired after November 29, 1989, the work week will be Sunday through Saturday.

2. It is recognized by the parties that the concept of a compressed work week of four (4), ten (10) hour days is not practical for all stores, however where it has been mutually agreed in writing between the store manager, individual employees and the Union, such individual employees may be scheduled to work four (4), ten (10) hour shifts within the normal work week. Part-time employees assigned to night stocking crews may be scheduled for less than four (4) days at ten (10) hours per day.

D. Sunday and Holiday Work

1. Sunday and holiday work shall be rotated as uniformly as possible by classification and will be rotated in such a way as to prevent all the senior employees from working the same Sunday or holiday. The Employer shall have the right to designate which classifications shall be necessary to work on Sundays and holidays.

Sunday and holiday work shall be scheduled in the following priority order:

First Choice - Employees who have voluntarily been working Sundays and/or holidays will continue to be scheduled for the number of hours they have been scheduled as long as they (hours and employees) are available.

Determination of Sunday Hours - For employees who have been working Sundays or holidays voluntarily, the following method will be used to calculate the minimum guaranteed hours for Sundays and holidays:

Total hours worked on Sundays/holidays in the past year, divided by weeks worked, multiplied by four (4), equals guaranteed Sunday hours in each four (4) week Kroger period, providing the employee and hours are available. However, it is agreed that "past year" shall refer to 1989 hours.

Second Choice - Employees hired after November 29, 1989.

Third Choice - Qualified employees by inverse seniority or employees who had not previously volunteered to work Sundays and holidays but now wish to do so.

2. During the third week of January of each year and again during the third week of April and again during the third week of July and again during the third week of October, every employee who had not previously desired to work Sundays and holidays will be given an opportunity to indicate their interest. Any additions to this list during the year will only be made with the Union Representative and the Employer's Personnel Manager agreeing to each addition, except employees transferred to another store who were on the Sunday list in their previous store may automatically be put at the bottom of the Sunday list in their new store.

3. Department heads will be rotated on an equitable basis with all clerks, or clerks qualified to perform department head responsibilities, or with management for supervising the total store.

4. In the event an adequate staff cannot be obtained from the list for Sunday and holiday work, the Employer can require employees to work in the reverse order of seniority by classification to meet staffing requirements. In such a case, the Employer will draft sufficient numbers of employees to provide for a bi-weekly rotation of employees.

5. In the event of absenteeism, the most senior UNSCHEDULED employee on the Sunday and holiday list will be offered the extra work.

6. Employees who are scheduled to work on Sunday or a holiday and fail to report as scheduled without proper notification will be subject to the same disciplinary action applicable under these circumstances on other days.

7. Employees scheduled for Sunday or holiday work shall be required to fulfill their schedule. Employees may not substitute for one another on Sundays or holidays without prior permission of management.

E. Work Schedules

1. The hours for each employee shall be scheduled by the Employer.

A work schedule for full-time employees will be posted by Thursday noon, covering the following week. If it is necessary to work such a full-time employee beyond his scheduled time, he will be permitted to work the balance of his week as scheduled. The provisions of this paragraph apply to full-time employees and not to part-time employees. Part-time employees will be given a one (1) hour notice whenever possible, before the schedule is changed. This paragraph shall be inapplicable in the event of fire, flood or acts of God.

2. In the event the manager fails to post a work schedule as required by the preceding section, the schedule last posted shall prevail. The foregoing sentence shall not apply to the week preceding, nor to the week including a holiday, as to each of which weeks a new schedule shall be posted.

3. The Employer shall make available in each store, a listing of all employees within the store showing the seniority date for each employee. Employees shall be scheduled in accordance with their seniority date and in conformity with this labor Agreement.

4. Part-time employees will be scheduled a minimum of twelve (12) hours per week, it being understood that this does not apply to an employee called in for replacement of another employee, to an employee whose available hours are beyond the Employer's control or to an employee called in to work when fewer than twelve (12) available hours remain in a week. When this paragraph is in conflict with the Available Hours provision, Article 20, Section M, the Available Hours provision shall take precedent.

5. No employee shall be allowed or required to work a split shift. For the purpose of Article 20, Section M, a period up to and including two (2) hours off duty shall not be considered a split shift.

6. No employee will be required to start a new shift without eight (8) hours between shifts, excluding Sundays and holidays.

7. No full-time employee will be required to work beyond 6:30 p.m. more than three (3) nights per week. If a full-time employee is required to work beyond 6:30 p.m. more than three (3) nights per week, he will be compensated at time and one-half (1 1/2) for such additional hours worked. This does not apply to members of a night stocking crew. This paragraph shall not apply to an employee who, in accordance with Article 20, Section M, can be scheduled for a forty (40) hour week by being scheduled for additional nights after 6:30 p.m.

8. The Employer agrees that there will be a minimum of two (2) employees scheduled in the store whenever a bargaining unit member is scheduled to work.

9. For employees hired after April 30, 2003, there shall be no split shift schedules for employees.

F. Time Cards

1. Time clocks or electronic time-keeping devices will be installed in stores employing five (5) or more full-time employees when such are available.

2. The Fair Labor Standards Act, as amended, requires, among other things, that all time worked by employees be accurately recorded and that employees receive compensation for all time worked in excess of forty (40) hours in any work week at one and one-half (1 1/2) times their regular hourly rate of pay. The parties recognize and agree that strict compliance with this Act is in the best interest of the Employer, the Union and the employees. Therefore, the Employer will not request, suffer or permit any employee to work "off the clock" and the Union agrees to cooperate with and to assist the Employer in assuring strict compliance with this important federal legislation.

G. **Temporary Transfers** - Temporary transfers from one store to another will be limited to two (2) weeks, except in case of vacation relief and sick relief.

H. **Bank Deposits** - An employee making bank deposits will be accompanied by at least one other person.

ARTICLE 10 WAGES

A. Rates of pay, as set forth in Wage Schedule "A" attached hereto, shall remain in effect for the life of this Agreement and shall constitute the basis for determination of wages for time worked.

"Twenty-six (26) weeks of work or vacation" are equivalent to "six (6) months" for the purpose of determining when an employee qualifies for the next higher salary progression, with the following exceptions:

1. Layoffs due to lack of work will be counted as weeks worked unless such layoff exceeds four (4) consecutive weeks, in which case the weeks of layoff in excess of the initial four (4) consecutive weeks will not be counted as weeks worked.

2. For employees with at least one (1) year of service, medical leaves up to four (4) weeks, not necessarily consecutive, will be counted as weeks worked toward the next higher wage progression. Otherwise medical leaves shall not be counted as weeks worked.

3. Personal leaves shall not be considered weeks worked.

B. Bagger/Carryout

1. Employees classified as bagger/carryout will only bag sold merchandise at checkstands, carry out sold merchandise, stock bags at checkstands, sweep up and clean up checkout lanes and areas in front of checkout lanes and parking lots only, return shopping carts into the store, sort empty returnable containers, tie up cardboard and cartons, clean rest rooms, return customer go-backs from checkstand area, clean up spills and breakage anywhere on sales floor, pre-sort merchandise at checkstand, sweep floors and perform price checks for customers at checkout stands. Employees in this classification may also perform general maintenance, floor cleaning and maintenance. This change shall not displace or reduce the hours of present employees performing floor care. Such employees shall not be assigned to any stocking duties, take part in unloading of trucks or be members of a night stocking and receiving crew.

2. In the event of a proven violation of this section, the most senior employee working less than forty (40) hours that week in the store in which the violation occurred will be paid a minimum of one (1) hour, or the amount of time spent in such proven violation, at the employee's regular rate of pay. If this would result in the employee's receiving more than forty (40) hours pay, the hours in excess of forty (40) would go to the next most senior employee not working forty (40) hours in the store where the violation occurred.

C. The Employer agrees to advance the employee's wage rate in accordance with the contract progression schedule for any employee who is hired at a rate exceeding the entry rate in any classification.

D. Any employee assigned as relief for any department head for one (1) week or more will receive the rate of pay established for the job in which he is relieving.

E. Any employee involuntarily reduced to a lower classification will be returned to the same wage progression level achieved at the time of reduction when the employee regains a higher classification.

F. Bagger/carryout hired prior to November 9, 1994, who have so elected and all other full time bagger/carryouts will be eligible for and will receive benefits when qualified. Those full time bagger/carryouts hired after November 9, 1994

will be eligible for single plan health care.

All other employees hired into the bagger/carryout classification after November 9, 1994, the terms of the collective bargaining agreement such as union shop and seniority shall apply, but bagger/carryout employees shall not receive benefits of a monetary nature, except for wages as specified. It is understood that benefits such as holidays, vacation, sick leave, health & welfare, pension, etc. are of a monetary nature and are not to be provided to the bagger/carryout employee. Seniority within job classification and within the store shall prevail.

