

K# 8338

**HUNTS POINT TERMINAL MARKET WAREHOUSEMEN**

**PRODUCE PURVEYORS, FRESH & FROZEN FRUITS, AND VEGETABLES,  
PROCESSED FISH DRIVERS, HELPERS, SALESMEN AND  
WAREHOUSEMEN,  
LOCAL UNION NO. 202,  
AN AFFILIATE OF THE INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS,  
N.Y.C. TERMINAL MARKET, RM. 12A  
HUNTS POINT, BRONX, N.Y. 10474**

**AGREEMENT** entered into as of January 17, 2010 by and between **NEW YORK PRODUCE TRADE ASSOCIATION, INC.**, a membership corporation, duly organized and existing under and by virtue of the laws of the State of New York, on behalf of itself and its Employer members, referred to herein as the "Association", and **LOCAL UNION NO. 202, I.B.T.** herein referred to as the "Union".

**WITNESSETH:**

WHEREAS, the Association is composed of a number of fruit and produce distributors and truckers in the New York City Terminal Market located at Hunts Point in the City of New York, and

WHEREAS, the Association represents that it has been authorized to negotiate and sign Labor Agreements with the Union on behalf of its employer-members whose names are set forth in Schedule "A" annexed hereto and made a part hereof, and

WHEREAS, the Union represents that Local No. 202 is authorized to represent the employees covered by the terms of this Agreement for the purpose of collective bargaining and has been authorized to negotiate and sign a Labor Agreement with the Association, and

WHEREAS, the Association and the Union, pursuant to their authority, desire to establish uniform provisions concerning the hours, wages and working conditions of the employees covered by this Agreement; and

WHEREAS, the parties desire to enter into an agreement for the purpose of resolving all grievances and disputes under the terms hereof as hereinafter defined, which may arise between them and those they represent and for the purpose of securing uninterrupted operation of the establishments of the Employers;

NOW THEREFORE, in consideration of the mutual promises and obligations assumed herein, the parties hereto agree as follows:

## **ARTICLE I**

### **REPRESENTATION**

A. The Association represents that it is authorized to negotiate, conclude and sign a Labor Agreement with the Union covering all of the terms which are included in this Agreement on behalf of the Employers whose names are set forth in Schedule "A" annexed hereto and made a part hereof.

B. Local No. 202 represents that it is qualified and authorized to negotiate and to sign this Agreement on behalf of all of the employees covered by this Agreement.

## **ARTICLE II**

### **RECOGNITION**

A. The Association and the Employers recognize the Union as the sole and exclusive bargaining representative for all the Warehousemen employees of the Employers as set forth in the classification enumerated in Article III hereof, except guards and supervisors as defined by the National Labor Relations Act, as amended, and agree to deal collectively only with the Union, and with those representatives of the Union whom the Union may elect or appoint.

## **ARTICLE III**

### **DUTIES - TITLE**

A. The classification "Warehousemen" as used herein shall mean those employees performing such duties as fruit and produce sample displayers, trimming, hand trucking and/or carrying, loading, and/or unloading trucks, receiving and/or shipping and/or sidewalk supervisor" and such other duties that "Warehousemen" have heretofore performed.

B. Any change by an Employer in the title of an employee, from "Warehousemen" to any other title, shall not affect his coverage under this Agreement unless the Union agrees that the employee is no longer working within the bargaining unit.

## **ARTICLE IV**

### **AGREEMENT COVERAGE**

This Agreement is intended to cover only those Employer members of the Association who conduct business as receivers and or distributors, and or jobbers of perishable food product and other commodities.

**ARTICLE V**

**NEW EMPLOYEES**

A. "New Employees" for the purposes of this Article shall be defined as first-time hires to the Hunts Point Market hired on or after January 17, 2010. All New Employees shall be deemed to be on probation for a period of ninety (90) calendar days from their date of hire. The Employer may treat such New Employees as employees-at-will and therefore has the absolute right to discharge them for any reason whatsoever and without recourse during their probation period. This right shall be interpreted to mean that such employees, should they be discharged during their probation period, shall have no right to use the grievance and arbitration provisions as described in Article XXVI herein. Moreover, during the probation period the Employer shall not be required to make Welfare and Pension Funds contributions on their behalf as is required pursuant to Articles XXII and XXIII herein. Said New Employees shall receive eighty per cent (80%) of their base wage rate during the first full year of employment. Wages for New Employees during their second full year of employment will be ninety percent (90%) of the base wage rate set forth in Article VI. Thereafter, wages for New Employees shall continue at ninety percent (90%) of the base wage set forth in Article VI.

B. All newly hired employees who have worked previously in the Hunts Point Market (evidenced by having been a member of Local 202, IBT) shall be deemed to be on probation for a period of ninety (90) calendar days from their date of hire by their new Employer. The new Employer may treat such employees as employees-at-will and therefore has the absolute right to discharge them for any reason whatsoever and without recourse during their probation period. This right shall be interpreted to mean that such employees, should they be discharged during their probation period, shall have no right to use the grievance and arbitration provisions as described in Article XXVI herein. During the probation period the new Employer shall be required to make Welfare and Pension Fund contributions pursuant to Articles XXII and XXIII unless the newly hired employee has had his seniority broken within the meaning of Article XVI.

C. The ninety (90) day probation period referred to in Sections A and B above shall not be extended.

**ARTICLE VI**

**WAGES**

A. 1. The Employers agree to pay the following base wage rates for Warehousemen:

<u>Effective</u>	<u>Hourly Rate</u>	<u>Weekly Wage</u>
Present	\$16.45	\$658.00
1/17/10	\$16.45	\$658.00
1/17/11	\$16.45	\$658.00

2. (a) **Night differential:** A night differential of \$5.00 per hour will be paid to all employees for all hours worked between 8:00 P.M.-4.30 A.M.

(b) **Grandfathered employees:**

1. **Definition:** Grandfathered employees for the purposes of this Article are defined as employees who are employed prior to January 16, 1992 and were receiving double time for hours worked between 8 P.M. and 12:00 A.M.

2. Grandfathered employees shall enjoy the night differential described in 2(a) of this Article (see above).

3. Grandfathered employees in addition to the night differential described in 2(a) shall receive an additional \$5.35 per hour for all hours worked between 8 P.M. and 12:00 A.M.

