6766

UFCW 99

a VOICE for working America

ARIZONA

70,000 ee

AGREEMENT
between

Total:
112 pages
+50
162 pages

FRY'S MARKETPLACE
Department Stores
and
UNITED FOOD AND COMMERCIAL WORKERS
UNION, LOCAL 99

TERM OF AGREEMENT
October 26, 2003 through October 25, 2008

48

Dear UFCW Member:

The following pages contain the most important information you can have while working for Fry's Food Stores. Your Union contract (Collective Bargaining Agreement) defines your wages, hours, working conditions, benefits, rights, and obligations along with other work-related information. Please review it carefully and retain it for future reference.

Without a Union contract, employees in Arizona are "at will" which means no job protections and no guarantees. The strength of this contract is directly related to the strength of our membership. We must continue to grow our Union every day to prepare for future negotiations.

Our solidarity is our strength.

Sincerely and fraternally,

James J. McLaughlin
President

TABLE OF CONTENTS

ARTICLE 1 - JURISDICTION 1
ARTICLE 2 - NON-DISCRIMINATION 1
ARTICLE 3 - SENIORITY 2
ARTICLE 4 - UNIFORMS AND EQUIPMENT 11
ARTICLE 5 - SHOP CARD 11
ARTICLE 6 - HOLIDAYS AND SUNDAYS 11
ARTICLE 7 - VACATIONS 14
ARTICLE 8 - STANDING AND COMPLAINTS 17
ARTICLE 9 - CONDITIONS 17
ARTICLE 10 - HOURS AND OVERTIME 21
ARTICLE 11 - LEAVES 23
ARTICLE 12 - DETRIMENTAL ACTS 27
ARTICLE 13 - SEPARABILITY 27
ARTICLE 14 - GRIEVANCE AND ARBITRATION 28
ARTICLE 15 - PAYROLL CHECK OFF 30
ARTICLE 16 - NO STRIKE/NO LOCKOUT 31
ARTICLE 17 - HEALTH AND WELFARE 31
ARTICLE 18 - PENSION 34
ARTICLE 19 - JURY DUTY 37
ARTICLE 20 - SAFETY 38
ARTICLE 21 - HIRING NOTIFICATION 38
ARTICLE 22 - JOB STEWARDS 39
ARTICLE 23 - CLASSIFICATIONS AND DEFINITIONS 39
ARTICLE 24 - SECTION HEADS AND BONUS PLANS 40
ARTICLE 25 - LIFE OF AGREEMENT 41
APPENDIX A WAGE RATES AND CLASSIFICATIONS 42
APPENDIX B MARICOPA COUNTY GEOGRAPHIC AREAS . 44
LETTERS OF UNDERSTANDING 45

AGREEMENT

This Collective Bargaining Agreement made and entered into this 17th day of June, 2004, by and between **Fry's Marketplace** hereinafter called the "Employer" and **Local 99 of the United Food and Commercial Workers International Union, AFL-CIO & CLC** hereinafter called the "Union" covering the Employer's store locations in Maricopa County and Pima County, Arizona (each county to remain a separate bargaining unit).

ARTICLE 1 - JURISDICTION

(a) The Employer recognizes the Union as the exclusive representative for collective bargaining purposes of all store employees of the Employer within the Union's jurisdiction in Maricopa and Pima Counties, except those positions and classifications specifically excluded in Article 1(c).

(b) The present practice of vendors stocking their own merchandise may be continued.

(c) The following positions and classifications shall be excluded from the bargaining unit:

(1) Home Manager, Assistant Home Manager, Relief Assistant Home Manager and three (3) Department Heads.

(2) Those employees covered and excluded specifically under the Fry's Retail Store Agreement.

ARTICLE 2 - NON-DISCRIMINATION

The Employer and the Union agree that each will fully comply with applicable laws and regulations regarding discrimination against any employee or applicant for employment because of such person's race, religion, color, national origin, gender, age, or disability. Wherever in this Agreement the masculine gender is used, it shall be deemed to include the feminine gender as well.

ARTICLE 3 - SENIORITY

(a) Seniority is defined as the length of continuous employment within the classification within the bargaining unit with the Employer for the purpose of layoff, recall, scheduling and reduction of hours. However, an employee transferring out of the bargaining unit and within thirty (30) days transfers back into their previous bargaining unit will retain their previously acquired seniority.

(b) Seniority rights and privileges will be recognized and observed in cases of layoff, reduction in weekly hours, increase in hours up to forty (40) hours per week, and recall from layoff. In cases of layoff, an employee shall have the right to bump back to a previous classification by way of seniority.

(c) All layoffs and reductions in hours shall be made by seniority within the bargaining unit and geographical area within such classification.

In the event a store needs to layoff an employee, as opposed to a reduction in hours, the least senior employee in the affected job will be laid off but, if qualified, shall be given the option of displacing the least senior employee in the store (who shall be laid off unless such employee has one or more years of seniority in which case such employee shall be allowed to displace the least senior employee in the geographic area or bargaining unit, if qualified) or of accepting the layoff.

Any employee who has been laid-off shall have their name placed on a preferential recall list for employment within their department and classification within the geographic area or bargaining unit. Such employee shall be obligated to accept the offer of employment when tendered or be removed from the preferential recall list. An employee who is removed from the preferential recall list will then be recalled under the regular terms as described in this Article.

The Employer shall recall employees on layoff to the store from which they were laid off prior to hiring a new

employee. Any employee recalled shall be required to report within seventy-two (72) hours after telephone notice or delivery or attempted delivery of notice by certified mail to the employee's last address on record. In the event of employee's failure to notify the Employer of his availability for work as provided herein, or in the event of failure to report as required herein after receipt of proper notice, the employee shall be considered as having terminated service with the Employer. Copies of recall notices will be simultaneously mailed to the Union. An employee being recalled from layoff shall not be required to complete another application for employment.

(d) There shall be a ninety (90) day probation for all new hired employees during which they have no access to the grievance procedures and during which they may be terminated for any reason. Following completion of such period, the employee shall become a regular employee for all purposes under this Agreement and his/her seniority shall date from the first day of employment.

(e) Department Store Clerks: Within the Department Store Clerk classification the following departments shall be established, each separate and independent for the purpose of maximizing and scheduling:

(1) Garden Clerk
(2) Nutrition Center Clerk
(3) Photo/Electronic Clerk
(4) Home Section Clerk
(5) Scanning/Price change clerk (grandfather existing GM Scan Clerks at current rates)

Current store seniority lists shall be maintained and made available in each store to employees of the store and the Union Business Representatives upon request. Upon request by the Union, the Employer agrees to within thirty (30) calendar days provide a seniority list of the employees covered by this Agreement provided such requests are not made more than twice in each six (6) month period. The seniority lists shall be subject to challenge for fifteen (15) calendar days following submission to the Union.

(f) An employee must call in, if at all possible, at least two (2) hours prior to the scheduled starting time of his or her shift if such employee will be absent that day.

(g) The Employer shall retain all rights and privileges with respect to the discharge of any employee for just cause or causes.

(h) The Employer and the Union agree that employees shall not be discharged, coerced, intimidated, or discriminated against because of membership or non-membership in the Union.

(i) Seniority will be lost by:

(1) Termination of employment by resignation or discharge.

(2) Layoff for a period of over one hundred eighty (180) days.

(3) Failure to phone the Employer's Human Resources office at least once each four (4) weeks to report availability for recall while on layoff.

(4) Failure to report within seventy-two (72) hours after receiving recall notice by phone or delivery (or attempted delivery) of such notice by certified mail to the employee's last known address..

(5) Absence of two (2) or more consecutive scheduled workdays without proper notice to the Department Manager.

(6) Failure to return to work within the terms of an authorized leave of absence.

(j) Transfer/Promotions: Employees shall be given consideration for a transfer to any store providing

(1) an opening exists within the same classification; or

(2) more than one employee can be accommodated with simultaneous transfers; and

(3) that the employees have submitted a request form.

The Employer will not unreasonably deny such request.

When a job opening or advancement to a higher classification occurs within the bargaining unit, the most

qualified will be considered. Qualifications include fitness and ability to do the work, past work experience with the Employer, and recent work performance evaluations. When qualifications are relatively equal, seniority shall be the primary factor in determining the selection.