ARTICLE 11 OVERTIME, SUNDAY AND HOLIDAY PREMIUM PAY

A. Overtime

1. Any employee who works in excess of eight (8) hours in any one (1) day, or forty (40) hours in any one (1) calendar week, or thirty-two (32) hours during a holiday week, shall be paid for such excess hours at the rate of time and one-half (1 1/2) their straight time hourly rate. The daily overtime provision herein shall not apply for the employees who have mutually agreed in writing with the Employer and the Union to work a weekly schedule of four (4), ten (10) hour shifts. In such event, all time worked in excess of ten (10) hours per day shall be paid for at time and one-half (1 1/2) the employee's regular hourly rate of pay.

2. There shall be no pyramiding of premium pay and any hours paid for at premium pay will be excluded from the computation of any other premium pay.

3. Scheduled overtime shall be offered by seniority within each classification by job assignment in each store. Daily overtime not previously scheduled shall be offered by seniority within each classification by job assignment in the store among employees present when the need for overtime arises. In the event there are not enough volunteers, the Employer can require employees to work overtime in reverse order of seniority, subject to their ability to perform the work in the classification by job assignment within the department.

4. When a full-time employee is required to work on a scheduled day off, such work shall be paid for at time and one-half (1 1/2).

B. Sunday and Holiday Premium Pay - Any work performed on Sunday shall be paid for at time and one-half (1 1/2) the employee's regular rate of pay. Work performed on holidays as provided for in Article 12, shall be paid for at time and one-half (1 1/2) the regular rate of pay. Employees hired after November 29, 1989, shall receive their regular straight time rate of pay for Sunday and holiday work.

Employees hired prior to October 24, 1983, shall continue to receive double (2) time for hours worked on holidays.

C. Work hours for Sunday and holidays shall be included in the qualifying hours for reclassification to full-time.

D. All other premium pay rates will be included in the wage schedule attached.

ARTICLE 12 LEGAL HOLIDAYS AND PAY

A. The following shall be considered as legal holidays: New Year's Day, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day or days legally celebrated in lieu thereof.

Employees hired after October 1, 1993, who have twelve (12) weeks of Company service, shall be entitled to a Christmas holiday and three (3) floating personal holidays between January 1st and June 30th and two (2) floating personal holidays between July 1st and November 30th.

These holidays are in lieu of the holidays specified in Articles 12-A and 12-D. All floating personal holidays will be scheduled by mutual agreement between the Employer and the Employee.

There will be carryover if necessary during initial qualification.

All floating personal holidays must be taken during the period it is earned. Any employee not able to schedule these floating holiday(s) will receive pay in lieu of the holiday(s). An employee whose employment terminates for any reason shall not receive pay for accrued but unused personal holidays.

B. Full-time seniority employees shall receive a day's pay of eight (8) hours at straight time for the above mentioned holidays when not worked, provided the employee works the scheduled work day preceding the holiday and the scheduled work day following the holiday and the balance of his work schedule during the holiday week, excepting in cases of proven illness or accident. In order to qualify for holiday pay, a doctor's certificate will only be required from employees with absenteeism problems or where there is evidence of attempted deception. To qualify, the employee must have been on the Employer's payroll for at least thirty (30) days.

C. Full-time employees working four (4), ten (10) hour shift work weeks will be paid ten (10) hours pay at their straight time hourly rate of pay for all holidays which occur during such scheduled work week.

D. Full-time employees with one (1) year or more of full-time service shall receive two (2) additional personal holidays to be scheduled by mutual agreement between the employee and the Employer, consistent with the needs of the store during the calendar year. It is understood that these personal holidays will not be included as part of the basic work week and premium pay will not be paid until after forty (40) hours are worked in the week in which the holidays are taken.

E. A part-time employee who has worked twelve (12) weeks or more shall be entitled to holiday pay for the holidays set forth in paragraph A above, provided he was scheduled for work in the holiday week and works his scheduled hours in the holiday week as well as his scheduled day before and his scheduled day after the holiday unless such absence is due to proven illness. In order to qualify for holiday pay, a doctor's certificate will only be required from employees with absenteeism problems or where there is evidence of attempted deception. If he qualifies, the employee shall be paid four (4) hours pay at their regular straight time hourly rate.

F. For employees hired after April 30, 2003, after completing the probationary period, employees are entitled to be paid for the Christmas Day holiday.

- a. After 1 year of service – 3 additional personal holidays
- b. After 2 years of service – 2 additional personal holidays

Personal holidays shall be scheduled on dates mutually agreeable to the employee and the employer. Any unused holidays may be scheduled by management between September 1 and November 30. However, any personal holiday not taken by the end of the calendar year will be paid in lieu of time off. An employee whose employment terminates for any reason shall not receive pay for accrued but unused personal holidays.

G. The Employer agrees to close the store no later than 6:00 p.m. on Christmas Eve. No employee shall be permitted or required to work after the closing hours, except those employees necessary to serve the customers in the store at closing time. This provision is contingent upon similar limitations being contractually required of other organized food stores and/or being generally observed by major unorganized food competitors in the immediate shopping area in which the Employer operates.

H. Easter Sunday shall not be recognized as a legal holiday, however the Employer will recognize the desire of employees to reject work on Easter Sunday without forfeiting their right to Sunday rotation, it being understood that in the event an adequate staff cannot be attained to meet staffing requirements, the Employer can require employees to work in the reverse order of seniority by classification.

ARTICLE 13

LUNCH PERIODS AND REST PERIODS

A. Lunch Period

1. All employees who are scheduled for six (6) hours or more on any day shall be guaranteed a lunch period without pay of not less than thirty (30) minutes nor more than sixty (60) minutes, to be scheduled approximately in the middle of their scheduled work day.

2. In the event an employee is required to work overtime in excess of one and one-half (1 1/2) hours, he may receive a second lunch period without pay, not to exceed thirty (30) minutes.

B. Rest Periods - If an employee works four (4) hours or more but less than seven (7) hours in a shift, he shall receive a fifteen (15) minute rest period. If he works seven (7) or more hours in a shift, he shall receive two (2), fifteen (15) minute rest periods. Such rest periods will be scheduled by the store manager consistent with the needs of the business, but as close as possible to the middle of the shift. No employee shall be scheduled for a rest period within one (1) hour after starting their work day and within one (1) hour after returning from their meal period. Employees shall clock in and out for rest periods.

ARTICLE 14 CALL-IN PAY

Any employee, except clerks working after school hours on weekdays, who is instructed or scheduled to report for work shall be guaranteed at least four (4) hours work if they are available when the store is open for business.

ARTICLE 15 UNIFORMS

Uniforms and tools deemed necessary by the employer for its employees will be furnished by the employer. Employees are responsible for any and all reasonable care. Uniforms will be replaced as deemed necessary by the employer, provided the old uniforms are turned in for replacement.

ARTICLE 16 VACATIONS

A. Eligibility and Service

1. After one (1) year continuous employment, employees shall receive one (1) week vacation with pay. After an employee has qualified for one (1) week vacation, he automatically qualifies for future one (1) week vacation as of January 1st of each year.

2. After three (3) years continuous employment, employees shall receive two (2) weeks vacation with pay. After an employee has qualified for two (2) weeks vacation, he automatically qualifies for future two (2) weeks vacation as of January 1st of each year.

3. After eight (8) years continuous employment, employees shall receive three (3) weeks vacation with pay. After an employee has qualified for three (3) weeks vacation, he automatically qualifies for future three (3) weeks vacation as of January 1st of each year.

4. After fifteen (15) years continuous employment, employees shall receive four (4) weeks vacation with pay. After an employee has qualified for four (4) weeks vacation, he automatically qualifies for future four (4) weeks vacation as of January 1st of each year.

5. After twenty (20) years continuous employment, employees shall receive five (5) weeks vacation with pay. After an employee has qualified for five (5) weeks vacation, he automatically qualifies for future five (5) weeks vacation as of January 1st of each year.

6. Employees hired after April 30, 2003 will be entitled to vacation according to the policy of the employer. After one (1) year of service, one (1) week of vacation. After three (3) years of service, two (2) weeks of vacation. After ten (10) years of service, three (3) weeks of vacation.

B. Arrangements must be made to permit employees to enjoy such earned vacations between the actual employment anniversary date and the end of the year in which it occurs. Where necessary, vacations due in the eleventh (11th) or twelfth (12th) months may be carried over to the first (1st) month of the next year. Vacations must be taken during the calendar year unless due to emergency the management finds it necessary to request postponement.

Store managers reserve the right to "block out" six (6) weeks during the year. However, if specific stores can honor employee requests during those weeks, they may do so.

C. Choice of vacation dates will be granted on the basis of seniority except that the employer reserves the right to grant vacations to any employee when their absence will least affect the operation. The employer shall post the vacation schedule no later than January 15, and the employees shall exercise their vacation preference by seniority no later than March 1. Otherwise, they forfeit the privilege of choice by seniority.