B. **Hi-Lo Operators:** Hi-Lo Operators shall receive eighteen and three-quarters cents (\$.1875) per hour over the aforementioned wage rates.

C. An employee who is required to appear in a court proceeding at the request of an Employer shall be paid not less than a full day's pay at straight time rates, provided however, that if such appearance is for less than a full day, the employee shall be required to work for the unused remainder of the day.

D. An employee who is injured and is required to appear and attend at a compensation hearing arising out of an accident occurring during his employment with his current Employer shall be paid for his time spent away from his duties but not for more than eight (8) hours at his straight time wage rate.

E. Employees on a seniority list who are currently paid at a wage rate higher than that provided for in this Agreement shall not suffer any reduction in wage rate as a result of the terms of this Agreement. Employees who have wage rates above those set forth in this Article shall receive any negotiated base rate increase.

## ARTICLE VII

### HOURS OF WORK

A. 1. (a) Day Employees: Work week shall consist of forty hours (40) and shall be divided into five (5) eight (8) hour days from Monday to Friday.

(b) Day time employees hired after January 16, 1998 may have a regular work week of Sunday through Thursday. Said employees shall receive regular wages for Sunday work, when a holiday falls on Monday said employee shall celebrate the holiday on Sunday.

2. Night Employees: Night employees work week shall consist of forty hours (40) and shall be divided into five (5) eight (8) hour nights Sunday through Thursday. Night employees starting times shall be between 6:00 P.M. and 2:00 A.M.

3. Starting times: All regular employees shall be entitled to forty hours (40) of work per week. Regular employees shall receive their starting time on Friday for the following week.

B. When eight (8) hours and or forty (40) hours of work are not available, employees may be assigned to work outside their normal classification without any reduction in base rate. Employees who refuse such work may be laid off for the balance of the day and or week without pay for such remaining time.

C. Employees shall be permitted one-half (1/2) hour for lunch no earlier than the third hour and no later than the sixth hour computed from their starting time. Employees shall not work through their lunch period and the Employer shall not pay any employees for their lunch period. Employees may be assigned for lunch at different times.

D. Employees who are injured on the job during working hours shall be paid for the entire day when injuries requiring immediate attention and treatment occur.

E. Employers who employ five (5) Warehousemen or more shall have a time clock on their premises.

F. No employee shall be moved from one shift to another shift for disciplinary reasons or arbitrarily.

G. If s vacancy and/or a new position occur the senior employee shall have the right to bid for such vacant position.

H. If a new employee is hired, the Employer shall, within 48 hours following such hire, transmit in writing to the Union, the name, address, social security number, job assignment, and wage rate of such employee.

## ARTICLE VIII

### OVERTIME

A. Employees shall receive time and one half (1 1/2) for all hours paid over eight (8) in any one day and forty hours (40) in any week. All employees are required to work overtime but shall not be required to work any more than two (2) hours in any one day.

B. Saturday, Sunday and Holiday Work: Employees may be required to work Saturday, Sunday and holidays. All employees when working during Saturday, Sunday or a holiday shall be entitled to eight (8) hours work per day. Employees shall receive time and one half (1 1/2) for work done on Saturday, Sunday or holidays up to eight (8) hours.

1. Note: Employees hired after January 16, 1998 and who work a Sunday through Thursday work week shall not be entitled to overtime on Sunday unless when working over eight (8) hours.

C. Senior employees shall have first opportunity to work overtime. If no senior employees desire to work overtime the Employer shall have the right to require employees to work overtime in reverse order of seniority.

## ARTICLE IX

### SHOP STEWARDS

A. The Employer recognizes the right of the Union to designate job stewards and alternates. The shop steward shall be granted number one ranking on the seniority list for the purposes of layoff and recall only. Under no circumstances shall a steward be discriminated against by his Employer.

B. The authority of job stewards and alternates so designated by the Union shall be limited to, and shall not exceed the following duties and activities:

1. The investigation and presentation of grievances in accordance with the provisions of this collective bargaining agreement.
2. The collection of dues when authorized by appropriate Local Union action.
3. The transmission of such messages and information which shall originate with, and are authorized by the Union or its officers provided such messages and information:
  - (a) having been reduced to writing, or
  - (b) if not reduced to writing, are of a routine nature and do not involve work stoppages, slowdowns, refusal to handle goods, or any other interferences with the Employer's business.

C. Stewards and alternates do not have authority to take strike action, or any other action interrupting the Employer's business, except as authorized by official action of the Union.

D. Any employee who alleges that he has a grievance may meet with a representative of the Employer. The employee may have the shop steward or the assistant shop steward with him, if a steward is available.

E. The Employer recognizes these limitations upon the authority of stewards and their alternates and shall not hold the Union liable for any unauthorized acts of stewards. The Employer in so recognizing such limitations shall have the authority to impose proper discipline, including discharge, in the event that a shop steward or alternate has taken unauthorized strike action, slowdown, or work stoppages in violation of this Agreement. The Union reserves the right to remove the shop steward at any time.

## ARTICLE X

### EMPLOYER'S MANAGEMENT RIGHTS

The Employer's right to manage its establishment and affairs shall include but not be limited to the right to hire, discharge for just cause, promote, demote and transfer, assign and direct working forces and is unqualified as long as this right is not used in violation of any of the provisions of this Agreement.

## ARTICLE XI

### UNLOADING

A. No merchandise shall be received or unloaded outside or in the Employer's premises before the store is open for business, nor before the time when the Warehousemen have reported for work.

B. Growers, shippers or chauffeurs of their vehicles or carriers, shall not be permitted to pull pallets beyond the tail of their trucks. When the merchandise they haul requires palletizing, a Warehouseman shall be assigned to that vehicle to assist in the palletizing.

## ARTICLE XII

### EMPLOYEES REQUIRED

Each Employer shall have at least one regular Warehouseman employed on a regular basis.

## ARTICLE XIII

### STARTING FINISHING TIME-ADVANCE NOTICE

If the Association proposes to institute a change in the starting and/or finishing time of work, or the number of hours of work in each day for the employees covered by this Agreement, it will confer with the Union with respect to such change. If both parties at such conference agree upon a change, advance notice thereof shall be given to the Employers in order that they may adjust their work schedules to the change. In no case shall the advance notice go beyond ten (10) days from the date of the notice issued by the conference, any article or section in this Agreement to the contrary, notwithstanding.

