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PACKINGHOUSE AGREEMENT

BETWEEN

ABATTI PRODUCE, INC.  
AND

FRESH FRUIT AND VEGETABLE WORKERS  
LOCAL 78-B  
AFL-CIO AND CLC

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## PARTIES

This Agreement is by and between Abatti Produce, Inc. and its successors (hereinafter referred to as "Company") and the Fresh Fruit and Vegetable Workers, Local 78-B affiliated with the United Food and Commercial Workers, AFL-CIO and CLC and its successors (hereinafter referred to as "Union").

In the event a packinghouse is sold, leased, transferred or taken over by sale, transfer, lease, assignment, receivership or bankruptcy proceedings, such packinghouse shall continue to operate under the terms and conditions of this Agreement for the life thereof.

## ARTICLE I

### RECOGNITION

1.1 Scope of Union Recognition. The Company recognizes the Union as the sole and exclusive bargaining agent for all its packinghouse employees engaged in the packing and handling of the following commodities:

- |                       |                                 |
|-----------------------|---------------------------------|
| (a) Lettuce           | (g) Cabbage                     |
| (b) Chicory or Endive | (h) Melons                      |
| (c) Carrots           | (i) Prepacked Celery or Carrots |
| (d) Topped Carrots    | (j) Cauliflower                 |
| (e) Celery            | (h) Onions                      |
| (f) Broccoli          | (i) Asparagus                   |

at the Company's packinghouses covered by this Agreement. In the event the Company establishes another packinghouse(s) in the Yuma, Arizona area, or in the Imperial or San Joaquin-Sacramento

Valleys, which carries on the same operations in the same commodities as listed above, the employees shall be covered under the terms of this Agreement.

1.2 Group Certification by NLRB. In the event the National Labor Relations Board shall, during the term of this contract, certify any other employees not here included within the unit set forth under the National Labor Relations Board Certification in Case No. 20-RC-2734, or in the event the Union and Company shall mutually agree to any extension of coverage, such employees so included under any such National Labor Relations Board Certification or any mutual agreement shall be included under the terms of this Agreement.

1.3 "Employees" - Exclusions. The term "employees" shall not include, and the terms of this contract do not extend to, office personnel and supervisory employees as the same are defined and interpreted under the Labor-Management Relations Act.

1.4 New or Experimental Operations. In the event any new or experimental operation, container, or classification shall be installed by the Company which is substantially and materially different, including rates of production and earnings, than the existing or previously existing operation, container, or classification for the members of this bargaining group and as reflected in the Exhibit A, Wage and Working Condition Addendum, attached hereto and any supplements thereof in any of said plants, the Company shall have the right to temporarily set the wage scale and working conditions, providing the scale be comparable to a similar classification as to rate, if feasible,

but shall notify the Union by notifying the shop steward within 48 hours after the operation, container, or classification is installed. Within twenty days thereafter, or such extra time as is agreed upon between the Company and the Union, the Company and the Union shall agree upon the wage scale and working conditions. If no agreement is reached within the time limitation set forth, the parties agree to resort to arbitration within ten days after written request by one Party to the other and the arbitrator shall make his or her determination within thirty days after the submission of the matter to him or her in writing or such additional time as may be agreed upon by the Company and the Union. The provisions set forth in Article XI - No Strike, No Lockout are fully applicable under this procedure. Any wage scale and working conditions agreed upon or determined by the arbitrator shall be applied retroactively to the date of the initial installation of the new or experimental operation, container, or classification.

## ARTICLE II

### UNION SECURITY

2.1 Union Membership. Employees may become members of the Union within 30 days from the date of their employment, but must become members of the Union after 30 days from date of employment or after this Agreement has been in effect 30 days, whichever shall occur later. Membership in good standing in the Union shall be a continued condition of employment for all employees covered by this agreement, subject to the provisions and limitations of the Labor-Management Relations Act.

2.2 Union Dues. In the event any employee fails to tender periodic dues or initiation fees, the Union shall give a notice in writing to the Company requesting the discharge of the employee. The Company shall notify the employee of the receipt of such letter, and if the employee does not tender his or her dues or initiation fees within 24 hours after service of notice on the Company, the Company shall be required to discharge the employee. An employee discharged under this provision shall not be re-employed until the Company has been notified in writing by the Union that the discharged employee has become a member in good standing of the Union.

2.3 Trainees. Any packinghouse may employ not more than three persons at any one time for the sole purpose of learning the produce business. Such persons will not be required to belong to the Union as a condition of employment, but each such person shall pay a service fee equal to the amount of the regular Union initiation fee and the amount of the regular Union dues during the period or periods in which he or she is employed in the packinghouse. Each person shall be required to pay only one initiation fee. A trainee may not displace an employee holding classification seniority. A trainee may hold any particular position for no more than five (5) days before he or she may be bumped by an employee holding seniority in another classification or by any non-seniority person who is otherwise entitled to such position under the terms of this Agreement.