D. Vacation Pay

1. Vacation will be paid in advance.

2. Full-time employees who worked forty (40) hours per week in at least forty (40) weeks or who were not laid off for more than thirty (30) working days during the anniversary or calendar year in which their vacations were earned will be paid their current straight time hourly rate for forty (40) hours. In determining if an employee has worked forty (40) or more weeks, forty (40) hours per week, count weeks not worked because of paid vacations or approved leaves of absence (including sick leave) as weeks so worked.

The weekly pay of a full-time employee who worked forty (40) hours per week in fewer than forty (40) weeks or who was laid off for more than thirty (30) working days in the year will be computed by taking his current straight time hourly rate times the average number of hours worked per week during the qualifying year.

3. A part-time employee will be entitled to vacation under the same general rules as for a full-time employee. Newly hired bagger/carryout employees and part-time clerks hired after October 26, 1983, shall receive

a maximum of three (3) weeks vacation. Part-time vacation will be figured on the number of hours worked in the vacation qualifying year, divided by fifty-two (52), as follows:

<u>AVERAGE HOURS WORKED</u>	<u>VACATION</u>
20 hours or less	12 hours
Over 20 hours, to and including 30 hours	24 hours
Over 30 hours, to and including 31 hours	30 hours
32 hours and over	Prorated

The qualifying date for all vacation purposes of any part-time employee who subsequently and without a break in his employment qualifies as a full-time employee shall be the date from which his service has been counted for part-time vacations rather than the date he qualified as a full-time employee. His vacation for the year in which he is reclassified to full-time shall be figured on average straight time hours worked during such year. Conversely, when a full-time employee is reclassified to part-time, his vacation for the year in which he is reclassified shall be figured on straight time hours worked during such year.

4. If a holiday occurs during a full-time employee's vacation, the employee shall be paid one (1) additional day's pay of eight (8) hours at straight time in addition to vacation pay.

5. If a holiday occurs during a part-time employee's vacation, the employee shall be paid four (4) hours additional pay at straight time in addition to vacation pay.

6. If any employee who has not taken his vacation earned by his service leaves (regardless of whether he gives notice) or is separated for any reason other than dishonesty, he will receive his vacation pay at the time of leaving.

7. Vacation pay for employees returning from an authorized absence from work will be reduced as follows:

a. Up to ninety (90) calendar days of authorized absence will not reduce vacation pay.

b. Authorized absence from work of ninety (90) calendar days but less than one hundred eighty (180) calendar days will reduce vacation pay by one-fourth (1/4).

c. Authorized absence from work for one hundred eighty (180) calendar days but less than two hundred seventy (270) calendar days will reduce vacation pay by one-half (1/2).

d. Authorized absence from work of two hundred seventy (270) calendar days or more will disqualify the employee for vacation pay that year.

8. The vacation pay reduction as provided for in Section 7.a. above will be extended from ninety (90) days to one hundred twenty (120) days for employees off on compensable injury due to industrial accident on the job.

ARTICLE 17 LEAVES

A. **Jury Duty Leave and Pay** - If any employee is required to serve on a jury, he shall be paid for hours necessarily absent from work because of such service.

B. **Death Leave and Pay**

1. In the event of death in the full-time employee's immediate family, the following will apply:

a. Regular pay for time off through the day of the funeral but not to exceed three (3) days, provided such pay does not exceed the equivalent of forty (40) hours of pay for the week at straight time rates.

2. In the event of death in a part-time employee's immediate family, the following will apply:

a. A part-time employee shall be entitled to the day of the funeral off with pay equal to the regular hours scheduled for that day.

3. The immediate family consists of spouse, parent, brother, sister, mother-in-law, father-in-law, children and grandchildren of the employee or any relative living in the home of the employee or with whom the employee is living.

4. Employees must attend the funeral in order to qualify for pay as outlined in this section.

5. The Employer shall grant such employee up to an additional three (3) days leave of absence without pay if such additional leave shall be necessary or reasonable with respect to the employee's responsibilities arising out of the death and/or funeral of such relative.

6. Full-time employees shall be granted one (1) day off with pay for the purpose of attending the funeral of the employee's grandparent or the employee's brother and/or sister's spouse, and the employee's spouse's brothers and/or sisters including stepparents and stepchildren.

C. **Union/Management Leave** - If an employee is elected to a job as an official of the Union, he will be granted a leave of absence without pay for up to three (3) years. An employee will be granted a leave of absence if elected or appointed to attend a national or state conference of the Union.

An employee promoted into management will be granted a leave of absence for a maximum of one (1) year, during which time the employee may

return to the bargaining unit with uninterrupted seniority.

D. **Personal Leaves** - Full-time employees may be granted a leave of absence not exceeding ninety (90) days, upon proper permission from the Employer, without loss of seniority. No leave of absence will be granted to any employee for the purpose of trying out another job or to venture into business for himself.

E. **Illness or Injury** - Leaves of absence for illness or accident shall be granted for a period of up to ninety (90) days when properly requested in writing and supported by medical evidence. The Employer will grant additional extensions of up to thirty (30) days at a time if requested and supported by medical evidence, for a period not to exceed one (1) year. If the employee's doctor then determines that the employee will be able to return to work in the foreseeable future, additional extensions on the basis of thirty (30) day periods may be granted for up to six (6) additional months. Such leave must be substantiated by a doctor's certificate. Employees returning from such leave must provide a medical release by Tuesday noon in order to be scheduled for the following week. This release must be from their last scheduled appointment prior to their return.

F. **Job Injury** - An employee injured on the job shall be paid for all scheduled straight time hours lost because of such injury on the day the injury occurs. Where requested, the employee must provide verification of medical treatment in order to receive payment.

G. **Military Service Leave** - Any employee who enlists or is inducted into military service shall retain job rights and seniority in accordance with the provisions of applicable federal and state laws.

National Guard employees shall not be required to take their vacation for training, but may be permitted to do so if the employee so wishes.

H. **Hearings** - Employees will be paid for necessary time to appear at hearings upon the request of the Employer. This shall include appearances mandated by subpoenas issued by or on behalf of the Employer.

I. **Annual Stewards Conference** - Upon request of the Union, the union stewards and Executive Board members shall be scheduled four (4) days, Monday through Friday, the week of the annual stewards conference. Said stewards conference shall be held once each year for the purposes of this Article and not more than one (1) steward per store and seven (7) Executive Board members shall be permitted to attend. The Employer will pay eight (8) hours pay for those employees eligible to attend the stewards conference. The Union shall advise the Employer at least two (2) weeks in advance of such conference meetings. The stewards and Executive Board member(s) must attend the conference to receive eight (8) hours pay.

K. **Leave of Absence Requests** - Requests for leaves of absence for more than fourteen (14) days must be made by the employee in writing to the employer's Human Resources Department with a copy to the Union. Such request must be made at least two weeks prior to the desired date of leave.

Time spent on leave of absence will not be counted as time worked for the purpose of wage computation and will not result in loss of seniority. Failure to report back to work at the end of a leave of absence shall result in the employee being considered a voluntary quit. Any employee accepting employment elsewhere while on a leave of absence shall be considered a voluntary quit except in a case where such employee works for the union.

L. **Employer Meetings** - In the event meetings are scheduled by the employer and attendance is compulsory, time spent in attendance will be counted as time worked and paid at the employee's appropriate hourly rate. Should an employee be required to attend a meeting on his-scheduled day off, the employee shall be guaranteed a minimum of four (4) hours pay.

**ARTICLE 18
HEALTH AND WELFARE**

A. Full-time

1. Contributions

The Employer will continue to pay into the United Food and Commercial Workers Union Local 911 and Employers Health and Welfare Insurance Fund (hereinafter referred to as the "Fund") Four hundred ninety-nine dollars and ninety cents (\$499.90) per month for each eligible full-time employee covered by this Agreement. The contribution shall be made as of the first (1st) day of the month immediately following the employee's becoming an eligible employee. Payment to the Fund will be made no later than the fifteenth (15th) of such month.

For employees who qualify for full-time coverage after June 29, 1996, the following new member plans shall apply:

Entry NM1	\$277.75		
12 monthly payments, then		NM2	\$312.45
12 monthly payments, then		NM3	\$333.25
12 monthly payments, then		NM4	\$361.05
12 monthly payments, then		NM5	\$374.95

After an employee has been on the New Member 5 (NM5) Plan for a three (3) year period, they will progress to the "top" full time plan.

Employees hired after April 30, 2003 may progress to the NM4 level.

The employees shall not be entitled to benefits from Health & Welfare until the second (2nd) month of Employer contribution.