All job openings shall be posted for seventy-two (72) hours before they are filled in order to give employees desiring consideration for the opening the opportunity to apply for such openings.

(k) Not later than ten (10) days prior to the start of any workweek, management shall post a list of shifts for each job within a department. Non-management employees shall be allowed to select their schedule, in seniority order, from the posted list of shifts for which they are qualified to perform within their department.

No employee shall be allowed to select a schedule that will result in overtime or other penalty provisions, unless expressly authorized by management, except employees may be allowed to select any number and/or combination of shifts, including back-to-back shifts or split shifts, provided that such employee does not select more than...

(1) Forty (40) hours per week; or
(2) Six (6) days in a week; or
(3) Ten (10) shifts in the week; or
(4) Ten (10) hours in any calendar day

...in such event no daily overtime or other penalty provision shall apply.

The Employee's selection shall be recorded on a master work schedule. Employees shall not be permitted to select a portion of a shift. Prior to the start of the selection process, management shall identify approved vacations and/or floating holiday requests on the schedule.

Management may allow employees of one department to select shifts in another department if qualified by seniority but only after all employees in that other department have selected their shifts. Management also retains the right to

schedule a shift, which requires work in more than one job assignment.

In these events, the employee must be qualified as defined herein, to perform the work of the other or combined job assignments. Nothing herein should be construed to prevent management from using any scheduled employee to perform any work within the store during their scheduled shift.

Employees must immediately make their shift selections at the time directed by management. If an employee fails to promptly select, management shall select on behalf of the employee honoring their usual preference. In this event, the employee waives all rights to grieve management's scheduling selection. It is understood that all special requests for time off, other than floating holidays and vacations, must be selected by the employee during the scheduling process. Management shall have no obligation to accommodate any such request that cannot be scheduled by the employee in the selection process.

Unless otherwise approved, or as the result of a reduction in hours, no full-time employee shall select less than forty (40) hours and no part-time employee shall select less than twenty (20) hours per week except as provided elsewhere in this Article. In the event employees are required to stay past their scheduled time, the Employer will advise of such in advance as soon as possible.

Management may require less senior employees to select a specific number of shifts so as to facilitate the selection of all shifts from the list. In the event an employee with one (1) or more years of seniority is left with less than minimum hours, management may elect to pull hours, in reverse seniority order, from senior employees with more than one (1) year of seniority within the classification and department to maintain the bottom twenty (20%) percent (or one (1) employee whichever is greater) at minimum weekly hours, or management may elect to layoff such employee and assign any remaining hours in seniority order to senior

employees. The Employer may work part-time employees with less than one year of service with the Employer and those part-time employees who so limit their availability such that, consistent with the Employer's business needs, the employee cannot select twenty (20) hours per workweek, less than the minimum hours required herein. No employee shall be allowed to select, or be scheduled to work, hours that will result in a violation of Federal or Arizona labor laws.

An employee electing to displace pursuant to the layoff procedure in Section (b) shall assume the selected schedule of the employee he is bumping until he is able to select for the next workweek.

The master schedule must be completed and posted by noon on Thursday prior to the start of the next workweek. The work schedule may not be changed except in cases of an absence of an employee or an emergency beyond the control of the Employer. The work schedule shall be written in ink and shall set forth the first and last names of the employees in order of seniority. Nothing in this section should be construed as preventing management from calling in employees for extra work outside of the posted schedule, from requiring overtime work outside of the posted schedule, or from bringing in additional employees where it appears advisable in the opinion of management. If the schedule is changed, after the selection process but before the posting of the schedule, and hours are reduced or increased, then the master schedule shall be re-bid downward, from the point of the schedule change. If hours are added after the Thursday noon posting of the schedule, such hours shall be assigned as provided in the additional hours section of this Agreement.

Additional Hours. Management shall post a weekly additional hours request list. Employees interested in working additional hours must sign and designate the days they are interested in working additional hours on such list by midnight of the Saturday prior to the start of the applicable workweek. When additional hours become available, management shall contact, in seniority order,

employees who have requested to work on the day indicated on the request list and offer them the hours provided such employee is qualified to work the hours. If the hours cannot be assigned to the employees requesting them, management may fill the hours at its discretion. Nothing in this section shall be construed to require management to assign hours at overtime or to employees who have not made a request to work additional hours or to prevent management from holding over employees currently working in the store or from reassigning an employee currently working in the store from one job assignment to another.

Training: Management retains the right to train employees for positions at its discretion. Notwithstanding, management agrees to allow non-management employees to sign-up within their store for voluntary training during the first fifteen (15) days of February, to be effective the first workweek in March, and the first fifteen (15) days in August, to be effective the first workweek in September. With respect to voluntary training, it is understood and agreed:

Management will train at least 2 employees, by seniority within each store from the voluntary list for training in a different department. This provision shall not apply to a store that currently has laid off employees.

Training hours, as designated by management whether voluntary or not, shall not be subject to selection of shifts by employees. Nothing herein prevents the Employer from assigning employees to training based on store or company needs.

Department Bidding: Employees shall be allowed to bid to another department by seniority when a vacancy occurs within their store provided such employee is of the same status (full-time/part-time) required by the vacancy. In no event shall an employee be allowed to successfully bid more than once in any twelve (12) consecutive calendar month period. Management retains the right to determine the number of full-time and part-time positions in each

department and thus may move full-time employees between departments, if deemed necessary by the Employer.

Full-Time Employees-Competitive Openings:
Notwithstanding anything found in other parts of this Agreement, during the first sixty (60) days following a competitive opening, management may elect, in lieu of reducing hours as provided above, to lay off full-time employees to maintain the same proportion of full-time employees to part-time employees the store averaged in the month prior to the competitive opening. In the event of a layoff, the displaced employee shall be given the following options:

- Displace the least senior full-time employee in the geographic bargaining unit as defined in Appendix B.

- Step-down to part-time and displace the least senior part-time employee within their classification and store.

Employees displaced by the full-time reduction under this procedure shall be given their layoff options pursuant to the layoff language of this Agreement.

(l) A full-time employee with seniority over a less senior employee shall have the right to refuse a permanent assignment requested by the Employer in multiple stores. An employee exercising this right of refusal must do so at the time of notification of the assignment and such refusal shall not jeopardize the employee's position with the Employer in any way. A permanent multi-store assignment is one which will be of more than thirty (30) calendar days duration.

(m) Any reduction of full-time employees shall be by inverse order of classification seniority within the bargaining unit. The most senior full-time employee who has been reduced to part-time employment shall be offered the first full-time position that opens in the employee's classification.

Any part-time employee who works forty (40) hours per week in his/her home store for sixteen (16) consecutive weeks will be classified as a full-time employee. A specific individual's assignments to temporary vacancies covered by vacation, illness, injury or leave of absence shall not count toward the aforementioned sixteen (16) consecutive weeks. The most senior part-time employee will receive consideration, along with other applicants, in filling permanent full-time job openings, provided however, the Employer has the sole right to exercise final judgment as to who shall be selected for the full-time opening; seniority shall be a primary factor in determining the selection.

For those employees hired after December 8, 1997, the following shall apply: The parties recognize that it is necessary to utilize both full-time and part-time employees in the Employer's business. Nevertheless, it is the policy of the Employer to utilize as many full-time employees (up to forty (40) straight-time hours per week) as is practical, taking into consideration the needs of the Employer's business. The Employer retains the sole and exclusive right to determine the needs of business and to establish weekly work schedules in accordance with said needs.

(o) Employees shall not be hired or reclassified as part-time employees to defeat the purpose of the forty (40) hour workweek or eight (8) hour day, but nothing herein shall restrict the Employer's right to effect reductions in the work force as specified in this Article.

(p) The Employer's substance abuse policy shall be applicable to all bargaining unit employees as per previous agreement.

(q) No employee shall be held responsible for cash register shortages, unless he is given the privilege of checking the change and daily receipts upon starting and completing the work shift, and unless the employee has the exclusive access to the cash register during the work shift, except when management exercises its right to open the register during the employee's work shift, in the presence of the employee and the employee is given the opportunity to

verify all withdrawals and/or deposits. No employee shall be required to make good any bad checks, unless said checks are cashed in violation of posted store rules and regulations.