2.4 Non-Discrimination. The Company and the Union hereby agree that they will not discriminate against any employee

because of race, national origin, creed, color, sex, religious belief or union affiliation.

2.5 Employee Lists. The Company will, within 15 days after it commences operations in any season, give to the Union a list of all employees covered by this Agreement. Company will, to the extent possible, give this first list to the Union without written request, but the failure to do so shall not be considered a breach of this Agreement. Within 10 days after the start of each month thereafter, the Company will, upon written request by the Union, give to the Union a list of all employees who are at that time covered by the Agreement.

### ARTICLE III

#### PREFERENCE OF EMPLOYMENT

The Company shall make all reasonable efforts to the end of providing jobs to individuals who are experienced and qualified in the industry.

Such efforts shall include:

3.1 Applications for Work. The Company shall accept and keep on file applications for employment by experienced and qualified workers.

3.2 Preference of Employment. In the event of an opening not filled by seniority employees asserting their right to the opening under Article VIII - Seniority, section 3, the Company shall give preference to persons formerly employed in the industry who are experienced and qualified and readily available to perform the work in question.

3.3 "Experienced and Qualified" - Definition. An individual is presumed to be experienced and qualified when he or she has performed work in the classification for at least six (6) calendar months within any two (2) year period. A calendar month shall be credited when the individual has worked at least fifteen (15) working days within the month. The employee may be asked to supply evidence of his or her qualification. The Company shall provide verification of such employment to the employee, the Union, or another employer upon request. The presumption is rebuttable. Experience gained as a pre-sized melon packer shall not be deemed experience under this Agreement for purpose of asserting the right to work as a packer in an unsized operation.

3.4 "Industry" - Definition. "Industry" shall mean California and Arizona melon shippers that are packing in packinghouses that are recognized as bona fide packinghouse operations.

3.5 Posting Procedure. An individual shall be deemed to be available if he or she makes application for the opening within five days from the time the Company posts notice of the vacancy and is ready and able to work within that period of time. When an opening occurs, the Company will post a letter of such opening on the bulletin board and such other places in the packinghouse where notices are posted, and where they are available to employees and other individuals seeking employment. The Company shall also notify the Union by telephone and in writing on the date such posting occurs. Such notice will include the names of all inexperienced and unqualified individuals posted in

accordance with this section, the classification in which the opening occurs and a copy of the posted notice signed and dated by the Chief Shop Steward or his or her assign. The Company may hire any person who is experienced and qualified for the classification making application under the terms and conditions of this Article.

3.6 Exemption. If the Company makes arrangements to employ a new worker who is experienced and qualified, and makes its intentions known by posting said intentions on the bulletin board or by notifying the Shop Steward, it need not comply with the provisions of this Article.

3.7 Non-Compliance. The Company will be responsible for all wages lost by an experienced and qualified person who has an application on file and is available for work and is denied employment because of the Company's failure to comply with the requirements of this Article, provided, however, that no claim can be made for such lost wages for the first two (2) working days lost by a qualified and experienced applicant.

3.8 Probationary Applicant. A worker who asserts his or her right to an opening as set forth above shall be on probation for the first five (5) working days to demonstrate to the Company's satisfaction his or her experience and ability to perform the job to which he or she has asserted a right. During the term of the above probationary period, the employee shall not be considered an employee for purposes of filing a grievance under Article VI, Grievance and Arbitration Procedure if he or she is removed because he or she has not demonstrated to the

Company's satisfaction that he or she can perform the job. The Company and the Union agree that the Company shall hold the Union harmless in any civil or administrative action brought by any person who is removed after serving as a probationary employee under this section.

3.9 Inexperienced Applicants; Grievances. An inexperienced worker who fills an opening and is not displaced as provided above shall begin to accrue seniority following the fifth day of posting. Grievances relating to any of the sections in this Article, other than Section 3.8, must be filed within fifteen (15) days of the Company posting or they will be deemed waived.

#### ARTICLE IV

##### CHECK-OFF OF UNION DUES

4.1 Deductions Upon Authorization. The Company agrees to deduct Union dues and initiation fees from the wages of each employee who has signed the proper authorization card. It will be the sole responsibility of the Union Business Agents to secure the signed authorization cards from the employees and deliver such cards to the Company. These authorization cards are valid for one year.

4.2 When Made. Payroll deductions shall be made from the next paycheck following submission of the signed cards by the Union business Agent and for the first pay period in each month thereafter. If an employee is discharged or quits prior to his or her regular payday, dues are to be paid when that employee receives his or her final check.