2. Eligibility

The term "eligible employee" shall mean an employee who has worked an average of thirty-two (32) (thirty-six [36] for employees qualifying after

November 9, 1994) or more hours per week for the twelve (12) consecutive weeks immediately preceding the first day of any month or an employee who is hired as a full-time employee and has worked the thirty (30) days immediately preceding the first day of any month as a full-time employee. All hours worked will count towards Health & Welfare eligibility. Employees hired after April 30, 2003 may qualify after one (1) year of service for full time. All baggers, high school students and fuel clerks are excluded from coverage.

3. Continued Contributions

Contributions to the Fund for eligible full-time employees shall be continued under the following conditions:

- a. In case of absence from work due to illness or non-compensable injury substantiated by a doctor's certificate, three (3) months contribution following the month in which the illness started or accident occurred.
- b. In case of absence from work for compensable leave due to industrial accident on the job, six (6) months contribution following the month in which the accident occurred.

4. Discontinued Contributions

Contributions to the Fund for eligible full-time employees shall be discontinued as of the first (1st) of the month immediately following:

- (a) Voluntary quit.
- (b) Termination for cause.
- (c) Approved leave of absence.
- (d) Employee request for change in status from full-time to part-time.
- (e) Employee's ceasing to be an eligible employee due to his failure to work an average of twenty-eight (28) (for employees hired on or before November 9, 1994, thirty-two [32] for employees hired after November 9, 1994) or more hours per week for the twelve (12) consecutive weeks immediately preceding the first (1st) day of any calendar month.

Employer contributions which have been discontinued as a result of Section A.3 above, or after returning from an approved leave of absence as in Section A.4(c) above, will be resumed on the first (1st) day of the month immediately following return to work on the Employer's active payroll.

However, if an employee has been disqualified as provided for in Section A.4(e) above, he must again qualify as an eligible full-time employee as provided for in Section A.2 above before a contribution will be made on his behalf.

B. Part-time

1. Contributions

The Employer will continue to pay into the Fund two hundred six dollars and ninety cents (\$206.90) per month for each eligible part-time employee covered by this Agreement. The contribution shall be made as of the first (1st) day of the month immediately following the employee's becoming an eligible employee. Payment to the fund will be made no later than the fifteenth (15th) of such month. The employees shall not be entitled to benefits from Health & Welfare until the second (2nd) month of Employer contribution.

2. Eligibility

The term "eligible employee" for employees hired on or before November 29, 1989, shall mean an employee with one (1) year of continuous service, who has worked an average of twelve (12) or more hours per week for the four (4) weeks immediately preceding the first (1st) day of any month and is an employee who is not eligible for a full-time contribution as provided for in Section A.2 above.

For employees hired after November 29, 1989, the term eligible employee shall mean an employee with eighteen (18) months of continuous service, who has worked an average of eighteen (18) or more hours per week for the four (4) weeks immediately preceding the first (1st) day of any month and is an employee who is not eligible for a full-time contribution as provided for in Section A.2 above. High school students shall not be eligible.

Employees hired after April 30, 2003 may qualify after two (2) years of service for part time. All baggers, high school students and fuel clerks are excluded from coverage.

3. Continued Contributions

Contributions to the Fund for eligible part-time employees shall be continued under the following conditions:

In case of absence from work due to compensable injury, three (3) months contribution following the month in which the accident occurred.

4. Discontinued Contributions

Contributions to the Fund for eligible part-time employees shall be discontinued as of the first (1st) of the month immediately following:

- (a) Voluntary quit.
- (b) Termination for cause.
- (c) Approved leave of absence.
- (d) Employee's ceasing to be an eligible employee due to his

failure to work an average of twelve (12) or more hours per week for the four (4) consecutive weeks immediately preceding the first (1st) day of any calendar month.

Full-time Employer contributions, which have been discontinued for an employee as a result of Section A, 4 d. & e. above and such employee qualifies as an eligible part-time employee as provided for in Section B-2, then the part-time contribution will be made when the full-time contribution is discontinued.

C. Maintenance of Benefits

Maintenance of Benefits for all of the Insurance Plans, except for the Retiree Plan, shall be effective October 1, 2003 with a 10% M.O.B. with a roll over effect. Effective October 1, 2004, October 1, 2005 and October 1, 2006, a 10% M.O.B. with a roll over effect total 40% over the term of the Agreement.

D. Retiree Benefits

1. The Employer agrees to continue to make payments of five cents (5¢) per hour for all hours worked up to and including forty (40) hours per week by members of the bargaining unit, including hours of holiday and vacation, into the United Food and Commercial Workers Union Local 911 Health and Welfare Fund. Such contributions shall be for the purpose of providing health care and related benefits for retirees as determined by the Trustees and be made starting the first day of employment. For employees hired after October 26, 1983 contributions will commence the first day of the month following eighteen (18) months of continuous service. No contributions shall be made by the Employer for any employees off the job for reasons other than the above-mentioned holiday and vacation periods. The said contribution of five cents (5¢) per hour is not subject to the maintenance of benefit provisions contained in Article 18 of the Collective Bargaining Agreement between the parties.

2. Notwithstanding anything contained in this Agreement or in the Health and Welfare Plan documents, the signatory parties to this Agreement expressly agree that the Trustees of the Health and Welfare Plan may, in their sole discretion, terminate or modify benefits and eligibility for benefits of retired former participants in the Plan at any time. The Trustees of the Plan shall adopt and implement such rules and regulations as are necessary to implement the limitations of participation and benefits expressed.

**ARTICLE 19
PENSION PLAN**

A. Contributions

1. The Employer agrees to continue payments for employees hired on or before October 28, 1989, of fifty-one and three-tenths cents (51.3¢) per hour for all hours worked up to and including forty (40) hours per week by members of the bargaining unit, including hours of holiday and vacation pay, into the United Food and Commercial Workers Union Local No. 911 and Retail Food Employers Joint Pension Fund. Such contributions will be made starting the first day of employment. For employees hired after October 26, 1983, and on or before October 28, 1989, contributions will commence the first day of the month following one (1) year of continuous service. No contributions shall be made by the Employer for any employees off the job for any reason other than the above-mentioned holiday and vacation periods. The contribution rate for employees hired after October 28, 1989, shall be forty cents (40¢) per hour and shall commence after eighteen (18) months of service.

For employees hired after April 30, 2003 who meet eligibility requirements, \$.25 per hour employer contribution.

2. Eligibility for employees hired after April 30, 2003 to be 21 years of age and one (1) year of continuous service and 1000 hours worked in the previous calendar year. (Employees must re-qualify each calendar year.) High school students, baggers and fuel clerks are excluded.

B. Said Pension Fund shall be used to provide pension benefits for eligible employees of the Employer as provided in the Pension Plan, the terms and provisions of which have been agreed upon by the parties hereto.

Any overfunding in the pension plan during the contract term shall be used to purchase additional benefits for active employees.

**ARTICLE 20
SENIORITY**

A. In layoffs and recall, the principle of seniority shall apply.

Seniority shall be determined on the length of continuous service of the employee with regard to his experience and ability to perform the work. All circumstances being reasonably equal, length of service shall be the controlling factor.

Promotions will be based primarily on merit and ability, but when these are equal the employee having the greatest seniority shall receive preference if the employee desiring a promotion to the next higher paid classification has made his desire known to the store manager in writing with a copy to the Local Union.

Agreed upon seniority lists shall be established and maintained, and such lists shall be available to the Union at all times. It is understood and agreed that the relative seniority among employees starting to work on the same date will be determined by the last four (4) numbers of the employee's social security number (i.e., the lowest combination of the last four (4) numbers will be the most senior employee among those hired on a given date).

On transfers from one store to another, the Union shall have the right to invoke Article 5 where it feels due regard has not been given to seniority. The Union is to be given one (1) week's notice before any permanent transfers, promotions or demotions are made, with the exception of promotions to supervisory positions.

B. Seniority shall be considered broken if an employee is duly discharged by the Employer, if he voluntarily quits, if he has been laid off continuously for a period of more than one (1) year or if he is called back to work after a layoff and does not report for work within one (1) week.

C. Part-time employees who have been involuntarily reduced from full-time shall for a period of one (1) year from the date of such reclassification, be given preference for full-time employment over part-time employees not similarly reclassified and over applicants with no previous service with the Employer. All other part-time employees shall be given equal consideration for full-time employment with applicants with no previous service with the Employer. A part-time employee shall accumulate seniority as a part-time employee only in line with his or her ability and qualifications.

Full-time employees who are reduced to part-time (involuntarily) or take a lesser paying job rather than accept a layoff will be returned to their former full-time position in the same relative seniority order in their own store before other full-time employees are recalled from layoff.

An involuntary reduction from full-time to part-time by any employee will automatically cancel all seniority and full-time benefits, as well as nullify the applicable full-time provisions of the Agreement for the affected employee as of the date of reclassification, except for the continuance of health and welfare benefits as provided for under Article 18, and except that full-time employees involuntarily reduced to part-time will retain job seniority by being placed at the top of the part-time seniority list for a period of one (1) year for the purpose of reclassification to full-time. If reclassified within the one (1) year period, the employee shall be credited with the previously accumulated full-time seniority, but re-qualification will be required for all other full-time benefits. If there is more than one (1) such disqualification in the same store, such reduced full-timers will be placed at the top of the part-time seniority list in BDCS (full-time seniority date) order.