ARTICLE 4 - UNIFORMS AND EQUIPMENT

The Employer shall furnish all uniforms and any other special clothing required by the Employer. However, this shall not be construed to include uniforms such as white shirts which are required by the Employer provided that no special insignia are required to be placed on said item.

The Employer's current practice of laundering special clothing shall be continued. Maintenance of all other uniforms shall be the responsibility of the employee.

ARTICLE 5 - SHOP CARD

The Union Shop Card and/or Decal is the sole property of the United Food and Commercial Workers Union, Local 99 and is loaned for public display to the Employer who signs and abides by this Agreement. Only one such card, unless otherwise mutually agreed upon by the parties, shall be displayed in a place in the store visible to the public which is mutually agreed upon between the parties. The Shop Card and/or Decal can be removed from any store by an authorized representative of Local 99 for any proven willful violation of this Agreement.

ARTICLE 6 - HOLIDAYS AND SUNDAYS

(a) The following holidays shall be recognized as holidays:

New Year's Day	Thanksgiving Day
Independence Day	Christmas Day
Labor Day	Four (4) Floating Holidays

Employees hired on or after June 20, 2004, shall be eligible for Thanksgiving, Christmas, after their probation period, and three (3) floating personal holidays effective the first of the year following one (1) year of service.

Regular full-time employees who have completed the probationary period shall receive a regular day's pay for each of the said holidays. Any employee who, without good cause, is absent from the job on their scheduled workday immediately preceding or immediately following any holiday is not entitled to pay for the holiday. Any employee scheduled to work on any recognized holiday who is absent without good cause is not entitled to holiday pay. The Employer may request written verification of such good cause from an employee who is absent on the holiday.

Holiday Premium: For employees hired on or before June 19, 2004, work performed on a holiday by a non-probationary employee shall be compensated for at the rate of 1 1/2 X. Employees hired on or after June 20, 2004, shall receive a one-dollar ($1.00) per hour premium for all hours worked on the holiday.

(b) Part-time employees, who have completed the probationary period, shall receive holiday pay based on the hours worked during the pay week in which the holiday occurs on the following schedule:

Hours Worked	Holiday Pay
8 Hours up to 16 hours	2 Hours Pay
16 Hours up to 24 hours	4 Hours Pay
24 Hours up to 32 hours	6 Hours Pay
32 Hours or more	8 Hours Pay

(c) The Employer agrees to guarantee eight (8) hours of work on Sundays and holidays for regular full-time employees and four (4) hours for part-time employees who are scheduled to work on those days.

(d) The floating holidays shall be taken as follows:

(1) Employees must be on the payroll on January 1 of each year to be eligible for the floating holidays for that calendar year.

(2) Employees may request scheduling preference of floating holidays two (2) weeks in advance. The actual day selected shall be by mutual agreement.

(3) The floating holidays not scheduled nor taken by September 1 shall be assigned or paid by the Employer at its option before December 31.

(4) The Employer shall not be obligated to approve more than one (1) floating holiday per department in a week.

(5) Floating holidays shall not be taken in a week containing another holiday.

(e) Christmas and Thanksgiving work shall be on a voluntary basis. In the event that there are insufficient volunteers to properly staff the store, the Employer may schedule employees to work on Thanksgiving and Christmas by way of inverse seniority.

(f) Floating holidays shall not accrue from year to year and must be taken pursuant to the procedure set forth in this Article.

(g) Employees shall be permitted to take a personal holiday and still work over thirty-two (32) hours without overtime.

(h) Sunday Premium: Employees hired prior to November 13, 1986, who work on Sunday, shall be paid one and one-half times (1 1/2) for all hours worked except:

(1) Department Store Clerks hired after November 13, 1986, but before June 20, 2004, shall be paid a premium of $0.50 cents per hour. After three thousand nine hundred (3,900) hours of work including all hours (Floral, Lottery, Store Secretary, etc. but excluding Courtesy Clerk hours), shall be paid one and one-half (1 1/2) times their regular straight-time rate of pay for hours worked on Sunday.

(2) Employees hired on or after June 20, 2004, shall not be eligible for Sunday Premium.

(3) Effective June 20, 2004, the Employer may assign sixty percent (60%) of the hours to be worked on Sunday to employees hired on or after June 20, 2004. Effective the first workweek in June 2005, the Employer may assign up to seventy

percent (70%) of the hours worked on Sunday to employees hired on or after June 20, 2004. Effective the first workweek in June 2006, the Employer may assign up to eighty percent (80%) of the hours worked on Sunday to employees hired on or after June 20, 2004. Notwithstanding, the Employer may assign hours at levels greater than these percentages if employees hired prior to June 20, 2004, decline to work such hours. Nothing in this provision should be construed to prevent the Employer from denying employees hired prior to June 20, 2004, the right to select Sunday hours in accordance with their qualifications and seniority as provided in Article 5.

ARTICLE 7 - VACATIONS

(a) All regular full-time employees coming under the jurisdiction of this Agreement shall be granted vacation benefits as follows:

Period of Continuous Full-Time Employment	Vacation Period
1 Year to 3 Years	1 Week
3 Years to 5 Years	2 Weeks
5 Years to 15 Years	3 Weeks
15 Years to 20 Years	4 Weeks
Over 20 Years	5 Weeks

All regular full-time employees and all part-time employees who are hired on or after June 20, 2004, covered by this Agreement, shall receive one (1) week paid vacation after one (1) year service; two (2) weeks paid vacation after four (4) years service; three (3) weeks paid vacation after eight (8) years continuous service; and four (4) weeks paid vacation after fifteen (15) years continuous service.

Full-time employees who have worked or been paid for one thousand eight hundred forty (1,840) hours or more during their anniversary year shall be entitled to receive vacation pay equal to forty (40) hours pay, paid at their regular straight-time rate of pay in force at the time the vacation is

taken, for each week of vacation earned. Full-time employees who have worked or been paid for less than one thousand eight hundred forty (1,840) hours shall receive vacation pay prorated on the basis of the average number of straight-time compensable hours during the preceding anniversary year according to the vacation formula set forth above.

Vacation may be taken in segments of one (1) or two (2) uninterrupted calendar weeks unless other mutually acceptable accommodations are approved by the Employer. Whenever possible the Employer shall give due consideration to family emergencies, family plans, and distance required to be traveled by the employee in considering requests by the employee that the entire vacation period be taken at one time.

(b) Vacation time will not be allowed to accumulate from year to year but must be taken during the applicable vacation year or forfeited.

(c) Part-time employees shall be entitled to vacations in accordance with the formula in Article 7(a) and shall receive pro rata vacation pay provided they have been compensated for one thousand forty (1,040) hours or more during the previous anniversary year.

(d) When an observed legal holiday occurs within the vacation period of an employee, the vacation period shall be extended one (1) additional day or, at the option of the Employer, the employee may be given an additional day's pay for the holiday in lieu of the additional day of vacation.

(e) Should an employee terminate employment with the Employer after having earned a vacation period, then such employee shall receive pay for such earned vacation. After one (1) year of continuous service, should an employee be laid off, quit or be terminated, except where terminated for just cause, the employee shall be paid a pro rata share of vacation earned after the last anniversary date, based on straight-time hours worked in relation to one thousand eight hundred forty (1,840) hours. The amount of vacation to be

prorated shall be based on the last full vacation for which qualified.

(f) The vacation period shall be from January 1 to December 31; however, vacations requested from November 15 through December 31 will be limited in order to accommodate business needs.

Earned vacation entitlement must be taken during the twelve (12) months immediately following the employee's anniversary date.

(g) Vacations shall be scheduled on the basis of seniority preference whenever possible considering the efficient operation of the store. Each employee will make his/her vacation selection during the established company vacation period but in no event shall the selection take place later than February 28 in each store. Each employee shall be notified through posting of the schedule by the Employer as soon as possible as to the disposition of the employee requested vacation period, but in no event shall the notice be later than four (4) weeks after the selection period (provided that there are four (4) weeks or more between the time of the request and the vacation period requested).