4.3 Payment to Union. The Company will make out a check covering the total amount of dues and initiation fees deducted, together with a list of employees from whose wages the dues and initiation fees were deducted, and the amount deducted from each employee's wages. The check and list are to be mailed to the Union at the last address given to the Company by the Union.

4.4 Refunds by Union. The Union will be responsible for all refunds to an employee. Under no circumstances should the Company return to an employee any money deducted under a signed authorization. The Company should make no deductions of any kind without the signed authorization.

4.5 Posting of Membership Requirements. The Union shall post membership requirements, including the scheduling of initiation fees and periodic dues, on the Company's bulletin board.

ARTICLE V  
REPRESENTATION

5.1 Union Access to Company Property. The Company agrees to admit to its packinghouse covered by this Agreement at any reasonable time any authorized Union representative for the purpose of conducting Union business, provided, however, there shall be no interference with working operations. The Union representative shall notify the shed foreman of his or her presence on the job before conducting any union business.

5.2 Shop Stewards. On each packinghouse there shall be selected by the Union not more than four Shop Stewards. One such

person shall be designated as the Chief Shop Steward. The Shop Stewards so selected shall represent the employees on the packinghouse as provided in Article VI, Grievance and Arbitration Procedure. The Chief Shop Steward, or another Shop Steward in his or her absence, may handle all matters directly with the Company representative. The Union shall notify the Company in writing of the identity of the Shop Stewards and any changes thereof within three days of their selection, and shall post the names on the Company bulletin board.

5.3 Book Inspections by Union. The Union shall be entitled to conduct one book inspection during working hours at each packinghouse during each monthly dues period. The Company and the Union shall mutually agree upon a time for the conducting of such a book inspection and notice thereof shall be posted on the Company bulletin board at least 24 hours prior to the time fixed.

5.4 Shop Stewards - Time for Selecting. At the start of each season, the Union shall be given not in excess of 10 minutes in which to select the Shop Stewards for each packinghouse. The time shall be mutually agreed upon between the Company and the Union, it being understood, however, that it will be the 10 minutes immediately after the starting of work or the termination of a rest period, or the 10 minutes immediately before the termination of work or before a rest period.

5.5 Union Officers - Time for Election. The Union shall be allowed to hold its annual or biannual election of officers at the packinghouse during hours at a time mutually agreed upon by the Company and the Union for a period not to exceed 30 minutes.

## ARTICLE VI

### GRIEVANCE AND ARBITRATION PROCEDURE

6.1 Grievance Procedure. The Union and the Company recognize the necessity for speedy resolution of valid grievances. Both parties agree to use their best efforts and to cooperate in making the grievance procedure function more satisfactory for all concerned. It is the intention of both the Company and the Union to eliminate all unnecessary grievances and promptly adjust all meritorious grievances.

Whenever any dispute or grievance shall arise between the parties which cannot be settled informally, it shall be adjusted as follows:

Step One: The matter shall be reduced to writing and signed by the employee, Union representative or Company representative and shall include the following:

- (a) A complete statement of the grievance and the facts on which it is based;
- (b) The remedy or correction which is desired; and
- (c) The section or sections of this Agreement, if any, relied upon or claimed to have been violated.

This written grievance shall then be presented by the Shop Steward or Business Agent of the Union to the Foreman or Company representative (or vice versa). If the respective representative cannot settle the matter, the party receiving the grievance (responding party) shall within 48 hours after demand by the party initiating the grievance (grieving party), make a written response which shall include the following:

- (a) A complete statement of the responding party's position and the facts upon which it is based;
- (b) The remedy or correction offered, if any.

Failure of the responding party to make a written response shall be deemed a denial of the grievance, and the grieving party shall have the right to proceed forward to Step Two.

Step Two: Appeals to Step Two must be made within three days of receipt of the responding party's answer or five days from the time such answer was due, whichever occurs first. The written notice of appeal shall contain the following:

- (a) A brief statement of the reason for appeal;
- (b) Any additional facts in support of the original statement.
- (c) A statement of the remedy or correction requested;
- (d) The section or sections of this Agreement, if any, relied upon or claimed to have been violated.

After such notice of appeal, the parties will arrange a conference to present evidence concerning the grievance. Both parties agree to make a bona fide effort in good faith to settle the grievance during the conference. Either side may demand that the conference be conducted within forty-eight (48) hours of the notice of appeal. In no event will it be held later than fifteen (15) days after notice of appeal, or the grieving party shall have the right to proceed forward to Step Three.