D. Employees promoted out of the bargaining unit will have their seniority protected and accrued for one (1) year from the date of promotion or transfer. If not transferred back into the bargaining unit after one (1) year, they shall forfeit all seniority rights.

E. There will be three (3) separate seniority areas:

1. Metropolitan Toledo (includes Sylvania, Rossford, Perrysburg, Oregon, Northwood and Maumee).
2. Bowling Green, Fostoria, Findlay and Tiffin.
3. Sandusky, Port Clinton, Fremont.

The Employer and the Union will meet to mutually agree upon which seniority area new stores in towns not mentioned above will be placed.

F. There will be two (2) seniority lists for each area:

1. Part-time employees.
2. Full-time employees.

G. A full-time employee reduced below thirty-two (32) hours per week through no fault of their own for two (2) consecutive weeks may request a transfer to another store when a less senior full-time employee is scheduled thirty-two (32) hours or more for the following week and has averaged thirty-two (32) hours or more for the previous six (6) weeks. Employees may specify up to three (3) stores of their choice. In the event that there are no full-time employees junior to the employee seeking the transfer within the three (3) stores who is scheduled thirty-two (32) hours or more for the following week and have averaged thirty-two (32) hours or more for six (6) weeks, then the reduced full-time employee must displace the most junior full-time employee within the seniority area who is scheduled thirty-two (32) hours or more for the following week and has averaged thirty-two (32) hours or more for the previous six (6) weeks.

A full-time employee reduced to an average of less than thirty-two (32) hours per week for six (6) consecutive weeks and who is not eligible to transfer within his own seniority area as outlined above, may bump the most junior full-time employee in another seniority area who has averaged thirty-two (32) or more hours for the previous six (6) weeks according to the employee's seniority and job classification.

If the employee decides not to exercise this option, he will be eligible to exercise it again at the end of an additional six (6) weeks if he has averaged less than thirty-two (32) hours for the twelve (12) consecutive weeks. If he again fails to exercise this option, he will forfeit all rights to transfer and will revert to part-time status in accordance with the provisions of this Agreement.

H. The full-time employee eligible for transfer must request same, in writing, within fourteen (14) days after being advised of his change in status or forfeit all rights to the transfer.

I. The Employer will arrange the transfer at the beginning of the first week after the request by the eligible full-time employee.

J. All employees must complete the transfer on the date scheduled by the Employer or forfeit all rights to the transfer.

- K. 1. Any transfer as provided for in this section of the Agreement, shall be at the employee's expense. The full-time employee will continue to work on a part-time basis until the transfer has been completed.
2. In the matter of store closings, displaced department heads and assistant department heads who have not been reassigned to comparable positions will continue to receive the contractual pay rate for their former position for up to three (3) years. In the event a comparable position becomes available within their seniority area, the Employer may select the displaced employee for this opening. If this opening is declined by the employee, they will revert to the contract rate for the position they are working. This provision excludes department heads in temporary assignments for less than six (6) months.

L. A part-time employee permanently laid off through no fault of their own, shall have the opportunity to transfer to another store within the seniority area and bump a less senior part-time employee, according to the employee's seniority and job classification. The part-time employee bumped will have the opportunity to bump the least senior part-time employee in the seniority area, according to the employee's part-time seniority and job classification.

For the purpose of this transfer, a permanent layoff is defined as a period of three (3) consecutive weeks of no work or no hours, or notification of layoff to the employee in writing by the Employer.

If the eligible part-time employee does not advise the Employer in writing within seventy-two (72) hours of his intent to transfer, he shall forfeit all rights to the transfer. Any transfer involved will be at the employee's expense.

M. Available Hours

1. Employees shall be scheduled for available hours up to and including eight (8) hours per day or forty (40) hours per week (thirty-two [32] hours in a holiday week) in accordance with seniority and reasonable ability to perform the work assigned within the five (5) highest hour days in the week (four [4] highest hour days in a holiday week); excluding Sundays and holidays:

a. If there is greater than a two (2) hour lapse between shifts that are scheduled, there is no claim.

b. An employee can only claim from one (1) other employee and cannot take hours that result in the other employee having less than two (2) hours remaining in his schedule (unless he can claim the entire shift).

c. An employee cannot claim a split schedule or claim from a junior employee in such a way that it results in the junior employee's remaining schedule having a split.

d. When two (2) schedules overlap by more than one (1) hour, the senior employee cannot claim the hours, except that when the earlier starting time and the later ending time is equal to eight (8) hours or less and the junior employee is left with at least two (2) hours.

1.) 8:00 a.m. to 2:00 p.m. - 6 hours, this should be
8:00 a.m. to 5:00 p.m. - 8 hours

2.) 12:00 p.m. to 5:00 p.m. - 5 hours, this should be
12:00 p.m. to 2:00 p.m. - 2 hours

e. When allowing a senior employee his rights to claim available hours, there will be no minimum hours requirement for the junior employee.

For employees hired after April 30, 2003, employees will, on a daily or weekly basis, be entitled to the schedule of work with the most hours within their classification in accordance with their seniority, availability and ability to perform the work required. Paragraphs M2, M3 and M6 apply to employees hired after April 30, 2003.

2. Employees who have voluntarily limited their availability in writing to the store manager 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.

3. Vacated and/or additional work shifts shall be offered to the most senior employee who is currently working or who is scheduled later that day and whose original schedule of hours would be increased by two (2) or more hours.

4. It is further understood that the work schedules will be arranged so as to provide as many employees with eight (8) hour per day schedules and as many employees with forty (40) hour per week schedules, which are consistent with the limitations set forth in paragraph 1, and with the further understanding that the hours not consistent with the needs of the business will not be added to accomplish this objective. Reference to paragraph 1 does not apply to employees hired after April 30, 2003.

5. If a less senior employee is scheduled hours that a more senior employee is entitled to, the more senior employee must notify the manager within twenty-four (24) hours of the posting of the schedule and the schedule will be changed accordingly. If there is no complaint within the twenty-four (24) hours, the schedule is deemed acceptable.

If an employee who has been bumped for any part of his next week's schedule is not scheduled to work between the time the bump occurred and noon Friday, he will have the right to exercise a claim of hours in accordance with Article 20, M-1 by the end of his next work shift in the current week if scheduled, or the end of his first originally scheduled shift the next week. Reference to Article 20, M-1 does not apply to employees hired after April 30, 2003.

Employees hired after October 1, 1993, or promoted from the bagger/carryout classification after October 1, 1993, may not claim hours from another employee that would reduce that employee's schedule below twelve (12) hours weekly.

6. Full-time employees may exercise hours claims on a sixth (6th) day, excluding Sunday, if their total weekly schedule of hours, including Sunday, is less than thirty-two (32) hours.

7. For employees hired on or before April 30, 2003, full-time employees may exercise hours claims involving the forfeiture of a lunch period, if their weekly schedule of hours, including Sunday, is less than thirty-two (32) hours.

8. For employees hired on or before April 30, 2003, if in the application of the Available Hours provision a conflict occurs with the three (3) night provision of this Agreement, the Available Hours clause shall have priority and shall prevail with no resultant liability to the Employer, i.e. junior employee forced to work over three (3) nights as a result of available hours claimed by senior employee.

N. Desirable Shift Schedule.

1. For employees hired on or before April 30, 2003, it is the intent of the parties to this Agreement that the most senior full-time employee receive the most desirable work schedule, including day off, in their classification by job assignment, provided it does not adversely affect the efficient operation of the store. This paragraph will not apply to night stocking crews.

2. For employees hired on or before April 30, 2003, if as a result of the application of this section a conflict occurs with Article 9, section E, paragraph 7, this section shall have priority and prevail and the overtime compensation otherwise called for shall become null and void.

3. A night stock employee with six (6) months of service may exercise his seniority rights in transferring to day hours when an opening occurs in the clerk classification. Such employee must advise the store manager in writing of that desire for day hours. However, not more than one (1) such transfer shall be allowed within a sixty (60) day period per store.

O. General Merchandise

1. The duties of the general merchandise clerk shall include and be limited to the ordering, receiving, pricing and stocking, and all other work associated with the following items or product lines:

- a. Health & beauty aids
- b. "Peyton-Wells" merchandise
- c. Continuity programs, for example dishes, encyclopedias, etc.
- d. General merchandise shipper and promotions (i.e. records, gloves, J-hooks, etc.)
- e. Any other non-food merchandise, except merchandise that is required for normal household maintenance, such as soap powders, bleaches.