## ARTICLE XIV

### HOLIDAYS

A. All regular employees shall enjoy the following holidays:

New Year's Day  
Martin Luther King's Birthday

President's Day  
Easter Monday  
Memorial Day  
July Fourth  
Labor Day  
Thanksgiving Day  
Day after Thanksgiving Day  
Christmas Day  
Floating Holiday (1)  
Floating Holiday (2)

If a holiday (except Christmas) falls on a Saturday the employee will be paid for that holiday. If Christmas falls on Saturday employees shall celebrate Christmas on Friday 12/24.

If a holiday falls on a Sunday it shall be celebrated on the immediate Monday after the holiday.

B. In order to be eligible for holiday pay, a regular employee must work the last full scheduled work day before and the first full scheduled work day after said holiday unless the employee has a written excuse from the Employer authorizing an absence on the aforementioned scheduled work days.

C. An employee on the active payroll of the Employer who has been instructed to report for work and who reports for work on the last scheduled day prior to the holiday and the next scheduled work day after the holiday and if work is not available for the employee, he shall not suffer a loss of holiday pay.

D. Employees may be required to work on holidays. When work is required to be performed on a holiday it shall be subject to Article VIII - OVERTIME. When an employee works on a holiday he shall be paid for the holiday and not be required to take a personal day.

E. Employees shall enjoy two (2) floating holidays per calendar year. The employee must request floating holiday at least forty-eight (48) hours in advance. Employer may limit availability to one (1) employee per night and day shift. Floating holiday shall be granted on a first come first served basis.

## ARTICLE XV

### UNION SECURITY

A. All present employees who are members of the Union on the date of execution of this Agreement shall remain members of the Union in good standing as a condition of employment. All present employees who are not members of the Union and all employees hired thereafter shall become and remain members in good standing of the Union as a condition of employment on and after the thirty-first (31st) day following the beginning of their employment or on and after the 31st day following the date of execution of this Agreement, whichever is the later. The failure of any employee to become a member of the Union at the required time shall obligate the Employer, upon written notice from the Union, to the effect that Union membership

was available to such employee on the same terms and conditions generally available to other members, to discharge such employee within five (5) days of such written notice. The refusal of any employee to maintain his Union membership in good standing as required herein shall, upon written notice to the Employer by the Union to such effect, obligate the Employer to discharge such employee.

B. The Employer shall, no later than ten (10) days after the date of employment, notify the Union of the employment of any person who, under this Agreement, is required to be a member of the Union. Upon notice from the Union that any employee who, thirty-one (31) days from the date of first employment has failed to tender the initiation fee and periodic dues uniformly required as a condition of acquiring and retaining membership, the Employer agrees to discharge such employee within seven (7) days after receipt of written notice from a properly authorized official of the Union.

C. If an Employer requires additional employees, he shall notify the Local Union and give it equal opportunity with all other sources to provide suitable applicants. Selection of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on or in any way affected by union membership, by-laws, rules, regulations, constitutional provisions, or any other aspect or obligation of union membership, policies, or requirements. The Employer retains the right to reject any job applicant referred by the Union.

## ARTICLE XVI

### SENIORITY

A. 1. New regular employees who have completed their probationary period shall be placed on a seniority list effective as of their last date of hire.

2. Employees may use seniority in regard to starting times, vacation, work week, lay-offs, and overtime.

B. In the event of a layoff, regular employees on the seniority list shall be laid off in inverse order of seniority, provided that senior employees remaining shall have the qualifications to perform the work. If the work force is increased, laid off employees shall be returned to work in the reverse order in which they were laid off.

C. In the event of the recall of a regular employee, he shall be given notice of recall by telegram or registered mail sent to the address last given to the Employer by the employee. Within three (3) calendar days after tender of delivery at such address of the Employer's notice, the employee must notify the Employer by telegram, or registered mail, of his intent to return to work and must actually report to work within seven (7) calendar days after tender of delivery of the recall notice, unless it is agreed by the Employer that the employee need not return to work within the seven day period. In the event that the employee fails to comply with the above provisions, he shall lose all seniority rights under this Agreement and shall be considered a voluntary quit.

D. Seniority shall be broken by:

1. Discharge.
2. Voluntary quit.
3. No work or layoff for more than six (6) months.
4. Failure to respond to a notice of recall as specified above.
5. Unauthorized leave of absence.
6. Unauthorized failure to report for work for seven (7) consecutive days.
7. An employee who is absent because of illness, injury (on the job (Worker Compensation) or off the job) or disability, up to twelve months shall maintain his Seniority provided that when he returns to work he is capable of performing the work required and has substantiated medical proof justifying his absence.

## ARTICLE XVII

### VACATIONS

Employees who are hired prior to January 17<sup>th</sup> 2010 and have worked 115 days or more from the date of hire with an Employer shall receive a vacation of one (1) week with pay, provided that they have been laid-off for reasons beyond their control.

A. Vacations shall be accrued on a calendar year basis, i.e., January 1, to December 31<sup>st</sup>.

B. New Employees

“New Employees” for the purposes of this Article shall be defined as first-time hires to the Hunts Point Market hired on or after January 17, 2010.

1. New Employees who have worked between three (3) and six (6) months with an Employer in their first partial calendar year shall receive a vacation of three (3) days with pay which shall be taken in the following calendar year, and shall be deemed to have one year of service in their first partial calendar year for purposes of calculating vacation in each year thereafter.
2. New Employees who have worked six (6) months with an Employer in their first partial calendar year shall receive a vacation of one (1) week with pay as of January 1st of the following calendar year, and shall be deemed to have one year of service in their first partial calendar year for purposes of calculating vacation in each year thereafter .
3. New Employees who have completed two (2) years of service shall receive a vacation of two (2) weeks with pay as of January 1st of the following calendar year and each year thereafter.
4. New Employees who have completed five (5) years of service shall receive a vacation of three (3) weeks with pay as of January 1st of the following calendar year and each year thereafter.