Employees, who do not select vacation schedules during the selection period and those employees whose vacation selection is denied will be required to select their vacation from remaining available vacation periods based upon individual seniority and the needs of the business. In no event shall this selection period under any circumstances exceed April 15.

If an employee's vacation period is not filled after completing the above process, the employee will be assigned a vacation period by the company.

Once assigned, an employee vacation period will not be changed except for legitimate business purposes.

(h) The vacation pay for employees normally scheduled more than forty (40) hours per week shall be computed on the

basis of the employee's total annual hours worked or paid during the fifty-two (52) weeks immediately preceding the anniversary date of employment, divided by fifty-two (52) and payable at the employee's straight-time rate for the number of weeks of vacation due the employee.

ARTICLE 8 - STANDING AND COMPLAINTS

(a) Employer agrees to make payroll records relating to a specific employee available for inspection at the office of the Employer at all reasonable times to an authorized representative of the Union for the purpose of checking a specific case of claimed wage discrepancy lodged by said employee. The Union will notify the Employer in writing as to the reason for checking records and to set up a mutually agreeable time to inspect the records provided for herein.

(b) On a periodic basis (every four (4) weeks), a printout is to be posted by the time clock or the information will be electronically available through the time and attendance computer showing employee's seniority date, vacation time accumulation, personal floating holidays due, and sick pay accumulation.

ARTICLE 9 - CONDITIONS

(a) All employees shall receive their regular pay and overtime compensation not later than Friday for services performed during the preceding week.

(b) No employee, either regular or temporary, shall be required to subscribe to any form of insurance, or make contribution to any association or organization, or to suffer any deduction from wages, except as may be required by Federal, State or other governmental laws or agencies or this Agreement.

(c) The Employer agrees that any employees coming under the jurisdiction of this Agreement who are receiving higher hourly rates of pay than set forth in this Agreement at the

time this Agreement is executed will not have such higher hourly rates of pay reduced during the life of this Agreement provided, however, that in the event an employee quits or is terminated by the Employer and is subsequently rehired, such employee shall be rehired at the then prevailing rate under the terms of this Agreement. In the event, however, any employee desires to be reclassified into a classification whose rate of pay is less than is being received such reclassification and lower rate may be made with the consent of the Employer and the Union.

Except as set forth elsewhere in this Agreement, the terms and conditions of this Agreement are the minimum standards applicable to bargaining unit employees. The Employer may provide superior terms and conditions, and may reduce same to the minimums prescribed herein without the consent of the Union.

(d) Employees who are promoted from one classification to another will be slotted into the pay bracket which most closely reflects their then current rate of pay but does not result in a reduction in their straight-time hourly rate.

(e) All employees working an eight (8) hour shift or longer shall receive an uninterrupted unscheduled ten (10) minute break approximately near the middle of the first half of the work shift (prior to the meal period) and an uninterrupted unscheduled ten (10) minute break approximately near the middle of the second half of the work shift. An employee working a shift of six (6) to eight (8) hours shall receive an uninterrupted unscheduled fifteen (15) minute break approximately near the middle of the work shift. An employee working less than a six (6) hour shift shall receive an uninterrupted unscheduled ten (10) minute break approximately near the middle of the work shift. Employees receiving more favorable rest periods shall not have such rest period time reduced as a result of the signing of this Agreement.

(f) Relief Clerks: Whenever an employee is required by the Employer to change from one store to another during the

same day, all time consumed by said employee in going either to or from one store to another shall be considered and paid for as part of the regular day's work. The Employer will also pay the employee for mileage, at the current IRS rate, if they use their own vehicle on any assignment by the Employer of more than ten (10) total miles.

(g) When employees are required to take inventory or required to attend store meetings at times outside of their regularly scheduled workweek, they shall be paid for all time required at the applicable straight-time or overtime rates.

(h) Time clocks shall be made available for all employees coming under the jurisdiction of this Agreement who shall be required to record thereon an accurate record of the time worked. Any falsification of such record may be grounds for immediate disciplinary action, including termination.

(i) An employee shall be notified by the Employer at the time of discharge of the reason for such discharge. Such reason will be stated in writing by the Employer's designated representative upon the receipt of a written request by the employee or the Union within fifteen (15) days following the discharge.

(j) Overtime after eight (8) hours (or ten (10) hours for 4/10 employees) per day shall be worked on a voluntary basis.

(k) Transfers: Except in the cases of layoff, a permanent reassignment requested by the Employer which requires the employee to travel twenty (20) miles or more, one (1) way from home, may be refused by any employee who has satisfied the probationary period. An employee exercising this right of refusal must do so at the time of notification of reassignment and such refusal shall not jeopardize the employee's position with the Employer in any way. A permanent reassignment is one which will exceed thirty (30) days duration.

(l) Warning Notices: Written warning notices shall be issued

no later than one (1) week after the incident initiating the discipline. Warning notices as may be issued shall be voided after a period of time not to exceed twelve (12) months, unless another warning notice on a related or similar offense occurs within the twelve (12) month period in which event, all warning notices shall be retained until a twelve (12) month period without a warning notice on the matter has occurred.

An employee who is subject to disciplinary action will be required to sign the disciplinary notice. In signing the disciplinary notice, the employee is acknowledging that he or she has received a copy of the disciplinary action and does not imply by signature that they necessarily agree to the action.

(m) Polygraphs: No Employer shall require any employee to submit to or take a polygraph or electronic lie detector test or examination as a condition of continued employment.

(n) Previous Experience: Previous experience in the industry (defined as experience gained at any division of Safeway or Kroger) shall apply in the classifications irrespective of where such experience may have been gained; however, experience in convenience stores and self-employment shall not be considered. Prior experience shall be defined as previous, provable, comparable work experience within the past three (3) years from the date of present employment and shall be the basis for determination of an employee's rate of pay. Employees not having worked in the industry within the immediate three (3) years previous to the present employment shall be placed in the prevailing pay scale mutually agreeable with the Employer, the employee, and the Union. An applicant claiming prior experience must list such actual experience on his application and, based on this information, the Employer may justifiably place the applicant, if hired, in the proper wage classification. Employees whose prior experience was not with the Employer will start one step below the proper wage classification. Wage placement will be only in full increments and employees must complete the full required hours in each remaining step.

(o) Charity: The Employer may conduct or handle any campaign or drive for charitable purposes among his employees where the cooperation and contributions of the employees are voluntary.

(p) Union Postings: The Employer shall provide space for the posting of official Union notices. The Union will provide courtesy copies of official postings to the designated representative of the Employer.

ARTICLE 10 - HOURS AND OVERTIME

(a) Eight (8) hours in a period of eight and one-half (8 1/2) hours for five (5) days in a workweek shall constitute the regular workday with an uninterrupted and unpaid one-half (1/2) hour allowed for lunch. Forty (40) hours, consisting of five (5) eight (8) hour days, Sunday through Saturday inclusive, shall constitute the regular workweek. All work in excess of eight (8) hours per day or forty (40) hours per week shall be paid at time and one-half (1 1/2) the employees straight-time hourly rate of pay. Time and one half (1 1/2) will be paid for hours worked in excess of ten (10) when an employee selects more than one shift totaling ten (10) hours in any one (1) workday. When employees work overtime in a given week, they shall not be required to take time off in lieu of overtime pay for the hours so worked. Holidays, whether worked or not, shall be considered an eight (8) hour day in the workweek for regular full-time employees. A holiday workweek shall consist of thirty-two (32) hours, exclusive of the holiday and all time worked in excess of thirty-two (32) hours, exclusive of the holiday, shall be paid at the rate of one and one-half times (1 1/2) the employee's regular rate of pay. These provisions shall apply to all classifications of employees covered by this Agreement unless specifically provided otherwise elsewhere herein. All employees shall be given a one-half (1/2) hour unpaid lunch period as near the middle of the working day as practical; however, by mutual agreement between the Employer and the employee, such lunch period may be extended to one (1) hour. There shall be no split shifts except for lunch periods as provided

above. There shall be no pyramiding of premium pay and/ or overtime pay; however, the highest applicable rate shall apply.