Step Three. If no resolution of the grievance is reached at a Step Two conference, either side may request the mediation of the State Conciliation Service. Such a conciliation shall be

held no later than forty-five (45) days following a Step Two conference, if one is held, or fifty (50) days following the responding party's answer required under Step One. The Conciliator shall be given copies of the contract, the grievance, responses, statement of appeal to Step Two and the positions of the parties on the issue. The parties shall have the right to present evidence in support or defense. The Conciliator may be asked to render a written opinion which shall not be binding on the parties unless otherwise agreed in writing.

6.2 Miscellaneous Provisions. Other provisions relating to grievances are:

(a) This provision shall not limit the right of any employee to present a grievance individually as provided under the Labor-Management Relations Act, provided, however, that the Union shall have the right to be notified of any such filing.

(b) Any of the periods within which any of the acts required in this Article are to be performed may be extended by written mutual consent between the Union and the Company.

(c) If any employee is discharged, he or she shall be given the opportunity to present any grievance he or she may have to his or her Shop Steward before leaving Company property.

(d) Any grievance relating to discharge, seniority or preference of employment (As provided under Article VIII, Seniority, Section 3) is waived unless presented in writing within seven (7) working days after the discharge, the denial of seniority status, or the refusal to hire under preferential employment under Article VIII, Seniority, Section 3. Any

grievance arising under Article III, Preference of Employment is waived unless presented in writing within fifteen (15) days of the Company's posting under that Article. Any other grievance shall be waived unless presented in writing within thirty (30) days after the occurrence, or after reasonable discovery.

(e) The grieving party may move forward to the next step of the grievance procedure if response by the other side is not made within the time limit set forth.

(f) The Company agrees that the authorized Union representative designated in this Agreement shall not be hindered, coerced, restricted or interfered with in the performance of his or her duties of investigating, presenting, and adjusting grievances as provided in this article.

(g) An employee who resorts to concerted activity in violation of this Agreement in order to enforce a demand for wages or working conditions waives the right to use the grievance procedure. This in no way affects the obligations of the employees or the Union contained in Article XI, No Strike/No Lockout.

6.3 Arbitration Procedures. Any dispute which has not been adjusted under the Grievance Procedure and which arises under the terms and conditions of this Agreement may be submitted to arbitration. All appeals to arbitration must be made within forty-five (45) days following the issuance of the conciliator's opinion unless the time limit is extended by mutual written agreement. In the event the parties cannot agree on an impartial arbitrator, either party may request a panel of arbitrators from

the Federal Mediation and Conciliation Service and an arbitrator shall be selected from such panel by the process of each party alternately eliminating one of the suggested names until there remains only one name on the panel.

A. At the outset of the arbitration hearing, the party appealing to arbitration shall furnish the arbitrator with copies of all documents relating to the grievance. If the parties cannot agree upon the issue to be arbitrated, the arbitrator shall determine the issue from the documents submitted. The arbitrator shall confine his or her decision to the issue or issues agreed upon or determined.

B. Either party may call such witnesses as are necessary and the arbitrator shall proceed to hear the matter and render a written opinion, which shall be final and binding upon the parties.

C. The cost of arbitration shall be borne equally by the parties.

#### ARTICLE VII

#### NOTICE TO UNION OF START OF SEASON

The Company will give the Union seventy-two (72) hours notice, if possible, of the commencement of the packinghouse operations by giving notice in writing or by telephone of the approximate starting hour of its first day's operation. If seventy-two (72) hours cannot be given, notice shall be given as soon as the Company knows the approximate starting date of its operation.

Within seventy-two (72) hours of the receipt of the above notice by the Union, the Union will notify the Company of the names, addresses, and telephone numbers of its authorized representatives and offices.

## ARTICLE VIII

### SENIORITY

8.1 How Obtained. Seniority shall be obtained on each packinghouse after employment of 30 days or 51% of the season, provided 51% of the season is less than 30 days.

8.2 By Packinghouse and Job Classification. Seniority shall be acquired only on each individual packinghouse and shall apply only to the job classification in which the employee is employed. When employees rotate or work regularly on more than one job classification, they shall be entitled to seniority on the job classifications upon which they regularly worked. Where the Company operates more than one packinghouse with overlapping seasonal operations, an employee having seniority on more than one packinghouse shall not lose his or her seniority in either so long as he or she works in the packinghouse to which he or she is assigned by the Company.

8.3 Filling of Vacancies. Certain preferences of employment in the filling of vacancies exist under the terms of this Agreement. They are, in order of preference, as follows:

(a) In the event a job classification in the Company's packinghouse is eliminated, seniority employees who were

performing such job classification at the time of its elimination shall be given preference in unfilled jobs in the packinghouse if such seniority employees are available and qualified.

(b) Experienced and qualified applicants (as defined in Article III, Preference of Employment) who are unemployed as a result of a plant closing within the immediate district shall have preference over other experienced and qualified seniority and non-seniority applicants.