C. Grandfathered Employees

This subsection C. shall apply to all employees who are not New Employees:

1. An employee who has completed one (1) calendar year of service but less than three (3) calendar years of service shall receive a vacation of two (2) weeks with pay.
2. An employee who has completed three (3) calendar years of service but less than fifteen (15) calendar years of service shall receive a vacation of three (3) weeks with pay.
3. An employee who has completed fifteen (15) calendar years of service shall receive a vacation of four (4) weeks with pay.

D. In order to accrue his full vacation for any calendar year, the employee must work 125 days or more during the immediately preceding calendar year.

E. Employees employed on or after January 1<sup>st</sup> of any year of the contract who work 125 days or more during said calendar year shall be deemed to have worked for a calendar year for purposes of accruing vacation.

F. With the exception of New Employees in their first partial calendar year of employment, employees employed on or after January 1<sup>st</sup> who works less than 125 days during said calendar year shall accrue vacation at the rate of one vacation day for each thirty (30) days worked to be used during the employee's next calendar year of employment.

G. In determining vacation accrual, all days paid for shall be counted as days worked. Days lost because of a compensation claim shall be counted as days worked provided the employee has worked at least sixty (60) days during the yearly vacation accrual period. This shall apply to all "new employees."

H. In the event that any of the holidays provided in this agreement fall during the vacation period of any employee, he shall receive an extra day's pay, or be permitted to leave vacation one day earlier or be permitted to return from vacation one day later. This shall apply to all "new employees."

I. Vacations shall be given during the entire year, except for the weeks blocked out by the employer. This shall apply to all "new employees."

J. The third and fourth weeks of vacation for employees entitled thereto need not be consecutive with the first two weeks of vacation. The third and fourth weeks of vacation may be scheduled at different times during the calendar year at the discretion of the employer and with due regard to the convenience of the employee. This shall apply to all "new employees."

## ARTICLE XVIII

### SICK DAY

#### A. New Employees

1. "New Employees" for the purposes of this Article shall be defined as first-time hires to the Hunts Point Market hired on or after January 17, 2010.
2. New Employees who work six months or more in their first partial calendar year of employment shall be entitled to four (4) sick days as of January 1st of the following year, and shall be deemed to have one (1) calendar year of service in their first partial calendar year for purposes of calculating sick days in each year thereafter.
3. New Employees who have completed one (1) but less than three (3) calendar years of service shall be entitled to four (4) sick days per calendar year.
4. New Employees who have completed three (3) but less than five (5) calendar years of service shall be entitled to five (5) sick days per calendar year.
5. New Employees who have completed five (5) calendar years of service shall be entitled to six (6) sick days per calendar year.

#### B. Grandfathered Employees

All employees who are not New Employees to Hunts Point Market with six months or more with the Employer shall be entitled to six (6) sick days per calendar year.

- C. In the event that any sick days are not used the Employer agrees to pay the employee his regular daily wage for each unused sick day no later than the last pay day in the month of December of each calendar year. Employees who qualify for sick pay shall be paid no later than the pay day after their return to work.
- D. Absence and Lateness Policy: The absence and lateness policy for all employees subject to this Agreement shall be in Addendum II herein attached.

## ARTICLE XIX

### VETERAN REINSTATEMENT

Qualified individuals who provide proper notice and certification will receive military (and/or military family) leave, reinstatement, and seniority in accordance with federal, state, and local law.

## ARTICLE XX

### ACCESS TO EMPLOYER'S PREMISES

Authorized representatives of the Union shall have access to the Employer's establishment during working hours for the purpose of adjusting disputes, investigating working conditions, and ascertaining that the Agreement is being adhered to.

## ARTICLE XXI

### MERGERS ACQUISITION OR PURCHASE

A. When two or more Employers whose employees are covered by this Agreement merge their operations, the seniority of the employees of the respective Employers shall be merged into one seniority list in the order of the date of hire of each of the employees of their respective Employers.

B. If an Employer whose employees are covered by this Agreement acquires or purchases control of the business of another Employer whose employees would then be covered by this Agreement, the employees of the Employer so acquired or purchased shall be placed at the bottom of the seniority list of the acquiring or purchasing Employer's seniority roster.

C. The Employer agrees to give the Union thirty (30) days advance notice of its intention to discontinue in business, move its place of business, and or merge its business with that of another Employer. During the thirty (30) day period, the Employer will set aside sufficient funds to pay laid off employees monies, if any, to which they may be entitled.

D. This Agreement shall be binding upon the parties hereto, their successors, administrators, executors, and assigns. In the event the Employer's business or any part thereof is sold, leased, transferred, or taken over by sale, transfer, lease, assignment, receivership, or bankruptcy, such operations shall be subject to the terms and conditions of this Agreement for the life thereof. It is understood that the parties hereto shall not use any leasing device to a third party to evade this Agreement. The Employer shall give notice of the existence of this Agreement to any purchaser, transferee, lessee, assignee, etc. of the operation covered by this Agreement or any part thereof. Such notice shall be in writing with a copy to the Union at the time the seller, transferor or less or executes an Agreement or transaction as herein described.

## ARTICLE XXII

### HEALTH & WELFARE BENEFITS

A. The Employers will provide health and welfare benefits through participation in the United Teamster Fund covering all their employees and their eligible dependents in the bargaining unit set forth in this Agreement the cost of which shall be borne and paid for by the Employer at the rates below:

Contribution rates shall be paid per month per employee per compensable month worked. A compensable month for the purposes of this Article is any month in which the employee has worked or has been paid for (e.g. vacation/ sick day) at least ten (10) days.

February 1, 2010	Contribution Rate \$ 725 per month
February 1, 2011	Contribution Rate \$ 775 per month

Employers shall, not later than the tenth day of each month, forward to the fund office a check payable to the United Teamster Fund for all employees covered by this Agreement and employed during the preceding month, from their date of hire, together with a form to be supplied by the Fund, indicating the employee's name, address, social security number, and the number of days which the employee shall have worked during the preceding calendar month, and or all other information or data as may be required.

All New Employees shall pay \$20 per week to their Employer by payroll deduction to offset Employer contributions to the Health and Welfare Fund. "New Employees" for the purposes of this Article shall be defined as first-time hires to the Hunts Point Market hired on or after January 17, 2010. This money must be remitted in accordance with applicable fund regulations.