(b) Full-time Employees: A full-time employee is defined as one who is scheduled to work or provided at least forty (40) hours per week and is guaranteed a minimum of five (5) eight (8) hour days' work in that week (such work days need not be consecutive), unless such employee is unable to select a forty (40) hour schedule, when said employee works as scheduled. In such event, the employee may be laid off. The schedule may include Sundays and/or holidays.

(c) An employee scheduled to work five (5) eight (8) hour days in a week may be called in on another day, excluding Sunday and holidays, that week for a guaranteed minimum of four (4) hours work.

(d) The Employer may schedule full-time employees four (4) ten (10) hour shifts (4/10), and overtime shall be paid for work over ten (10) hours a day.

In the event a full-time employee is employed on a 4/10 hour basis then, for that employee, all eight (8) hour references otherwise applicable shall be changed to ten (10) hours.

Full-time holiday weeks may be 3/10's or 4/8's; the intent is to make the employee whole to forty (40) hours, i.e., ten (10) hours or eight (8) hours holiday pay.

(e) Overtime shall be distributed equally as near as possible by classification on a rotation basis, among employees working similar shifts.

(f) Except for those employees under the age of 18 years, daily scheduled shifts shall not be less than four (4) hours or more than eight (8) hours, at straight time except as provided in this Article.

(g) In the event operations cannot commence or continue when so recommended by civil authorities; or public utilities fail to supply electricity, water or gas; or there is failure in the public sewer system; or the interruption of work is caused by an act of God or other cause not within the Employer's control, the foregoing guarantees shall not be applicable.

(h) Night Premium: A premium of fifty (50) cents per hour shall be paid for all hours worked by any employee between the hours of 12:00 midnight and 5:00 a.m.

ARTICLE 11 - LEAVES

(a) Sick Leave

(1) An employee employed for one (1) year and hired before June 19, 2004, shall be entitled to six (6) days paid sick leave per year. Regular part-time employees shall be entitled to a pro rata share of earned sick leave annually according to their average straight-time weekly hours worked or paid and providing a minimum of one thousand forty (1,040) straight-time hours are worked within each anniversary year. Sick leave shall be accumulative for seven (7) years to a maximum of forty-two (42) days if unused.

Sick leave may be applied beginning with the employee's second (2nd) full scheduled workday missed during a period of illness. There shall be no waiting period for sick pay benefits for any work missed due to an approved industrial accident or industrial injury. The number of days of sick leave applied during any week shall be based on the number of days the employee was scheduled to work during the week immediately preceding the illness. The Employer may require a doctor's certificate or other evidence satisfactory to the Employer as proof of illness prior to the payment of sick leave benefits. Sick leave benefits, as

provided herein, may be used by the employee for either illness or accident.

Notwithstanding anything in this Article to the contrary, if an employee is hospitalized as a registered bed patient on the first scheduled workday of disability, there shall be no waiting period.

All employees hired and eligible for sick leave benefits on or after June 20, 2004, and coming under the jurisdiction of this Agreement who have been employed by the Employer for a period of one (1) year and have worked at least one thousand eight hundred twenty (1,820) hours during that year shall be entitled to four (4) days paid sick leave. Sick leave shall be cumulative at the rate of four (4) days per year, or one-third (1/3) day per month, to a maximum of twelve (12) days, until used.

Part-time employees hired on or after June 20, 2004, who have worked more than one thousand forty (1,040) hours during any anniversary year but less than one thousand eight hundred twenty (1,820) hours shall receive pro rata sick leave at the ratio of thirty-two (32) hours to two thousand eighty (2,080) times (.015). Those employees who have worked less than one thousand forty (1,040) hours are not entitled to paid sick leave.

(2) Sick leave pay shall be integrated with the State of Arizona Industrial Compensation and the Trust Fund Disability Income so that the sum of the daily sick leave allowance hereunder and the aforesaid State Industrial Compensation and the Trust Fund Disability Income, exclusive of the daily hospital benefits which may be payable to an employee, shall not exceed one hundred percent (100%) of the employee's regular daily wage at straight-time. If the sick leave pay allowable to an employee hereunder when so combined with any such State

Industrial Compensation daily benefits or Trust Fund Disability Income received by the employee exceeds one hundred percent (100%) of his regular daily rate at straight-time, for any one (1) day, then such sick leave pay for that day shall be reduced accordingly. Any portion of the sick leave pay allowance not received by reason of any such reduction shall be retained in the employee's sick leave pay account as a part of his accumulated sick leave pay credits.

(3) Sick and accident benefits shall be deemed payable only as above provided and shall not be convertible to cash.

(b) Union Leave: The Employer shall grant an unpaid Union leave of absence to employees, upon written request from the Union. Such leave shall not exceed twelve (12) months, unless extended by mutual agreement between the Employer and Union in writing. Requests for such Union leave or extension(s) shall be made at least two (2) weeks in advance. The employee shall not suffer a loss of seniority rights. The employee shall accrue seniority while on leave. The employee shall, upon returning to work, receive any wage increase or reduction that may have become effective during such absence and shall be returned to the store where he was assigned at the time of commencement of the leave, providing the Employer is given at least two (2) weeks notice in writing of his intent to return. Should the employee's return require layoffs, the regular layoff provisions of this Agreement shall apply.

(c) Personal Leave: Employees with one or more years of service may request an unpaid leave of absence (in writing) stating the time needed and the reason. The Employer agrees to consider all such requests and not unreasonably deny such leaves.

(d) Funeral Leave: Employees shall become eligible for the following after completion of twelve (12) consecutive months of continuous employment with the Employer.

Upon request an employee covered by this Agreement shall be granted the necessary time off with pay at the employee's regular straight-time rate of pay in order to make arrangements for and/or attend the funeral occasioned by a death in the employee's immediate family. Such time off with pay shall in no event exceed three (3) regularly scheduled working days. The immediate family is defined as an employee's father, mother, spouse, a partner in a legal and recognized marriage or civil union by the State of Arizona, children, father-in-law, mother-in-law, brother, sister, grandparents, grandchildren, stepparents, or stepchildren. Payments shall not be made hereunder where the relative's death occurs while the employee is on vacation or on a leave of absence.

Payments shall be made for regular scheduled workdays lost; and proof of relation to deceased, attendance at funeral, and travel time needed may be requested by the Employer.

(e) Leave of Absence:

(1) Eligibility and Requirements: Employees who have completed their probationary period shall be entitled to written unpaid leaves of absence based on their continuous employment as shown below for the following reasons:

(a) Thirty (30) days for serious illness, injury, or death in the employee's immediate family. Immediate family shall be: spouse, children, father, mother, stepfather, and stepmother.

(b) Employees shall be entitled to a medical leave of absence without pay, up to the total length of service of the employee with the Employer, without loss of seniority, not to exceed twelve (12) months.

(2) Return to Work: Prior to being scheduled for work, upon the completion of a leave of absence, the

employee's physician must give written certification that the employee is released to return to work. When the employee has met that requirement, the employee will be scheduled for work in the job previously held or to another position which the employee is certified to be capable of performing. The employee will be scheduled for the first full workweek for which the work schedule has not been posted as provided in this Agreement following the receipt of the physician's release by the Store Manager or designated representative. If deemed appropriate, the Employer may require an examination by a doctor selected and paid for by the Employer. In the event of a disagreement between the two (2) doctors, the parties shall select a third (3rd) doctor whose opinion shall be final and binding.

(3) Compliance with Federal Statutes: It has been and continues to be the intent of the parties that their Leave of Absence provisions be interpreted and applied consistent with all relevant federal statutes including the Americans with Disabilities Act (ADA) and Family Medical Leave Act (FMLA).

ARTICLE 12 - DETRIMENTAL ACTS

No employee shall be required or permitted to make any written or oral agreement that will grant the Employer conditions more favorable than those contained in this Agreement.

ARTICLE 13 - SEPARABILITY

It is expressly agreed that in the event any provisions herein be declared to be invalid by the National Labor Relations Board or any court of competent jurisdiction, such invalidity shall not effect the remaining terms and provisions which shall remain in force and effect. Both the Union and the Employer agree that they will meet with each other within thirty (30) days after such provision has been

declared invalid to negotiate a new clause or language that would conform with the decision.