(c) In the event the Company packs more than one commodity in its packinghouse, its employees having seniority in any one commodity shall be employed in any other commodity packed in said packinghouse as jobs open up in preference to workers not formerly employed by the Company if such seniority employees are available and qualified.

(d) All experienced and qualified (as defined in Article III, Preference of Employment) seniority applicants shall be given preference over non-seniority experienced and qualified applicants.

(e) All experienced and qualified (as defined in Article III, Preference of Employment) non-seniority applicants shall be given preference over seniority or non-seniority non-experienced and/or non-qualified applicants.

8.4 Voluntary Inter-Classification Transfers. Where an employee agrees in writing to transfer to another classification, he or she shall obtain seniority status in the new classification in the manner heretofore provided. He or she shall retain seniority status in his or her former classification, provided he

or she is capable of performing the job. Seniority in the former classification may be exercised in the event that within one year of the transfer he or she is laid off the job to which he or she has been transferred and the lay off is by reason of lack of seniority or elimination of the job to which he or she has been transferred.

8.5 Hirings and Layoffs. As to employees having seniority as heretofore provided, hiring and layoffs of such employees shall be on the basis of length of seniority.

8.6 Seniority Lists. The Company shall, within thirty (30) days following the close of the season, prepare a seniority list and mail a copy to the Union at 471 Main Street, El Centro, California. On the first operation day of the next season, Company shall post a copy of the seniority list on the bulletin board. Seniority lists on each commodity upon which seniority can be obtained shall include the employee's name, classification, plant seniority date, and classification seniority date for each packinghouse.

8.7 Notice of Work Commencement. The employees shall, between close of season and two (2) weeks prior to the commencement of the season in which he or she claims seniority, notify the Company in writing of his or her intention to assert his or her seniority. The Company shall acknowledge such notice and notify the employee in writing of the approximate starting time of the next season at his or her last known address. The employee shall report and be available for work at such time unless he or she has obtained a written authorization from the

Company extending the time for reporting. There need be no more than five (5) days between the date of notification and the date for reporting. Notification of the approximate date of starting operations shall not constitute a call.

8.8 Procedure for Reporting Late to Work. Nothing in this Article shall be interpreted to deprive an employee of seniority because employee arrives later than the date for reporting if employee arrives within seven (7) days after the packinghouse has commenced packing operations and provided the employee's failure to arrive on time was because of employment in melon packinghouses in another district where the employee has seniority or would have it by the end of the season, and the employee brings a certificate from the other employer(s) stating that the employee was so employed and that the employee's services were required. The employee must report within three (3) days after ending such employment. In the event of any delay in reporting for work for the reason herein set forth, the employee shall give notice to the Company in writing of such delay, which notice shall be in the hands of the Company at least three (3) days prior to the date upon which the employee was to report for work, and in such notice the employee shall also advise the Company of the date on which the employee will report. It is also understood that the Company will provide such certificate, upon request, to protect the employee's seniority in another area.

8.9 Seniority by Commodity. Where the Company maintains separate crews in different commodities covered by this seniority

provision, employees shall obtain seniority in only one commodity, except that seniority may be obtained in two or more commodities where the commodities are worked in separate or overlapping seasons and the employee has obtained seniority in each commodity in a particular classification and has otherwise complied with the terms of this provision.

8.10 Maintenance of Seniority by Commodity. If required by the Company, an employee, in order to maintain seniority in more than one commodity where there is an overlap of seasons, shall shift to the commodity in which the season is just beginning and to the classification in which he or she claims seniority in such type of commodity or he or she shall lose his or her seniority in such commodity.

8.11 Loss of Seniority. Whatever seniority an employee has is lost if he or she:

- (a) Is discharged for a just cause;
- (b) Voluntarily leaves the employment of the Company without written leave of absence; or
- (c) Fails to give notice and report as required under this Article.

8.12 Additional Facilities Within District. Where the Company is packing a commodity that is covered by the provisions of this contract and the Company opens an additional packinghouse in the same district to pack that commodity, seniority employees shall be offered employment on the packinghouse of their choice within a period of ten (10) days after the additional packinghouse is opened.

Seniority employees who choose to remain at the original packinghouse shall have the right for two years after the opening of the additional packinghouse to transfer to the new packinghouse under the following conditions:

- (1) A sustained reduction in the available work due to transfer of volume to the new packinghouse. This option shall be exercised only once.
- (2) Upon closing of the original packinghouse.

The districts referred to herein are:

1. Yuma Valley, Arizona;
2. Imperial Valley, California;
3. Blythe, California;
4. Parker, Arizona;
5. Bakersfield, California;
6. Mendota, Firebaugh and Los Banos, California;
7. Turlock and Huron, California;
8. Sacramento Valley, California; and
9. Needles, California.