Employees in this classification shall not be permitted to perform produce or deli/bakery department work. In addition, they shall not perform work as a cashier, general store maintenance, a member of the regular stock crew or operating the compactor, except that they shall be permitted to clean up their own refuse and operate the compactor to this extent.

2. General merchandise employees shall have seniority only among other general merchandise employees. General merchandise department seniority shall be separate from all other seniority. Article 20 shall only apply as applicable to employees in the general merchandise departments.

3. The deli/bakery department employees shall have seniority only among other deli-bakery department employees. Deli/bakery department seniority shall be separate from all other seniority. Article 20 shall only apply as applicable to employees in the deli/bakery departments. (This provision does not apply to employees hired before March 11, 1974, to work in deli/bakery departments.)

4. In stores having general merchandise clerks or deli/bakery clerks, the Employer agrees not to hire any new clerk/cashiers in that store without first giving the general merchandise clerks and deli/bakery clerks an opportunity to move up to the clerk/cashier classification, provided they have notified the Employer in writing of their desire to go into the clerk/cashier classification. It is further understood that general merchandise clerks or deli/bakery clerks moving into the clerk/cashier classification will retain their seniority in the clerk/cashier classification, but may not claim previously scheduled hours of another employee until a vacancy occurs or additional hours become available.

a. General merchandise employees or deli/bakery department employees that move into the clerk/cashier classification will have a red-circled pay rate and retain that pay rate until such time as they

would move to a higher pay rate in accordance with the appropriate clerk/cashier progression as is provided for in Schedule A of this Agreement.

In the event of layoff or a reduction to part-time, general merchandise or deli/bakery employees who have taken openings as clerk/cashiers and who are not able to transfer to another store based on their clerk/cashier seniority, may exercise their company seniority in their previous classification.

5. Clerk/cashiers desirous of moving into the general merchandise department or deli/bakery department may do so when openings occur, provided they have notified the Employer in writing of their desire to do so.

It is further understood that clerk/cashiers moving into the general merchandise clerk or deli/bakery clerk classification will retain their seniority in the general merchandise clerk or deli/bakery clerk classification, but may not claim previously scheduled hours of another employee until a vacancy occurs or additional hours become available.

a. Clerk/cashiers who take job openings in the deli/bakery or general merchandise department will be placed on the appropriate wage bracket as determined by their original hire date, and in the event of layoff or a reduction to part-time, employees not able to transfer to another store based upon their deli-bakery or general merchandise seniority may exercise their company seniority in the clerk/cashier classification.

P. Nutrition, Floral & Salad Bar Clerks

1. Duties of nutrition, floral & salad bar clerks shall include and be limited to ordering, receiving, pricing, stocking, customer service and all work associated with these operations.

2. Nutrition, floral & salad bar clerks shall have seniority only among other nutrition, floral & salad bar employees. Nutrition, floral & salad bar seniority shall be separate from all other seniority. Article 20 shall only apply as applicable to employees in the nutrition, floral & salad bar.

3. In stores having nutrition, floral & salad bar clerks, the Employer agrees not to hire any new clerk/cashiers in that store without first giving the nutrition, floral & salad bar clerks an opportunity to move up to the clerk/cashier classification, provided they have notified the Employer in writing of their desire to go into the clerk/cashier classification. It is further understood that nutrition, floral & salad bar clerks moving into the clerk/cashier classification will retain their seniority in the nutrition, floral & salad bar classification, but may not claim previously scheduled hours of another employee until a vacancy occurs or additional hours become available.

a. Nutrition, floral & salad bar clerks that move into the clerk/cashier classification will have a red-circled pay rate and retain

that pay rate until such time as they would move to a higher pay rate in accordance with the appropriate clerk/cashier progression, as is provided for in Schedule A of this Agreement.

4. Employees desirous of moving into the nutrition, floral & salad bar may do so when openings occur, provided they have notified the Employer in writing of their desire to do so. It is further understood that employees moving into the nutrition, floral & salad bar classification will retain their seniority in the nutrition, floral & salad bar classification, but may not claim previously scheduled hours of another employee until a vacancy occurs or additional hours become available.

a. Employees who take job openings in the nutrition, floral & salad bar will be placed on the appropriate wage bracket as determined by their original hire date and in the event of layoff or a reduction to part-time, employees not able to transfer to another store based upon their nutrition, floral & salad bar seniority may exercise their company seniority in their former classifications.

Q. Promotion to Department Head

1. Employees desirous of promotion to a department head or assistant department head position within their seniority area shall notify the Employer in writing, with a copy to the Union and the store manager, specifying the position of interest. Such request shall remain in effect through the current calendar year. The employer agrees to notify candidates who have indicated their interest in writing when openings for that position occur. Further, the employer also agrees to notify the appropriate steward in the store where the opening occurs.

2. The Employer will discuss with sufficient number of employees to cover anticipated openings, by seniority, his/her qualifications and past performance as soon as practical after receipt of the letter requesting consideration for promotion to department head.

3. Promotions will be based on seniority, qualification to perform the work available and past performance criteria. Qualifications and past performance being reasonably equal, seniority shall prevail.

4. The Employer agrees to notify the Union of all promotions to department head positions on a weekly basis.

5. If an employee submits a letter of interest and is selected, he/she will be expected to take the job if within the metropolitan Toledo area, or the city in which the employee works. If the employee refuses, his letter requesting consideration for promotion will be voided and may not submit another letter for consideration until at least six (6) months have expired.

6. Promoted employees shall be granted a sixty (60) day trial period in the new position. Such trial period may be extended an additional thirty (30) days by mutual agreement of the Employer and the Union.

Employees unsuccessful in qualifying on the new position shall be returned to their previous position.

7. It is agreed that any dispute resulting from the above language may be referred to the grievance procedure.

R. **Full-time Job Opening** - A part-time employee who is available for and desires a full-time job will make his desire known in writing to his store manager, with copies to the zone manager, personnel manager and the Union. When the Employer has such an opening within the city in which the employee is employed on other than a temporary basis, such employee will be considered for the opening based on seniority, provided that he has the experience and ability necessary to fill the job. If circumstances of the employee change so that he becomes unavailable for a full-time job, he will so advise his store manager, with copies to the zone manager, personnel manager and the Union.

S. Where available hours are concerned or general layoffs are contemplated, the parties agree to meet and whatever arrangements are made will be final and binding.

T. **New Store Openings** - In the event the Employer opens a new store, the Employer will post in each of the Employer's stores within the geographical jurisdiction of the Union, notice of the new store and its address. Employees who desire to be considered for work in the new store will notify the Employer in writing.

U. Employees hired after April 30, 2003 whose principal occupation is other than with the employer ("moonlighters") will have no seniority over other employees and will be placed at the bottom of the seniority list in their classification.

V. Full time employees who desire to transfer to a store closer to their home shall notify, in writing, the Zone Manager, Human Resources Department and the Union of their desire. The employer may agree to transfer said employee if a permanent full time vacancy exists in their classification or if another full time employee agrees to exchange work shifts with said employee. Such transfers are subject to the mutual agreement of the Employer. If two (2) or more employees request a transfer to the same store, seniority shall apply. The intent of this clause is to reduce an employee's travel distance to and from work for the purpose of energy conservation.

ARTICLE 21 TECHNOLOGICAL CHANGES

A. The Employer and the Union recognize that new technology is often available to the food industry. In recognition of this, the parties agree that:

1. Where installations of such equipment will materially affect bargaining unit work, the Union will be pre-notified by the Employer.

2. The Employer has the right to install such equipment and use such technology.

3. Any training or necessary retraining will be furnished expense free by the Employer to affected employees.

4. Where full-time employees would be laid off by such installations, the Employer will make every effort to affect a transfer in accordance with the transfer provision of the Agreement.

5. If a full-time employee is not retrained or transferred and would be laid off as a direct result of the installation of such technology, then the employee would qualify for separation pay if:

a. The employee had five (5) or more years of full-time service.

b. Does not refuse a transfer within the bargaining unit area as outlined in this Agreement.

c. Does not refuse to be retrained or reassigned.

d. Such action does not occur more than thirty (30) days from date of installation.

e. Does not voluntarily terminate employment.

6. Severance pay (for those employees covered in 5 above) would be paid at the rate of one (1) week pay for each two (2) years of continuous full-time service, not to exceed five (5) weeks.

7. Severance pay would equate the average number of hours worked the four (4) weeks preceding displacement, not to exceed forty (40) hours straight time pay.

ARTICLE 22 UNION COOPERATION

A. 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.

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

C. The Union agrees to cooperate in correcting inefficiencies of members which might otherwise necessitate discharge. Whenever a constructive advice form is given an employee, a copy will be furnished to the Union.

D. The Union recognizes the need for improved methods and output in the interest of the employees and the business, and agrees to cooperate with the Employer in the installation of such methods, in suggesting improved methods, and in the education of its members in the necessity for such changes and improvements.