ARTICLE 14 - GRIEVANCE AND ARBITRATION

The provisions of this Article shall be the exclusive method to be followed by the Union and the employees in the adjustment or settlement of all grievances and disputes regarding the interpretation or application of this Agreement. The Employer cannot file grievances.

(a) Definition: A grievance shall be defined to mean any dispute, controversy, or disagreement as to the application or interpretation of any Article set forth in this Agreement.

(b) Time Limits: Any grievance, excluding the discharge or layoff of an employee, must be submitted, in writing, as outlined below not later than fifteen (15) days after the grievant knew or should have known of the event giving rise to the grievance or such grievance shall be waived and shall have no effect. Any grievance regarding the discharge or layoff of an employee must be submitted, in writing, within nine (9) calendar days of the discharge or layoff. Any grievance submitted after the time limits have expired shall be forfeited and waived by the aggrieved party or affected employee. All reference to days in this Article shall mean calendar days.

(c) Grievance Procedure:

Step 1: Prior to filing a grievance, the matter in dispute may be taken up orally between a designated Union representative and a designated Employer representative. Settlements at this level shall not establish any precedent.

Step 2: If a timely grievance has been filed, the matter in dispute shall be taken up in a meeting with the designated Union representative and a designated Employer representative.

Arbitration: Either party may submit the grievance to

arbitration for final determination by notifying the other party, in writing, no later than fifteen (15) days following of the Step 2 process, unless the parties mutually agree in writing to extend the time limit set forth herein.

(d) Selection of the Arbitrator: Within seven (7) days after receipt of the written demand for arbitration by the other party, the parties shall attempt to select an impartial arbitrator and if they are unable to agree upon such a selection, the party initiating the arbitration shall forthwith request the Federal Mediation and Conciliation Service to submit a list of seven (7) disinterested Arizona persons qualified and willing to act as impartial arbitrator, and simultaneously mail a copy of such request to the other party. From this list, within seven (7) days after receipt thereof, the Employer and the Union shall each alternately strike one (1) name until six (6) names have been eliminated and the person whose name remains shall be selected as impartial arbitrator. The parties shall draw lots to determine who shall make the first deletion from the list.

(e) Final and Binding: The decision of the arbitrator shall be final and binding upon the Union, the Employer and the employees covered by this Agreement. However, the arbitrator shall not have the power to add to, subtract from, or in any way modify the terms of this Agreement, and shall limit his decision strictly to the interpretation of the language of this Agreement.

(f) Expenses: The jointly incurred costs of arbitration shall be paid by the "loser." In all disputes, the arbitrator shall determine the "loser." Any other expenses shall be paid by the party incurring them.

(g) The parties agree that grievances may arise of a general nature affecting or tending to affect several employees, and that such grievances may be initiated at Step 2.

(h) The parties agree that all disputes arising from the interpretation or application of this Agreement shall be settled as provided in this Article.

(i) Any grievance or dispute arising from an individual employee claiming alleged wrongful application or interpretation of any section of this Agreement, the amount of pay allowed shall be limited to one hundred twenty (120) calendar days immediately preceding the date of filing of the grievance. It is expressly understood and agreed that such limitation shall not apply to grievances on disputes arising from disciplinary actions.

ARTICLE 15 - PAYROLL CHECK OFF

(a) The Employer will deduct an amount equivalent to dues, initiation fees and assessments (provided such assessments are not used to fund any economic activity or anti-company publicity against the employer) each week from the wages of the employees who voluntarily authorize such deductions in writing, and will forward same to the Union monthly during the term of this contract unless the authorization is canceled in writing by the employee to the Union and the Union notifies the Employer.

No deduction will be made on any employee until receipt by the Employer of a signed copy of a voluntary deduction authorization.

The Union agrees to submit to the Employer a list of employee's names and deduction amounts for the current month no later than the first day of each month.

(b) The Union shall indemnify and hold harmless the Employer against any and all claims, damages or suits or other forms of liability which may arise out of or by reason of any action taken by the Employer for the purpose of complying with this Article.

(c) The Employer will make a deduction for the Union's Political Action Committee from the wages of the employees weekly who voluntarily authorize such deduction in writing, based on authorizations received and will forward the deduction to the Union monthly.

ARTICLE 16 - NO STRIKE/NO LOCKOUT

(a) During the term of this Agreement, or any extension thereof, the Employer will not lock out the employees covered by this Agreement and the Union will not instigate, encourage, engage in or take part in any strike, sympathy strike, slowdown or stoppage of work in the Employer's operations. The Employer has the right, in its discretion, to discipline employees who take part in any strike, slowdown or stoppage of work in the Employer's operations.

(b) If the Employer elects to pursue any remedies, it may have as a result of a breach by the Union of paragraph (a) of this Article in any court of competent jurisdiction, the court and not the arbitrator shall determine whether or not paragraph (a) of this Article has been breached.

ARTICLE 17 - HEALTH AND WELFARE

(a) Eligibility Requirements: The Employer shall contribute to a health and welfare/dental plan and eligibility for benefits shall apply for each employee who has worked at least eighty (80) hours for the Employer in the preceding four (4) week month or one-hundred (100) hours in a five (5) week month. This contribution will be applicable to each clerk hired before the ratification date of this Agreement who has been employed with the Employer for a period of six (6) calendar months.

Employees hired before June 20, 2004, qualifying for the first time for health and welfare coverage will be covered under Plan B. Said employees who have not advanced to Plan A as of August 1, 2004, will continue to be covered under Plan B for the first thirty-six (36) months after becoming eligible and a Plan B contribution will be made on behalf of such employees during such thirty-six (36) month period. After that time, said employees will be covered under Plan 501-A.

All employees hired on or after June 20, 2004, subject to satisfaction of a nine (9) month eligibility waiting period, and

satisfying the eighty (80) or one-hundred (100) hours worked requirement described above shall be covered under a Plan B1 for the first thirty-nine (39) months of eligibility. The Employer will make the Plan B1 contribution on behalf of such employees beginning after twelve (12) calendar months of employment and such contribution shall continue for thirty-six (36) months. It is understood that during the first fifteen (15) months of eligibility under Plan B1, such employee shall be eligible for employee only coverage. Upon completion of the first thirty-nine (39) months of eligibility under Plan B1, the employee shall be covered for the next thirty-six (36) months of eligibility under Plan B and the Employer shall make the Plan B contribution rate during such thirty-six (36) month eligibility period. Upon completion of the thirty-six (36) months of eligibility under Plan B, the employee shall be covered under Plan A and the Employer shall make the Plan A contribution rate.

For the purpose of this Article, hours worked shall include hours paid directly by the Company for: straight-time, overtime, premium hours, sick leave, jury duty pay, and vacation.

b) Contributions - The Employer contribution rates for this Agreement shall be as follows:

Fixed hourly Employer contribution rates shall be made on behalf of employees up to (40) hours per week and (2080) hours per year as follows based on June hours:

	Plan A	Plan B	Plan B1
Effective 7/04	$3.50	$2.80	$2.05
Effective 7/05	$3.65	$2.95	$2.15
Effective 7/06	$3.80	$3.10	$2.35
Effective 7/07	$4.00	$3.25	$2.55

Contributions shall not be paid for hours worked during the existing six (6) month or new twelve (12) month (for employees hired after June 20, 2004) waiting periods.

(c) Cost Containment: The Trustees are directed to investigate all reasonable cost containment measures and implement those, which the Trustees jointly agree on. The Trustees shall be instructed to review and evaluate the current plan design and funding arrangements for all other plans offered by the Fund to ensure that the plan design can be reasonably supported by the funding available. These plans shall be modified as necessary so that the funding available will support the benefit plan design.

(d) Reserves: It is agreed that the Trustees shall maintain at all times a cash reserve in the Fund in an amount which they determine is prudent under the circumstances (taking into account the fact that this is not a "maintenance of benefits" contract). In no event, however, shall the Trustees maintain a reserve amount less than what is sufficient to cover the cost of all benefit and administration costs for participants for a two (2) month calendar period. The calculation of such two (2) month reserve amount will be made on a rolling three (3) consecutive calendar month period throughout the period of this Agreement.