The United Teamster Fund shall be operated as a Trust Fund, the principal and income whereof are used for the sole and exclusive benefit of all the employees covered by this Agreement and other employees whose Employers are contributing to the Fund, and employees and officers of the Union and the employees and officers of the Funds and their dependents for whom contributions have been made to the Funds.

The Association and the Union are represented as Trustees in the administration of the said United Teamster Fund and trust fund. The Association and the Union shall have the right to appoint their respective trustees and to remove their respective trustees with or without cause. Provision has been made for the selection or appointment of a neutral person or impartial umpire in the event that Trustees appointed by the Association and Trustees appointed by the Union deadlock on the administration of the United Teamster Fund. The United Teamster Fund shall be audited annually and the result of the audit shall be made available for inspection by interested persons.

B. Employers shall furnish satisfactory evidence concerning the employees covered by this Agreement with respect to the payment of contributions to the United Teamster Fund upon demand of the Trustees, for the purpose of determining whether or not the provisions of this article are being complied with.

C. Willful failure or refusal on the part of an Employer to contribute to the United Teamster Fund for each employee covered by this Agreement shall leave the defaulting Employer with full responsibility to assume the benefits due the employee and his family, to which they may be entitled under the terms of this Agreement.

Employers shall contribute to the United Teamster Fund for any employee who is suspended or discharged and whose suspension or discharge is submitted to arbitration under the terms of this Agreement during the period prior to the issuance of the arbitrator's decision,

provided such decision is rendered in favor of the employee and back pay is awarded retroactive to the day of the suspension or discharge.

D. The Trustees of the United Teamster Fund may assess reasonable penalties for any and all delinquent payments in amounts which they, in their discretion, deem justified to offset the added cost of collection.

## ARTICLE XXIII

### PENSION BENEFITS

A. The Employers will provide pension benefits through participation in the United Teamster Pension Fund "A" covering all their employees in the bargaining unit set forth in this Agreement the cost of which shall be borne and paid for by the Employer at the rates below:

Contribution rate shall be paid per compensable hour with a minimum of eight (8) hours per day not to exceed forty (40) hours per week.

February 1, 2010	Contribution Rate \$3.316 per hour
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February 1, 2011	Contribution Rate \$3.616 per hour
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The said Pension Fund shall be for the exclusive purpose of providing pension benefits for employees covered by this Agreement and other employees whose Employers are contributing to the Fund, and employees and officers of the Union and of the Welfare and Pension Funds. The Association and the Union are represented by Trustees in the administration of the said Pension Fund. The Association and the Union shall have the right to appoint their respective Trustees and to remove their respective trustees with or without cause. Provision has been made for the selection or appointment of a neutral person or impartial umpire in the event the Trustees appointed by the Association and Trustees appointed by the Union deadlock on the administration of the Pension Fund. The said Pension Fund shall be audited annually and the result of the audit shall be made available for inspection by interested persons.

B. Employers shall, not later than the tenth day of each month forward to the Pension office a check payable to the Union Pension Fund for all employees employed during the preceding month, commencing with their date of hire, together with a form to be supplied by the Fund, indicating the employee's name, address, social security number and the number of days which the employee shall have worked during the preceding calendar month, and or all other information or data as may be required.

C. Employers shall furnish satisfactory evidence concerning the employees covered by this Agreement with respect to the payment of contributions to the Pension Fund upon demand of the Trustees for the purpose of determining whether or not the provisions of this article are being complied with.

D. Employers shall contribute to the Union Pension Fund for any employee who is suspended or discharged and whose suspension or discharge is submitted to arbitration under the terms of this Agreement during the period prior to the issuance of the arbitrator's decision,

provided such decision is rendered in favor of the employee and back pay is awarded retroactive to the day of the suspension or discharge.

E. The Trustees of the Pension Fund may assess reasonable penalties for all delinquent payments in amounts which they in their discretion deem justified to offset the added cost of collection.

#### **ARTICLE XXIV**

##### **DEATH IN FAMILY**

Employees shall be allowed three (3) days off with pay in the event of a death in the immediate family. Immediate family means Father, Mother, Grandfather, Grandmother, Spouse, Brother, Sister, Children of the employee.

#### **ARTICLE XXV**

##### **NO STRIKES NO LOCKOUTS**

A. There shall be no lockout by the Employers and no strikes, stoppages or slowdowns by the employees covered by this Agreement during the life of this Agreement.

B. In the event of an unauthorized strike, stoppage, or slowdown, Employers shall have the right to take disciplinary action against employees who participated in the unauthorized activity.

C. It shall not be a violation of this Agreement and it shall not be cause for discharge or disciplinary action in the event that an employee refuses to enter upon any property involved in a labor dispute or refuses to go through or work behind any lawful primary picket line, including a lawful primary picket line of the Union and including a lawful primary picket line at an Employer's place or places of business.

#### **ARTICLE XXVI**

##### **GRIEVANCE - ARBITRATION**

A. Definition: A grievance shall be defined as any difference, dispute, or violation relating to the interpretation or application of the terms of this Agreement.

B. Procedure: The Employer and the Union shall cooperate to provide adjustment of grievances in a fair and reasonable manner. To carry out this objective the following procedure shall be followed:

1. Step 1: In order for a grievance to be arbitrable the aggrieved employee must submit a written grievance to the Union and the Employer within seven (7) working days of when the employee reasonably should have become aware of the incident giving rise to the grievance. No time limit shall apply to grievances that relate to wages and/or pension and welfare contributions.

2. Step 2: The Union and the Employer within seven (7) working days of receipt of the grievance shall meet and try and resolve the grievance.

3. Step 3: If the grievance remains unresolved the grievances shall be submitted to a Labor-Management Grievance Committee. The Committee shall consist of two (2) designees of the Association and two (2) designees of the Union. The Committee shall meet at least once per month, the Committee may meet more than once per month if the Committee so desires. The Committee shall hear the grievance and may give a recommendation to both the Union and the Employer involved. The recommendation is non-binding either on the Union or the Employer involved.