#### ARTICLE IX

#### LEAVES OF ABSENCE

9.1 Duration of Leaves Authorized. Leaves of absence without pay not to exceed two (2) months may be granted by applying to and receiving written approval from the Company. Upon a satisfactory showing of necessity, leaves of absence may be extended by applying to and receiving written approval from the Company.

9.2 Procedure for Leaves. Leaves of absence not in excess of eight (8) days may be either in writing or oral at the option of the Company. All leaves of absence in excess of eight (8) days and all extensions of leaves of absence in excess of eight (8) days must be in writing on forms furnished by the Company and signed by the Shop Steward or other Union representative, the Company representative, and the employee requesting such leave, in triplicate, one copy for the employee, one for the Union and one for the Company.

9.3 Limitations on Leaves. Leaves of absence shall not be granted for employees to work elsewhere or to venture into business except that the Company may release employees for twenty-four (24) hours at a time to work at another packinghouse for a total period not to exceed four (4) working days. This provision shall not apply to employees who teach or attend school during normal school terms.

9.4 Sick Leave. Leaves of absence shall be granted or extended upon illness of an employee substantiated by a doctor's certificate or other adequate proof of illness.

9.5 Leaves for Union Business. An employee's appointment or election to conduct Union business shall be deemed good and sufficient reason for obtaining a leave of absence. Such employee shall be given, upon written notice to the Company, a leave of absence not to exceed one (1) year. Such leaves of absence shall be extended yearly thereafter upon written request, provided the employee shall be continuously conducting Union business. Not more than three (3) employees shall be given

leaves of absence under this provision unless authorized in writing by the Company.

9.6 Effect of Leaves on Seniority. Seniority shall accumulate during leaves of absence. Upon return within the period of the leave of absence, the employee shall be reinstated without loss of seniority and at the existing wage scale.

#### ARTICLE X

##### EMPLOYEES IN ARMED FORCES

Employees who have joined and/or been drafted into the Armed Forces shall be entitled to return to their former position or a position of like seniority, status and pay. Seniority shall be subject and subordinate to the provisions of Section 308 of the Selective Service and Training Act. Application for such re-employment shall be made within six months of discharge or within such longer period as good cause may warrant.

#### ARTICLE XI

##### NO-STRIKE/NO-LOCKOUT

11.1 No-Strikes. The Union and the employees agree that there will be no strikes, slowdowns, boycotts, work stoppages, job or economic action, or other interruption of work during the term of this Agreement. The Union and the employees reaffirm that Article VI, Grievance and Arbitration Procedure, is the sole and exclusive manner of addressing disputes which arise under this Agreement.

11.2 No-Lockouts. The Company agrees that there shall be no lockouts during the term of this Agreement.

11.3 Prohibition on Union Sanctioning of Employee Action. It is further agreed that the Union and the employees will not sanction, recognize, support, or participate in any strike, slowdown, boycott, work stoppage, job or economic action, or other interruption of work of any union or group of employees not a party to or covered by this Agreement at Company premises, unless the requirements of paragraph 4 are met.

11.4 Procedure on Union Sanctioning; Freedom of Employee's Choice. An employee's refusal to cross or work behind a legitimate, bona fide, lawful primary picket line sanctioned by the International Office of the United Food and Commercial Workers AFL-CIO shall not be deemed a violation of this Agreement if both the following conditions are met seven (7) days prior to such refusal:

- (a) Written notice of the sanction;
- (b) Written notice of the applicability of this paragraph to the labor dispute that has been sanctioned.

The Union shall not command, order or direct employees to exercise their rights under this paragraph but shall have the right to advise employees whether the strike or picket line is sanctioned and the notice provisions of this paragraph are complied with, as to the facts of the particular labor dispute and as to the employee's rights under this paragraph. Neither shall the Company command, order or direct employees to exercise their rights under this paragraph. Each individual employee

shall have the right to make his or her free choice to cross or not cross any sanctioned picket line as defined in this paragraph to the extent provided herein and subject to the conditions above.

11.5 Right to Discipline. The employees, individual and collectively through the Union, agree that the Company has the right to discipline any employee engaging in conduct which violates these provisions. Such discipline includes, but it is not limited to, loss of seniority and/or discharge.

11.6 Obligations of Shop Stewards. Shop Stewards employed by the Company have an affirmative duty to uphold and support the terms of this Agreement, including the obligation to use their best efforts to discourage violations of this Article. Best efforts shall include an obligation to advise the crew of the Union's position that all disputes are to be settled through the Grievance and Arbitration procedure and that all Union members are expected to abide by the No-Strike Clause. Best efforts do not require the Stewards to subject themselves to physical abuse of any kind or verbal threats of physical abuse. Failure of the stewards to make best efforts may result in individual disciplinary action.