(e) Benefits: The Board of Trustees shall implement, and maintain over time, plan designs that can be supported by the contribution rates above as recommended by the co-consultants. These changes shall first be effective as early as August 1, 2004, or as soon thereafter as legally permitted. Any deadlocked Trustee motion relating to this paragraph shall be arbitrated on an expedited basis, with the arbitration to take place not later than sixty (60) days following the Trustees' meeting at which the deadlock occurs.

(f) Legislation: In the event of legislation providing health and welfare or sick leave benefits which are also provided for under this Agreement, the Trustees are directed to immediately amend the plan document deleting duplicated benefits reducing the Employer contributions by an amount which is not attributable to contributions which may be required from the employee.

ARTICLE 18 - PENSION

The Parties agree to accept and be fully bound by the terms of the Declaration of Trust and Plan Document of the Desert States Employers and UFCW Unions Pension Fund and any amendments thereto.

(a) Contribution Rates - Effective with June 2004 hours worked, the Employer contribution rate shall be seventy-eight cents ($0.78) per straight-time compensable hour for employees hired before the effective date of this Agreement. Effective June 2005 hours worked, the contribution rate shall be eighty-eight cents ($0.88) per straight time compensable hour for employees hired before June 20, 2004. Effective June 2006 hours worked, the contribution rate shall be ninety-eight cents ($0.98) per straight time compensable hour for employees hired before June 20, 2004. No contribution shall be required for hours worked by an employee hired before June 20, 2004, during his probationary period as provided for in this Agreement.

The Employer contributions for employees hired on or after June 20, 2004, will commence on the later of one (1) year of service with the Employer or twenty-one (21) years of age and shall be at a rate of forty-eight cents ($0.48) per straight-time compensable hour.

In the event that the Employer is required to make any contributions in excess of the negotiated contribution rates above, in order to avoid funding deficiencies, the Employer shall receive a dollar-for-dollar credit for those additional contributions. When the Board of Trustees reduces benefits to eliminate such future funding deficiencies, the projections used shall anticipate that these contribution credits will be taken as reductions in the negotiated contributions in the next Plan Year.

(b) The Trustees are directed to take the following actions to be effective June 20, 2004, subject to compliance with the IRC Section 204-h notice requirement:

For employees hired on or after June 20, 2004:

- Adopt a monthly benefit accrual rate of twenty-five dollars ($25) per year Benefit Credit
- Eliminate the rule of 85 benefit
- Increase the normal retirement age from 62 to 65
- Increase the early retirement reduction factor from 3.3% per year to .5% for each full month (i.e., 6% for each full year) that benefit commencement precedes normal retirement age
- Eliminate the two hundred dollar ($200 monthly) Age 60 Supplement

For employees hired before June 20, 2004, who terminate employment five (5) years or more before reaching their 50th birthday:

- Adopt a monthly benefit accrual rate of thirty-five dollars ($35) for the first ten (10) years of Benefit Credit and $45 for years of Benefit Credit in excess of ten (10) years, applicable to Benefit Credit earned after June 20, 2004
- Eliminate the Rule of 85 benefit for Benefit Credit earned after June 20, 2004
- Increase the normal retirement age from age 62 to 65 with respect to Benefit Credit earned after June 20, 2004
- Increase the early retirement reduction factor from 3.3% per year to .5% for each full month (i.e., 6% for each full year) that benefit commencement precedes normal retirement age for Benefit Credit earned after June 20, 2004

For employees hired before June 20, 2004, who terminate employment less than five (5) years before they qualify for a pension (including employees who terminate by retiring):

- Adopt a monthly benefit accrual rate of thirty five dollars ($35) for the first ten (10) years of Benefit Credit and $45 for years of Benefit Credit in excess of ten (10) years, applicable to Benefit Credit earned after June 20, 2004.

(c) The following Exhibit A Long Term Funding Policy shall be adopted by the Trustees effective June 1, 2004.

EXHIBIT A
STATEMENT OF PRINCIPLES ON FUNDING AND BENEFITS

Purpose: The purpose of this Statement is to provide the Board of Trustees of the Plan a framework to decide whether they should maintain plan benefits at current levels, or decrease them for a given Plan Year. This Statement shall be reviewed annually and whenever the Trustees consider Plan design changes, changes in actuarial assumptions or methods, or any other changes that affect the Plan's actuarial funding status or involve an actuarial cost.

Long-Term Funding Policy: The Board of Trustees is authorized and directed to adopt the following long-term funding policy immediately:

The co-consultants will produce with the annual actuarial valuations, a (7) year actuarial projection with the goal of identifying future funding deficiencies (defined as where the negotiated contributions are not enough to satisfy the minimum required contributions under Internal Revenue Code Section 412). These annual projections will be based on the following:

Projections will take into account only negotiated contributions.

The adoption of actuarial changes as follows: Effective for the 2003 Plan Year, the actuarial cost method shall be changed from the entry age normal cost method to the unit credit cost method, and for purposes of determining the actuarial value of the Plan's assets, the corridor shall be modified from 90%-110% to 80%-120% of the market value of the Plan's assets.

Using the assumptions in the then current annual actuarial valuation as jointly agreed to by the Fund's co-consultants, no unanticipated actuarial gains or losses during the projection time period shall be considered.

If the annual projection indicates any future funding deficiencies during the seven (7) year projection, the Board of Trustees is authorized and directed to amend future benefit accruals (or any other non-protected benefits), effective immediately, in order to eliminate the projected future funding deficiencies.

Notwithstanding the above, the projections accompanying the annual valuations for 2006 and 2007 shall end with the year 2012 (i.e., any deficiencies projected to occur after 2012) and shall not be taken into account until the valuation for 2008.

In the event a reduction or suspension of future benefits is insufficient to eliminate all future funding deficiencies, the contributing Employers may elect to make additional contributions above the negotiated contribution rates in order to avoid such funding deficiencies. If such additional contributions are made, the contributing Employers will receive a dollar-for-dollar credit against future negotiated contributions due to the Plan until such time as such additional contributions have been fully offset.

Any deadlocked Trustee motion relating to a reduction in benefits required under the Long-Term Funding Policy shall be arbitrated on an expedited basis, with the arbitration to take place not later than sixty (60) days following the Trustees meeting at which the deadlock occurs.

ARTICLE 19 - JURY DUTY

(a) Employees shall become eligible for the following after completion of twelve (12) consecutive months of continuous employment with the Employer. When an employee is required to be in any court or courthouse for jury service and such service deprives such employee of pay that he otherwise would have earned, he shall be scheduled for a day shift on a Monday through Friday workweek and shall receive pay during such workweek for each day on jury service at the rate of eight (8) hours times his straight-time hourly rate, except in the case of part-time employees the number of hours regularly scheduled on the day in question, less any remuneration received by him for jury service.

(b) If such employee, in addition, works for the Employer on Saturday, he shall be paid at the rate of straight-time. If he works for the Employer on Sunday, he shall be paid at the Sunday rate of pay.

(c) If an employee is excused, temporarily or permanently, from jury service on any scheduled day, i.e., Monday through Friday, he shall immediately report for work to complete the remaining hours of his scheduled work shift. Failure to so report shall disqualify an employee for any pay for jury duty for the day in question as long as the transportation time will permit him to return to work prior to one (1) hour before the end of his shift.

(d) The Employer may require proof of attendance for jury service. An employee making a false claim for jury duty pay shall be subject to discharge.

(e) Jury duty pay shall not be required for Grand Jury service.

ARTICLE 20 - SAFETY

(a) Working conditions and/or equipment which the employee or Union believes to be injurious to the health and safety of the employees shall be directed to the attention of the Employer. Conditions or equipment found to be in violation of any Federal, State, or local law or regulation, shall be corrected as soon as practicable. No employee shall be subject to disciplinary action or discharge for failure to use such equipment provided such failure to use is reasonable.

(b) Employees may be subject to discipline for failure to use appropriate safety equipment (as provided by the Employer) circumventing safety devices, and altering or "jerry-rigging" equipment.

(c) Adequate first aid supplies will be maintained by the Employer in the store.

ARTICLE 21 - HIRING NOTIFICATION

The Employer will notify the Union in writing by the tenth (10th) of the month immediately following the date of employment or transfer into the bargaining unit, the name, date of hire or transfer date, social security number, current home address, rate of pay, classification of the employee and the store number.