4. Step 4: If after the Labor-Management Committee meeting the grievance remains unresolved the grievance may be referred by the Union or the Employer to an arbitrator that both the Union and the Employer mutually agree upon. If an arbitrator cannot be agreed upon the matter shall then be referred to a panel of arbitrators which the Union and the Association have mutually agreed upon herein, and at such other various times during the period of the Collective Bargaining Agreement when the parties so mutually decide, and such panel shall be made part of herein. If the matter involves the termination of an employee then members of the panel shall be selected upon their availability for the sole purpose of expediting the matter to a hearing. The arbitrator's decision shall be final and binding on both parties.

C. In the event an Employer fails and refuses to carry out a decision duly rendered by an arbitrator designated pursuant to the terms of this Agreement within thirty (30) days after the issuance of the decision, the Union shall have the right to terminate this Agreement as it applies to such Employer.

D. In the event the Union files a grievance alleging that an Employer is in violation of the Union Security clause of this Agreement and the issue is unresolved, the Union shall call for a labor management meeting to investigate the problem.

If the Labor Management Committee finds the Employer in violation of the Union Security clause, the Employer shall be notified in writing and must correct and make whole the employees involved.

If the Employer does not correct the problem within ten (10) days, the Union shall have the right to use any and all legal and economic means, up to and including pickets and work stoppages of the Employers involved to enforce the Union Security clause. This shall not be deemed to be a violation of the No-Strike/No Lockout clause in the Agreement.

E. The Arbitrator shall have no authority to add to, subtract from, nullify, amend or modify any terms of this Agreement.

F. All expenses of the Arbitrator shall be shared equally by the Employer and the Union.

## ARTICLE XXVII

### DISMISSAL - RESIGNATION NOTICE

- A. Employers shall have the right to suspend or discharge employees for just cause.
- B. Employers shall give one week's notice, in advance, on pay day only, to regular employees, of layoff or dismissal, except for just cause. Employees shall be obligated to give equal notice to the Employer, before resigning.

In all cases involving the suspension or discharge of an employee, Employers shall immediately notify the employee of his suspension or discharge in writing and the reason therefore such notice shall also be given to the Shop Steward, if any, and notification thereof shall be given to the Local Union office within seven (7) working days from the date of the discharge. A suspended or discharged or employee who has resigned shall be paid in full for all wages owed him by the Employer, including earned vacation, if any, as soon as possible, but in no event later than seven (7) working days after the suspension, discharge, or resignation.

- C. In the event the employee desires to protest his/her suspension or discharge employee shall use the grievance procedure set forth in Article XXVI.

## ARTICLE XXVIII

### POSTING OF BOND

The Union or the Association may make a demand through the Labor-Management Committee that an Employer post a cash bond where there is evidence of failure to meet the wage, welfare or pension provisions of this Agreement. Failure to post a bond shall give the Union the right to terminate this Agreement as it applies to such Employer.

## ARTICLE XXIX

### LEAVE OF ABSENCE

Employees who request a personal leave of absence without payer or other benefits must receive written permission from their Employer. The maximum leave of absence shall be for a thirty (30) day period. Seniority shall accrue during such approved period. Approval for extensions of personal leaves must be approved by the Union and the Employer. During the period of personal leave, the employee shall not engage in gainful employment with any other Employer. Failure to comply with this provision shall result in the complete loss of seniority rights for the employee involved.

## **ARTICLE XXX**

### **OPENING NEW BRANCHES**

When a new branch is opened at any location, job vacancies exist at such location, the Employer shall offer, to all employees covered by this Agreement, the opportunity to transfer to the new branch in the order of their seniority.

A transferred employee shall, for a period of thirty (30) days following his transfer, have the unqualified right to return to his old branch and carry with him his old seniority.

When a branch is closed and the work of the branch is eliminated, employees who were formerly employed at that branch shall have the right to transfer back and exercise their seniority based on the date of hire at the branch into which they are transferring. When a branch is closed and the work of the branch is transferred to another branch, employees employed at the closed branch shall have the right to transfer to the branch into which the work was transferred provided that their seniority qualifies them to displace existing employees.

## **ARTICLE XXXI**

### **PROTECTION CONDITIONS**

A. Foremen and supervisory personnel other than working foremen shall not perform the work of unit employees. In the event that qualified employees are not available, foremen and supervisors shall be permitted to perform the available work.

B. Employees shall not be required to work overtime where the object of such overtime work is to prevent a laid off employee on the seniority list from being recalled. Overtime shall be assigned on a non-discriminatory basis and as practicable as possible.

C. Employers will not subcontract work normally performed by employees covered by this Agreement.

D. The unloading of railroad cars in the rear of the Employer's units and the unloading of freight cars from the team track area shall be performed only by employees covered by this Agreement.

E. The parties fully recognize that carriers, chauffeurs and owner-operators making deliveries to the Hunts Point Terminal Market have the right and privilege to unload the merchandise they carry to the tailboard of their vehicle without hiring any additional help. In the event that a request is made to hire help for unloading, the Employer may assign a warehouseman in his employ for that purpose. The rate for unloading the vehicle shall be agreed upon between Employers and owner-operators. The unloading of these vehicles shall be deemed to be part of a warehouseman's normal work and shall be performed by employees covered by this Agreement.

**ARTICLE XXXII**

**LIE DETECTOR TEST**

Employees and applicants for employment may be requested to take a lie detector test, it being the understanding of the parties that the taking of such tests is on a voluntary basis.

**ARTICLE XXXIII**

**RULES**

Employers may adopt reasonable rules with respect to garnishees, wage assignments, or legal attachments on wages and will advise the employees and the Union of such rules when formulated.

**ARTICLE XXXIV**

**SEVERANCE PAY**

All regular employees who have been on an Employer's payroll for one (1) year or more and who are permanently laid off as a result of a reduction in the work force, a merger, sale, bankruptcy, or termination of the Employer's business, shall receive two (2) weeks severance pay.

In the event of a temporary layoff of less than a six (6) month period, employees shall not be entitled to severance pay. In the event an employee is offered and accepts severance pay before the end of the six (6) month period, he shall have surrendered his seniority and the Employer shall not be required to recall that employee if and when it is necessary to add to the work force.

**ARTICLE XXXV**

**CHECK-OFF**

The Association agrees that Employers will check-off from the wages of each employee covered by this Agreement and remit, promptly, to the Union the regular membership dues and initiation fee uniformly required by the Union upon condition, however, that this provision shall not be effective unless and until a written assignment, which shall not be irrevocable for a period of more than one (1) year, or beyond the termination date of this Agreement, whichever occurs sooner, shall be received by the Employer from each employee on whose account such deductions are to be made.