11.7 Remedies in Event of Strike or Lockout. A strike or lockout during the term of this Agreement shall be deemed a breach thereof and either party may seek such legal relief as may be available to it without first invoking the grievance or arbitration procedure herein set forth.

11.8 Exclusive Remedies for Disputes and Grievances. It is understood that all disputes and grievances hereunder shall be settled under the grievance procedure set forth herein.

## ARTICLE XII

### RIGHTS OF MANAGEMENT

12.1 Right to Direct Work Force. The Company shall have the right to direct the work force, to direct the accomplishment of any work on the packinghouse, to determine the quality of the pack and whether or not the crew shall be on piece or hourly rates, and to determine the number of employees assigned to any given job, subject to appeal to the grievance procedure where undue hardship or reduction in earnings to employees result and where no valid economic reason for the change exists.

12.2 Company Rules and Regulations. Employees shall comply with all lawful rules and orders of the Company not inconsistent with this Agreement and agree to work for the Company in the capacity retained.

12.3 Discipline of Employees for Cause. The Company shall have the right to discipline or discharge any employee for a just cause.

## ARTICLE XIII

### SAFETY

13.1 Compliance with Governmental Laws and Regulations. The Company shall abide by any and all federal, state or local laws or regulations relating to sanitation, health and safety.

Failure to comply with any such law, ordinance or regulation shall not be deemed a breach of this contract until the same has been called to the attention of the Company and such breach has not been remedied within a reasonable time thereafter.

13.2 Hazardous or Unsafe Conditions. No employee shall be required to work where hazardous or unsafe conditions prevail.

13.3 Provision of Fans and/or Coolers. The Company agrees to provide adequate fans and/or evaporative coolers in the major work areas of the packinghouse where excessively warm temperatures prevail.

13.4 Safety Responsibility. The Company, Union and employees agree that safety in the work place is of paramount importance. To that end, the Company, with the concurrence of the Union, shall prepare and post safety rules to be followed by all packinghouse personnel. Employees shall be instructed on the proper and safe operation of packinghouse machinery.

It is further agreed that intoxication and/or the use of intoxicants during working hours affects the safety of all concerned and will not be tolerated by either the Company or the Union. Discipline and/or discharge for intoxication or use of intoxicants shall be deemed to be for just cause.

#### ARTICLE XIV

#### WORKING CONDITIONS

14.1 Time Clocks. There will be a timepiece placed in a conspicuous place in each packinghouse.

14.2 Bulletin Boards. The Company shall make available for the Union's use a bulletin board on each packinghouse. Said bulletin board shall be used by the Union exclusively for the purpose of posting notices of official Union business. The Union shall post the schedule of initiation fees and periodic dues on the Company's bulletin board.

14.3 Accounting for Piece Rate Earnings. When the Company operates on piece rates, it shall maintain and post, or give to the Shop Steward each day, a uniform pack-out record of each packer and the average pack, together with any hourly time (including standby and call time) paid for the previous day's operation.

14.4 Limitation on Work Performed by Supervisors. The foreman and the packer boss shall not perform any work normally done by the crew except in cases of emergency.

14.5 Special Equipment. Employees whose work is such that the use of special equipment has been customary and necessary shall be furnished with such equipment free of charge, and it shall be returned to the Company at the termination of employment in good condition, reasonable wear and tear excepted.

14.6 Work Standards. The Union shall hold its members to satisfactory work to the limit of reasonable possibility.

14.7 Meal Periods. No employee, except as provided in the following paragraph, shall be required to work in excess of four (4) hours consecutively without a meal period of one (1) straight hour, unless otherwise agreed upon by the Company and employees. The press or sealer shall be used as the basis for determining

the time periods provided in this paragraph. After the evening meal, no employee shall be required to work more than three (3) consecutive hours without a meal period unless otherwise agreed upon by the Company and the employees, but in no case more than four (4) hours. Duration of meal periods after 6:00 p.m. shall be adjusted by mutual consent of the Company and the employees.

14.8 Adjustment of Meal Periods. Employees whose duties require their presence on the job before or after regular crew hours shall adjust their meal periods by mutual consent of the employee and the Company.

14.9 Piece and Hourly Rates of Pay. All employees covered under the terms of this contract, except employees engaged in maintenance and repair work, or other work not directly connected with packing operations, shall be paid on a piece rate basis when piece rates are in effect on a packinghouse. When hourly rates are in effect, all employees, with the exception of the lidder and the loader, shall be paid hourly rates, and it shall be optional with the Company whether it will pay the lidder and the loader on the hourly rate or the piece rate. At all times it shall be the Company's option as to whether or not the crew shall be on piece or hourly rate.