E. 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 interests of conservation and waste elimination.

ARTICLE 23 GENERAL

A. **Separability** - It is the intent of the parties to this Agreement that any section, paragraph, sentence, clause and phrase of this Agreement is separable, and if any phrase, clause, sentence, paragraph or section of this Agreement shall be declared invalid by the judgment or decree of a court of competent jurisdiction because of conflict with a federal or Ohio state law, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Agreement. The parties agree to comply with all provisions of both the Americans with Disability Act and the Family Medical Leave Act.

In the event that any article or section is held invalid or illegal as above set forth, the parties shall enter into immediate collective bargaining negotiations upon the request of the Union or the Employer for the purpose of arriving at a mutually satisfactory replacement of such article or section.

B. **Polygraph Test** - No employee covered by this Agreement shall be required by any representative of the Employer to be subject of a polygraph (lie detector) test or stress analysis test for any reason.

C. **Nondiscrimination Clause** - The Employer and the Union shall not discriminate against any employee for reasons of sex, age, race, religion, creed, color, handicap, national origin, sexual orientation, union activity or veterans.

D. **Gender Context** - Use of the male gender herein shall, except as context required otherwise, be deemed to include the female gender.

E. **Personal Belongings** - The parties have agreed to work out together any problem that may arise with respect to where employees keep their purses or coats, should a problem arise in the future.

F. **Union Store Card** - The Union agrees to issue a union store card and/or window decals to the Employer under the rules governing union store cards.

and/or window decals set forth in the Constitution of the United Food and Commercial Workers Union. Such union store cards and/or decals are and shall remain, the property of said International Union and the Employer agrees to surrender said union store card and/or decals to an authorized representative of the Union on demand in the event of failure by the Employer to observe the terms of this Agreement or the conditions under which said union store card and/or decals are issued.

G. All employees will receive a performance appraisal at least annually by the end of the third quarter. A copy of the performance appraisal shall be supplied to the employee as soon as possible. The union shall have the right to examine the performance appraisal and receive copies, upon request. If an employee is passed over for a promotion and wants further clarification of their promotion status and/or deficiencies, they may request, in writing (with copies to the union), an updated verbal and written appraisal outlining steps necessary to qualify for future openings.

ARTICLE 24 BARGAINING UNIT WORK

A. Representatives of vendors shall stock only the following products in the stores of the Employer:

1. Beverages, excluding beer and wine (Vendors may set up displays of beer and wine)
2. Cookies, crackers and snacks
3. Potato chips
4. Garden supplies
5. Rack jobbers (who service non-food specialty items)
6. Bakery products (other than Company manufactured bakery products)
7. Frozen pizzas and ice cream, e.g. Tony's, Tombstone Pizza and Edys Ice Cream, as long as it is provided on a DSD (direct store delivery) basis.

B. It is understood that the rotation or repositioning of merchandise, replacing damaged or outdated merchandise, resetting the shelf liner, or taking inventory shall not be considered stocking.

C. The above restrictions shall not apply to the opening of new stores or remodeling of an existing store or during the four (4) week period prior to Christmas or the week preceding Easter or the week preceding Thanksgiving.

D. In stores having both a manager and a co-manager, the Employer agrees that managers and co-managers shall not perform collective bargaining unit work except the building of auxiliary displays, and the handling and stocking of Kroger manufactured bakery products. This shall not apply in the case of an emergency beyond the control of the Employer or when an employee is absent and no one is available to do the work.

E. Outside service people shall normally be hired for thirty (30) days or less and shall not be required to belong to the bargaining unit, nor be subject to the Collective Bargaining Agreement.

Outside Service people shall not perform the normal and customary duties of bargaining unit members.

Outside service people's duties shall consist of the following:

1. Interior and exterior painting.
2. Major, infrequent cleaning and maintenance of store equipment and fixtures.
3. Outside maintenance and cleaning of parking lot, truck wells and shrubbery.
4. Interior and exterior window cleaning.
5. Repairs to equipment or facilities.
6. Outside floor care service may be utilized to perform all floor care service in Kroger stores. Individuals who are currently performing floor care duties (store 103, 422, 359 and 361) will not suffer a reduction of hours as a result of using outside floor care service.
7. Cleaning that is incidental to or directly precipitated by a major reset, remodel or the opening of a new store, except that outside help will not be used in this situation while bargaining unit employees in the store are on layoff or on reduced hours and are available to do the work associated with the reset, remodel or new store opening.

The rotation or repositioning of merchandise or shelving, replacing damaged or outdated merchandise, resetting the shelf liner or taking inventory can be done by outside vendors and/or salesmen.

F. In the event of a proven violation of this Article, the member reporting the violation shall receive the liquidated damages. Violations reported by the Union shall be paid to the most senior employee working less than forty (40) hours that week in the store in which the violation occurred, a minimum of one (1) hour or the amount of time spent in such proven violation at the employee's regular rate of pay.

If this would result in the employee receiving more than forty (40) hours pay, the hours in excess of forty (40) would go to the next senior employee not working forty (40) hours in the store where the violation occurred. Subsequent violations will be paid, as outlined in this Article, to the employees on a rotating seniority basis.

ARTICLE 25 DEFINITIONS

A. **Department Manager** - Shall be in charge of the department and have the knowledge and ability to operate the department to the satisfaction of management. Duties include supervision of department personnel, customer service, ordering of product and supplies and operation of the department in accordance with the employer's operations and merchandising policies as well as applicable laws.

B. **Assistant Department Manager** - Shall develop the knowledge and ability to assist the department manager and the department manager's duties when the department manager is unavailable.

C. **Deli/Bakery Clerk** -

1. The duties of the deli/bakery clerk shall include and be limited to ordering, receiving, pricing, stocking, customer service and all work associated with the deli/bakery operations which is performed by Local 911 employees.

2. Deli/bakery clerks shall have seniority only among other deli/bakery clerks.

D. **Clerk/Cashier** - Shall perform duties as directed which may include, but are not limited to, operating front end equipment, ordering, stocking, customer service or other related duties.

E. **File Maintenance Clerk** - Shall perform duties as directed which may include, but are not limited to, price changes, scan integrity, audits, customer service or other related duties.

ARTICLE 26 EXPIRATION

This Agreement shall be effective April 2, 2003, and shall continue through April 7, 2007, and shall continue from year to year thereafter unless either party serves notice in writing sixty (60) days prior to April 7, 2007, or any subsequent anniversary date of a desire for termination of or for changes in this Agreement.

IN WITNESS WHEREOF the said parties have caused duplicate copies hereof to be executed by their duly authorized officers this 25th day of August 2003.

FOR THE UNION:

FOR THE EMPLOYER:

Jefferson M. Stephens

Stephen A. Wood

Debra Hollins

Mike Pompey

Karen S. McHue

Paula Price

SCHEDULE "A" - WAGES

	03/30/03	04/04/04	04/03/05	04/02/06
<u>Clerk/Cashier (hired on or after October 26, 1983)</u>				
Start	6.30	6.30	6.30	6.30
60 days	6.45	6.45	6.45	6.45
6 months	6.65	6.65	6.65	6.65
12 months	6.80	6.80	6.80	6.80
18 months	6.95	6.95	6.95	6.95
24 months	7.15	7.15	7.15	7.15
30 months	7.55	7.55	7.55	7.55
36 months	8.40	8.40	8.40	8.40
42 months	11.60	11.90	12.20	12.50
48 months	12.61	12.91	13.21	13.51
<u>Deli-Bakery (hired on or after October 26, 1983)</u>				
Start	6.10	6.10	6.10	6.10
60 days	6.25	6.25	6.25	6.25
6 months	6.40	6.40	6.40	6.40
12 months	6.55	6.55	6.55	6.55
18 months	6.70	6.70	6.70	6.70
24 months	6.90	6.90	6.90	6.90
30 months	7.20	7.20	7.20	7.20
36 months	7.55	7.55	7.55	7.55
42 months	10.10	10.40	10.70	11.00
48 months	10.91	11.21	11.51	11.81
<u>General Merchandise Clerks (hired on or after October 26, 1983)</u>				
<u>All Nutrition clerks, Salad Bar Clerks, Floral Clerks (hired after November 25, 1986)</u>				
Start	6.00	6.00	6.00	6.00
60 days	6.10	6.10	6.10	6.10
6 months	6.25	6.25	6.25	6.25
12 months	6.40	6.40	6.40	6.40
18 months	6.55	6.55	6.55	6.55
24 months	6.70	6.70	6.70	6.70
30 months	6.80	6.80	6.80	6.80
36 months	7.00	7.00	7.00	7.00
42 months	9.40	9.70	10.00	10.30
48 months	10.08	10.38	10.68	10.98
<u>Baggers</u>				
Start	5.70	5.70	5.70	5.70
60 days	5.80	5.80	5.80	5.80
6 months	5.90	5.90	5.90	5.90
12 months	6.00	6.00	6.00	6.00
18 months	6.10	6.10	6.10	6.10
24 months	6.20	6.20	6.20	6.20
30 months	6.85	7.15	7.45	7.75
<u>Grocery Department Head</u>				
	15.16	15.46	15.76	16.06
<u>Produce Department Head</u>				
	15.16	15.46	15.76	16.06
<u>Head Night Stock</u>				
	14.72	15.02	15.32	15.62