**ARTICLE XXXVI**

**ALCOHOL AND DRUG USE**

The Union and the Association agree that a committee consisting of representatives designated by the Union and the Association shall act as the Alcohol and Drug Committee which

shall have authority to establish rules and procedures for the testing and rehabilitation of employees covered by this Agreement who the parties have reason to believe may be unable to properly perform their job functions because of the use of illegal drugs, or alcohol. Such Rules and Regulations which may be issued by the Committee shall be communicated to the Union and the Employer and shall be deemed to be a-part of this Agreement.

## **ARTICLE XXXVII**

### **EQUAL OPPORTUNITY**

The Association agrees to the following:

Employers will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Employers will take affirmative action to ensure that employees are treated equally during employment, without regard to their race, color, religion, sex, or national origin.

## **ARTICLE XXXVIII**

### **SHIFT REMOVAL & RETURN**

Notwithstanding any provisions herein to the contrary, a transfer of any employee shall not be discriminatory or arbitrary. If any employee is transferred from one shift to another shift in lieu of a layoff, such employee shall have the right to return to the shift from which he has been transferred if a vacancy occurs on such shift and the employee's seniority permits the transfer. If the employee fails or refuses to opt for such vacancy when it occurs, he shall lose his right to return to such shift.

## **ARTICLE XXXIX**

### **WORK DUTIES**

The work duties attached hereto shall be, and hereby are, part of this collective bargaining agreement as if herein set forth is full.

## **ARTICLE XL**

### **OBLIGATION OF ASSOCIATION MEMBERS**

The parties agree that present Employer members of the Association and Employers who become members of the Association subsequent to the effective date of this Agreement shall be bound by the terms of this Agreement for the period of its duration even if they cease to be members of the Association during its term.

**ARTICLE XLI**

**D.R.I.V.E.**

The employer agrees, upon receipt of proper written authorization, to deduct from the wages of any employee who so elects, an amount to be specified by the employee for participation in the D.R.I.V.E.

**ARTICLE XLII**

**BULLETIN BOARDS**

Each Employer shall provide a bulletin board which the Union may post communication to its membership concerning Union matters only.

**ARTICLE XLIII**

**CREDIT UNION**

The Employer agrees, upon receipt of proper written authorization, to deduct from the wages of any employee who so elects, an amount to be specified by the employee for participation in the People's Alliance Federal Credit Union.

**ARTICLE XLIV**

**DURATION OF AGREEMENT**

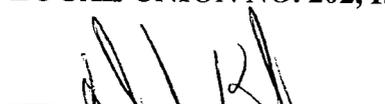
This Agreement shall be effective as of January 17, 2010 and shall remain in full force and effect until January 17, 2012 and shall automatically renew itself from year to year thereafter unless the Association of the Union shall give to the other thirty (30) days notice of its desire to change or modify the terms and provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals this day and year first above written.

**NEW YORK PRODUCE TRADE ASSOCIATION**

**LOCAL UNION NO. 202, I.B.T.**

  
By: Chairman, Labor Committee

  
By: President

Date: 5/28/10

Date: 5/20/10

Negotiating Committee:

This contract shall go into full force and effect upon ratification by the membership.

## DUTIES OF A WAREHOUSEMAN

1. Unloading and loading of rail cars, trucks and/or van.
2. Deliver to foreman any temperature recording device on the load.
3. Sorting fruit and/or produce by brand, size, and quality while keeping count for the foreman and/or the salesmen.
4. Delivering sampling, trimming and/or repacking.
5. Delivering merchandise to customer's trucks.
6. Supervising the proper handling and safety of Company merchandise and equipment.
7. Reporting to foreman and/or maintenance men of breakdowns such as: refrigeration breakdown, defective lighting, broken wheels, safety hazards.
8. Sweeping and cleaning of the store; platform, and surrounding area for which the company is responsible.
9. Performing such other duties as may be required.
10. All deliveries will be made only with the approval of the foreman, acting foreman, or salesman. At no time will an employee take tickets from customers or make deliveries without valid tickets.
11. All delivery tickets must be initiated by the person making the delivery on the back of the ticket. All tickets, cash, and charge must also be signed on the front by the receiving customer. Each ticket must be returned directly to the foreman.
12. All pallets used for delivery be either returned or signed for by the customer. The Company considers loss of pallets just as serious as the loss or theft of produce.
13. Equipment may be used only by authorized personnel in an approved fashion. Hi-lo's are to be used only by assigned personnel. No one may ride a pallet handler.
14. Discourteous behavior to customers or insubordination to superiors will be dealt with severely.
15. To avoid loss of paychecks, each warehouseman is required to pick up his own check from his department head or foreman.
16. In the event of an accident or injury, it is the employee's responsibility to complete and sign an accident report.
17. Any problems concerning time, sick days, vacation, etc. must be cleared with the foreman and department head.

18. Each warehouseman is expected to keep the locker rooms and work areas cleaned for his benefit and the benefit of his fellow workers.
19. Violation of these and other rules which may be issued from time to time are grounds for disciplinary action up to and including dismissal.
20. It shall not be a violation of this Agreement for employees to receive tips or gratuities; however, employees shall under no circumstances solicit tips.
21. Employees shall be required to wear work boots.
22. Personal head phones and cell phones shall not be used when working.

**ADDENDUM TO THE COLLECTIVE BARGAINING  
AGREEMENT**

1. EXTRA EMPLOYEES (dollar a day men): The Employer may hire extra employees, but only up to a total of one per unit owned. However, this shall not be allowed when regular employees are on lay-off status. The Employer shall not have to guarantee these extra employees any hours of work. Except however, they shall receive a dollar per day extra above the prevailing wage set forth in the contract for every day worked and be guaranteed eight (8) hours work or pay on the days they are scheduled and asked to work. Extra employees shall not be entitled to any of the other terms and conditions of the collective bargaining agreement until they have completed their ninety (90) calendar day probationary period, which will be calculated from their date of hire. At the completion of their probationary period they will be entitled to all the terms and conditions of the collective bargaining agreement with the following exceptions listed below:

- (a) Work week: They shall not be entitled to a regular week's work until at such time a vacancy occurs. Then they shall have the right to use their seniority to get such vacancy before the Employer can hire other employees.
- (b) Holidays: They shall not be entitled to holiday pay unless they have worked three (3) days of the week in which the holiday occurs.
- (c) Sick Days: Sick days shall be accrued at the rate of one (1) day for every twenty (20) days worked, not to exceed the total amount of days allotted to regular employees.
- (d) Health and Welfare: If the extra employee (dollar a day man) works more than ten days in a calendar month between or among two or more Employers, then any required contributions to the Health and Welfare Fund shall be apportioned between and among those Employers in proportion to days worked for each Employer.