ARTICLE 22 - JOB STEWARDS

The Employer recognizes the right of the Union to designate job stewards and alternates from the Employer's seniority lists. The Union agrees to provide the Employer written notice of those designated and/or replaced. The Union agrees to designate no more than two (2) stewards per store.

Stewards' Union work shall not unreasonably interfere with the performance of their work for the Employer.

It is expressly agreed and understood that a steward shall not be discharged or discriminated against as a result of legal Union activities.

It is agreed that the Company will grant a paid leave of one (1) day per year for two (2) employees per store to attend a steward seminar. Payment shall be based on the employee's normal daily schedule and such hours shall not count toward computation of overtime.

The names of those selected to attend the seminar shall be given to the Employer a minimum of two (2) weeks in advance of the meeting date.

ARTICLE 23 - CLASSIFICATIONS AND DEFINITIONS

(a) Department Store Clerk: An employee who can perform all the functions in the Department Store within their departmental classification. Such duties shall include stocking, ordering, pricing, operating departmental cash registers, customer service, price changes, receiving product; preparing, displaying and merchandising product, cleaning within the department and baling of cardboard.

(b) Section Heads: The number of Section Heads may vary by store according to site and sales, some departments may be combined or may not be represented in all stores; however, the Employer agrees that there shall be no more than eight (8) Section Heads per store.

This position shall be a full-time forty (40) hour per week five (5) eight (8) hour days position and the selection of the Section Heads shall be at the sole discretion of the Employer, provided such selections are not for arbitrary or capricious reasons.

(c) Sales Manager and Variety Clerks: The Employer agrees that Sales Managers and Variety Clerks hired prior to December 8, 1997, will not be laid off and/or involuntarily reduced in hours until such times as those Department store employees hired after ratification have been laid off or reduced in hours.

(d) Non-bargaining unit Courtesy Clerks may face merchandise on the sales floor and replenish supply items throughout the store without restriction.

ARTICLE 24 - SECTION HEADS AND BONUS PLANS

The Employer retains all rights with respect to establishing, qualifying and paying incentive bonuses to department managers and others and any such bonus plans for all purposes, shall be outside the scope of this Agreement.

ARTICLE 25 - LIFE OF AGREEMENT

(a) This Agreement shall be in effect from October 26, 2003, until and including October 25, 2008, and from year to year thereafter subject to amendment, alteration or termination by either party upon sixty (60) days written notice given prior to the anniversary date of October 25 of any year beginning with the year 2008.

(b) All rights of the Employer not specifically limited by the terms of this Agreement are hereby reserved to the Employer. Further, it is understood by the parties that the negotiations resulting in the Agreement provided ample opportunity for all matters to be considered and this Agreement shall not be construed to contain any matter not specifically set forth herein.

FOR THE UNION:

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 99

James J. McLaughlin
President
Date 5/20/05

FOR THE COMPANY:

FRY'S MARKETPLACE

Stephen J. DiCroce
Senior Director Labor Relations
Date 6-3-05

Richard D. Magner
Director, Human Resources & Labor Relations
Date 5-20-05

James W. Nygren
Director of Labor Relations
Date 5-20-05

APPENDIX A
WAGE RATES AND CLASSIFICATIONS

Department Store Clerk

Garden Clerk
Nutrition Center Clerk
Photo/Electronic Clerk
Home Section Clerk
Scanning/Price Change Clerk

First 90 days	6.65
Next 780 hours	6.90
Next 780 hours	7.21
Next 780 hours	7.76
Next 780 hours	8.31
Next 780 hours	8.86
Journeyperson	10.00

Section Head — Seventy-five cents ($0.75) per hour above Journeyperson Department Store Clerk Rate

Department Store Receiver — Seventy-five cents ($0.75) per hour above Journeyperson Department Store Clerk Rate

Scanning/Price Change Clerk — Hired or promoted into the position after 12/8/97)
Seventy-five cents ($0.75) per hour above Journeyperson Department Store Clerk Rate

Scanning/Price Change Clerk — (Hired or promoted into the position prior to 12/8/97) $12.65

An employee who is specifically designated by management to perform all of the tasks, duties and responsibilities of a management employee who is absent in excess of one week due to vacation or leave of absence shall be paid a premium of forty cents ($0.40) per hour worked in such assignment.

Ratification Bonus as follows:
All employees, who have been continuously employed from October 25, 2003, to the date of ratification shall be paid a lump-sum bonus equal to thirty cents ($0.30) per hour times their total paid vacation hours, paid holiday hours, and hours worked during this period.

Annual Lump-Sum Bonus
On June 5, 2005, and June 4, 2006, employees who were hired or assigned before June 19, 2004, who have been continuously employed during the trailing one year period and who are actively employed on each of these effective dates and who are, on the effective date of this bonus, at the top rate for their classification, shall be paid a lump-sum bonus equal to twenty-five cents ($0.25) per hour times their total paid vacation hours, paid holiday hours, and hours worked during the trailing one year period.

Effective the first workweek in November 2007, the Employer shall increase the Department Store Clerk thereafter rate and all rates in excess of the thereafter rate twenty-five cents ($0.25) per hour.

Upon ninety (90) day written notice to the Employer by the Union, the November 4, 2007, wage increase may be permanently diverted to the Health and Welfare Plan. Such diversion shall be paid as a monthly lump-sum to the Trust Fund and calculated based on the hours worked in each month by employees at the Thereafter rates that would have been eligible for such rate increase times twenty-five cents ($0.25) per hour. It is understood that upon mutual agreement between the Union and Employer an alternative payment arrangement may be made.

APPENDIX B

MARICOPA COUNTY GEOGRAPHIC AREAS

The parties agree that where the term geographic area is used in the contract with respect to Maricopa County, that such areas shall be defined as follows:

Area A: Will be comprised of all stores west of Interstate 17 and west of 19th Avenue.

Area B: Will be comprised of all stores east of Interstate 17 and north of McDowell Road.

Area C: Will be comprised of all stores east of 19th Avenue and south of McDowell Road.

(These seniority areas may be modified by mutual agreement between the Union and Company.)

LETTER OF UNDERSTANDING
between
FRY'S FOOD STORES, INC.
and
UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 99

COMPETITIVE OPERATIONS

Notwithstanding the provisions of the current Collective Bargaining Agreement between the parties October 26, 2003, through October 25, 2008, either party upon thirty (30) days written notice may, with mutual agreement, reopen the Agreement to negotiate its provisions in the event that a competitor in any major line of services comparable to the Company's commences an operation wherein a competitive advantage is enjoyed.

FOR THE UNION:

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 99

James J. McLaughlin
President
Date 5/20/05

FOR THE COMPANY:

FRY'S MARKETPLACE

Stephen J. DiCroce
Senior Director Labor Relations
Date 6-3-05

Richard D. Magner
Director, Human Resources & Labor Relations
Date 5-20-05

James W. Nygren
Director of Labor Relations
Date 5-20-05

LETTER OF UNDERSTANDING
between
FRY'S FOOD STORES, INC.
and
UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 99

CHRISTMAS DAY STAFFING

Recognizing that a majority of its employees are desirous of not working on Christmas Day, the Employer agrees that unless principal competition in the area remains open for business on December 25, the Employer intends to remain closed for business on December 25. In the event that principal competition is open on Christmas Day, the Employer will meet with the Union to discuss Christmas Day staffing requirements if the Employer intends to open for business on Christmas Day. If the parties do not agree on staffing, the contract language of Article 6 (e) shall apply.

FOR THE UNION:

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 99

James F. McLaughlin
President
Date 5/20/05

FOR THE COMPANY:

FRY'S MARKETPLACE

Stephen J. DiGioce
Senior Director Labor Relations
Date 6-3-05

Richard D. Magner
Director, Human Resources & Labor Relations
Date 5-20-05

James W. Nygren
Director of Labor Relations
Date 5-20-05

UNITED FOOD AND COMMERCIAL
WORKERS UNION, LOCAL 99
2401 N. Central Ave, 2nd Floor
Phoenix, AZ 85004-1331

NON-PROFIT ORG.
U.S.POSTAGE
P A I D
Phoenix, AZ
Permit No. 606