	03/30/03	04/04/04	04/03/05	04/02/06
<u>Head Cashier</u>				
	15.14	15.44	15.74	16.04
<u>Head Dairy</u>				
	14.585	14.885	15.185	15.485
<u>Head Deli/Bakery</u>				
	15.185	15.485	15.785	16.085
<u>Head Frozen Food</u>				
	14.26	14.56	14.86	15.16
<u>Assistant Head Produce</u>				
	14.16	14.46	14.76	15.06
<u>Assistant Head Cashier</u>				
	14.16	14.46	14.76	15.06
<u>Assistant Head Deli</u>				
	13.06	13.36	13.66	13.96
<u>Clerk Cashier (hired prior to October 26, 1983)</u>				
	13.91	14.21	14.51	14.81
<u>Deli/Bakery Clerk (hired prior to October 26, 1983)</u>				
	12.21	12.51	12.81	13.11

*Part time employees hired after November 29, 1989 shall not progress past the 42 month wage.

\$125 Lump sum minus normal legal deductions to be paid to employees in progressions (excluding courtesy clerks) within two weeks of April 30, 2003.

Personal Rates- Clerk/cashiers and deli/bakery clerks and general merchandise clerks hired after October 26, 1983, and nutrition clerks, floral clerks and salad bar clerks hired after November 25, 1986, shall received personal rate increases of twenty-five cents (25¢) per hour after they have been at the top of their pay scale for one (1) year. The personal rates shall become effective February 3, 1991, for those employees on the top rate for one (1) year or more as of that date.

After the initial increases in February, 1991, employees on the top rate for one (1) year and each year thereafter shall receive their personal rate increases on the anniversary date of their personal rate increases during the term of this Agreement. The maximum personal increase shall not exceed seventy-five cents (75¢).

Wages for Employees Hired After April 30, 2003

	Clerk/Cashier	Deli/Bakery	Drug/GM
Start	6.30	6.30	6.15
60 days	6.45	6.45	6.25
6 mos.	6.60	6.60	6.40
12 mos.	6.75	6.75	6.55
18 mos.	6.90	6.90	6.70
24 mos.	7.05	7.05	6.90
30 mos.	7.25	7.25	7.20
36 mos.	7.75	7.75	7.50
42 mos.	8.00	8.00	8.00
*48 mos.	8.40	8.40	8.20
52 mos.	10.00	10.00	9.90
60 mos.	12.05	12.05	11.35

*Part time progression stops at the 48 month level.

Head Grocery Clerk	14.00
Head Produce Clerk	14.00
Head Cashier	14.00
Head Deli Clerk	14.00
Head Night Stock	13.50
Head Dairy Clerk	13.50
Head Frozen Food	13.50
Assistant Head Produce	13.00
Assistant Head Cashier	13.00
Assistant Head Deli clerk	13.00

ADDITIONAL COMPENSATION

A. Effective June 1, 1999 an additional fifteen cents (15¢) per hour over and above the classified rate of the clerk/cashier shall be paid to the employee(s), for all hours worked, who is assigned to assist the head cashier in the store office, provided such employee spends at least ten (10) hours per week working in the store office.

B. There shall be no reduction of individual pay rates as a result of the signing of this Agreement.

C. **Night Stocking Premium Pay** - All employees assigned to the night stocking crew shall receive thirty-five cents (35¢) per hour additional compensation for hours of work between 10:00 p.m. and 6:00 a.m., except when in conflict with Article 11, paragraph A-2. When night stockers receive the premium for a majority of their shift (over half), they shall be paid the premium for the entire shift.

Service Director Premium Pay - Any employee assigned as Service Director shall receive a premium of twenty-five cents (25¢) per hour over their current rate of pay.

D. Night stockers who receive a night stocking premium for a majority of their hours worked shall receive a night premium for holidays and vacation pay.

E. Employees other than night stockers shall receive thirty-five cents (35¢) per hour additional compensation for hours of work between 10:00 p.m. and 6:00 a.m., except when in conflict with Article 11, paragraph A-2.

F. It is understood that where a head grocery clerk is assigned to night stocking, the only time another employee on the night crew would receive the head stocker's rate is when he is assigned to take charge of the crew when the head grocery clerk is not present. During the time the head grocery clerk is present, this employee will receive his regular rate. It is further understood that where a head grocery clerk is not regularly assigned to this group, there will be one (1) employee regularly assigned as a head stock clerk.

G. In the event during the term of the Collective Bargaining Agreement the bracket rates set forth in Article 10 entitled "Wages" are below any amendments to the Fair Labor Standards Act, employees affected shall be paid as follows:

1. Affected employees wages shall be increased to the newly amended federal minimum wage.
2. After six (6) months of continuous employment, an affected employee shall receive ten cents (10¢) per hour increase in wages beyond the then current and newly amended federal minimum wage.

3. Thereafter an affected employee shall receive no further wage increase until such time as the wage bracket set forth in Schedule A exceeds his then current rate of pay.

4. Employees hired after November 29, 1989, may be paid a "training wage" in accordance with applicable law (FLSA) for a period of time not to exceed their probation period.

LETTER OF UNDERSTANDING "A"
THE KROGER CO. AND UFCW LOCAL 911

The following summarizes our understanding of the agreement reached with regard to establishing the new employee classification of "Fuel Center Clerk."

A Fuel Center Clerk's responsibilities will be to perform all tasks associated with the operation of the Fuel Center as directed by store management.

The terms of the Collective Bargaining Agreement, such as Union Security and Seniority shall apply, but Fuel Center Clerks shall not receive benefits of a monetary nature, except for wages, holidays and vacations as specified. It is understood that benefits such as health and welfare, pension, etc., are of a monetary nature and are not to be provided to the Fuel Center clerk. Seniority within the Fuel Center shall prevail.

Vacations will be granted per Article 16 of the contract. Holidays will include Christmas and five (5) floating holidays which will be earned after 12 weeks of employment. Three (3) of these holidays must be taken between January 1 and June 30, and the remaining two (2) holidays by November 30. Full time employees will receive eight (8) hours of holiday pay and part time holiday pay shall be figured on the average hours worked for the four (4) consecutive weeks immediately preceding the holiday week on a pro-rata basis. Floating holidays will be scheduled by mutual agreement between the employer and employee.

Management may perform any tasks necessary to ensure the efficient operation of this center.

A Fuel Center Clerk after twelve (12) months of service, shall be given preference by seniority, together with ability, practicability and availability, should an opening occur for a part time store employee and shall further be given preference in the same way for full time positions after they have been offered to the part time employees. All service as a fuel center clerk will be credited toward qualification for health and welfare upon transferring into another classification.

Wages shall be as provided below:

FUEL CENTER CLERK

	03/30/03	4/04/04	4/03/05	4/02/06
Start	7.00	7.00	7.00	7.00
60 days	7.25	7.25	7.25	7.25
After 6 months	7.50	7.50	7.50	7.50
After 12 mos	7.75	7.75	7.75	7.75
After 18 mos	8.00	8.00	8.00	8.00
After 24 mos	8.90	9.20	9.50	9.80

FOR THE UNION:

Jefferson M. Stephens
Date 7/18/04

FOR THE COMPANY:

Stephen A. Wood
Date Aug 18, 2004

**UFCW Local 911 wants you to know about your
Right to Representation**

WEINGARTEN RULES

As a UFCW Local 911 member, you have the right to steward representation during investigatory interviews with management or representatives of management such as security. IF the interview could lead to DISCIPLINE. An investigatory interview occurs when management, through a supervisor or other representative, questions you to obtain information which COULD BE USED AS A BASIS FOR DISCIPLINE AGAINST YOU. The following steps insure that your right is preserved:

- 1) YOU must make a clear request for union representation before or during the investigatory interview. YOU must ask for representation – the right is not automatic.
- 2) If management, through its supervisor or other representative, refuses the request of union representation in an investigatory interview YOU may refuse to proceed without union representation. IF THE EMPLOYER DENIES YOU THE RIGHT YOU SHOULD STAY IN THE ROOM BUT REMAIN SILENT.
- 3) If the employer denies union representation, you have a right to refuse to answer whether orally or in written form. You should not make any statement.
- 4) DO NOT WAIVE THIS RIGHT. If you do so, any statement you make can be used against you.

MY UNION STEWARDS ARE:

MY UNION REPRESENTATIVE IS:

Phone: (419)865-1341 or (800)232-8279 Fax: (419)865-8674