**ADDENDUM II TO THE COLLECTIVE BARGAINING  
AGREEMENT CONCERNING ABSENTEEISM**

This absentee policy shall be an integral part of the collective bargaining agreement, used by all the firms in the Hunts Point Produce Market. All other previous policies shall be null and void. There shall not be any changes or additions to this policy for the length of the collective bargaining agreement. Only at that time may there be proposed changes or additions which must be negotiated and agreed to with the Union.

**ABSENTEEISM:**

1. On the employee's sixth (6<sup>th</sup>) absence, the employee will be notified that he/she has used up all of their allotted sick days.
2. On the employee's eighth (8<sup>th</sup>) absence, the employee will be verbally warned that he/she will be subject to disciplinary action.
3. On the employee's ninth (9<sup>th</sup>) absence, the employee will receive a written warning, that the next time they are absent, he/she will be suspended for five (5) days.
4. On the employee's tenth (10<sup>th</sup>) absence, the employee will be suspended for five (5) days. The employee will also be notified that on his eleventh (11<sup>th</sup>) absence, the employee will be terminated.
5. On the employees eleventh (11<sup>th</sup>) absence he/she will be terminated.

**LONG TERM ABSENTEEISM:**

1. This shall be defined as any absence of more than five (5) days. This type of absence will be counted as one (1) absence in our disciplinary policy. Any employee out sick for more than two (2) days will not be permitted to return to work without a doctor's note.
2. If an employee is going to be out for more than two (2) days, notification must be given by telephone to his/her Employer as to when they can be expected to return to work. If absence is for medical reasons, a doctor's note must be given in person or by fax to the Employer confirming the length of time he/she shall be unable to return to work.
3. If the employee does not return to work on the day he/she is expected to return and they do not notify the Employer as to the reason, at least one (1) hour prior to the start of his/her shift, then any and all disciplinary actions pertaining to the absentee policy will apply.

### **NO CALL/NO SHOW ABSENCE:**

1. Employees are required to call foreman at the start of his/her shift if they are going to be absent. If they fail to do so this will be considered a No Call/ No Show and they will be given a letter stating that on the next occurrence of which will be their second, they will be suspended for three (3) days. On their next occurrence of a No Call/No Show absence this will be their third, they will be given a letter that at this point they are being terminated.

### **SUNDAY ABSENTEEISM FOR NIGHT EMPLOYEES AND MONDAY ABSENTEEISM FOR DAY EMPLOYEES:**

1. If an employee is absent on a Sunday/Monday they will be given a letter that on their second occurrence they will be suspended for (1) day. On their third occurrence they will be given a letter that they are being suspended for two (2) days; on their fourth occurrence they will be given a letter that at this point they are being terminated.

### **LATENESS:**

1. If an employee is going to be late they must notify their foreman at least (30) minutes prior to the start of his/her shift. Employees will be given a grace period of ten (10) minutes before being considered late.
2. If an employee is late more than six (6) times per calendar year he shall be considered late.
3. On the employee's eighth (8) lateness they will be notified they are excessively late.
4. On the employee's ninth (9) lateness they will be verbally warned that they will be subject to disciplinary action.
5. On the employee's tenth (10) lateness they will receive a written warning that the next time they are late they will be suspended five (5) days.
6. On the employee's eleventh (11) lateness they will be suspended for five (5) days and they will be notified that on their twelfth lateness they will be terminated.
7. On the employee's twelfth (12) lateness they will be terminated.
8. If an employee is more than (30) minutes late the Employer has the right to decide if he needs that employee for that day's work. This will be considered an absence if the employee is told to stay home for that day.

### **GOING HOME EARLY:**

1. If an employee goes home early after because of an appointment or emergency he/she must supply the Employer with documentation of such appointment or emergency the day they return to work.

2. If the employee fails to provide the Employer with the proper documentation he/she may be sent home for the day without pay.

### **ADDENDUM III CONCERNING FOREMAN AND OR SIDEWALK SUPERVISORS**

1. **FOREMAN (and or sidewalk supervisors)**: Shall be entitled to all the terms of the Collective Bargaining Agreement with the Following exceptions listed below:

(a) It shall be the Employer's right to select the Employees to which in their opinion fit the qualifications to work as Foreman and or Sidewalk Supervisor. It shall also be the right of the Employer to demote said Foreman and or Sidewalk Supervisor when in their opinion it is believed that Employee is no longer qualified to work in that capacity.

(b) However, any Foreman and or Sidewalk Supervisor who was promoted from the bargaining unit of either warehouseman or driver has the right to use their company seniority to bump back into the bargaining unit from which they were promoted, provided they have not been terminated for just cause as per the grievance and arbitration provision of the Collective Bargaining Agreement.

(c) Any Foreman and or Sidewalk Supervisor who is hired after January 16, 2004 shall also be entitled to all the terms and conditions of the Collective Bargaining Agreement with the exception that if they have not been promoted from within the bargaining unit they shall not have the right to bump and shall be employees at will and may be released from employment when in the opinion of the Employer they are no longer qualified to work in such capacity as a foreman.

(d) **WAGES**: All Foremen and or Sidewalk Supervisors shall receive the minimum wage rate of a dollar (\$1.00) more per hour above the prevailing hourly wage rate for Warehousemen and they shall also receive any and all the same negotiated wage increases as per the Collective Bargaining Agreement. Should an employee bump back into the bargaining unit for reasons described in paragraph B he shall receive the wage rate of a warehouseman or driver as currently paid pursuant to the Collective Bargaining Agreement.