14.10 Salaried Employees. Any wage scale now in effect or hereafter becoming effective shall not apply to regular employees covered by this contract who are paid on a weekly, semi-monthly, or monthly basis, unless such employees shall desire to come under such scale and be paid in accordance therewith.

14.11 Election Day Schedule. In order to provide two consecutive hours for employees to vote on State and Federal election days, the Company shall call its crew at 9:00 a.m., or any time thereafter, or shall release its crew between the hours of 5:00 p.m. and 7:00 p.m.

14.12 Rest Periods. Employees shall have a five (5) minute rest period for each hour worked, taken at the end of each hour, five (5) minutes at the end of the first and third hours and ten (10) minutes at the end of the second. No break shall be taken when the crew breaks for a meal period or at the end of the shift. The above rest periods shall not apply to receivers, floor help, ice men, and ice blowers, provided, however, they shall not be called upon to perform work outside of their regular duties during a rest period.

14.13 Regular Crew Release Schedule. Employees who are members of regular crews shall not be released earlier than the regular crew. Except as hereinabove specifically set forth, this clause shall in no way infringe on the Rights of Management as set forth in Article XII.

14.14 Mechanical Sizers. Packers who work on packinghouses using a mechanical sizer shall not be required to turn stem ends down on the bottom layer or to size melons.

#### ARTICLE XV

#### HOURS AND OVERTIME

15.1 Normal Work Day and Week. All work performed by the employees before 7:00 a.m. or after 5:00 p.m., or after eight (8)

hours from call, excluding regular meal periods, shall be at the rate of time-and-one-half, providing, however, crew members whose special duties require their reporting to the packinghouse prior to 7:00 a.m. shall receive straight time until they have worked eight (8) hours and any time in excess of eight (8) hours shall be paid at time-and-one-half. All work performed in excess of forty (40) straight time hours in any one week shall be paid at time-and-one-half.

For asparagus operations, a day crew (commences work between 6:00 a.m. and 5:00 p.m.) shall be paid overtime in accordance with the above provisions unless work begins between 7:00 a.m. and 9:00 a.m., in which case overtime shall be paid for work performed after 6:00 p.m. rather than 5:00 p.m. A night crew (commences work between 6:00 p.m. and 5:00 a.m.) shall be paid overtime in accordance with the above provisions except that overtime is paid for work performed after 4:00 a.m. if the night crew does not work continuously after commencing work between 6:00 p.m. and 8:00 p.m., excluding meal periods. A night shift differential of ten cents (\$.10) per hour, or equivalent for piece-rates, shall be paid. When both day and night crews are used, the day crew shall be provided at least eight (8) hours of work, and the night crew shall be provided at least five (5) hours of work, in any twenty-four (24) hour period.

15.2 Release Schedule. Where the employees are required to work after 6:00 p.m., they shall not be released later than 5:00 p.m. for the evening meal period. Where the employees work later than 5:00 p.m., they shall not be required to work after 6:00 p.m.

For asparagus operations, employees who are required to work after 7:00 p.m. shall be related not later than 6:00 p.m. for the evening meal period. Where the employees work later than 6:00 p.m., they shall not be required to work after 7:00 p.m.

In the event of weather conditions which delay the harvesting process, the foregoing requirements would be waived.

15.3 Pay for Work Performed on Holidays. All work done on Sundays, January 1st, February 22, May 30th, July 4th Labor Day, November 11th, Thanksgiving Day and December 25th, or such other day as may be proclaimed a holiday in its stead (or if any such day shall fall on a Sunday, the following Monday) shall be paid at time-and-one-half.

15.4 Labor Day Option. Work may be performed on Labor Day with the mutual consent of the Company and the Union. The Shop Steward may act for the Union in giving its consent.

15.5 Minimum Daily Guarantees. (a) Employees shall be paid from the time called until released. Each day an employee is required to report for work and does report, but is not put to work, or is released with less than two (2) hours, said employee shall be paid for at least two (2) hours at the employee's regular hourly rate of pay.

If an employee is required to report for work and is put to work, the employee shall receive a minimum of four (4) hours work or four (4) hours pay at the employee's regular hourly rate of pay, except that when the Company, employees and Union agree that the usual or scheduled day's work is four (4) hours or less, the employee shall be paid for not less than two (2) hours at the

employee's regular hourly rate of pay. The Shop Steward may act upon the behalf of the Union in giving the foregoing consent.

The foregoing reporting time pay provisions are not applicable when:

(1) Operations cannot commence or continue due to threats to employees or property, or when recommended by civil authorities; or

(2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities sewer system; or

(3) The interruption of work is caused by an Act of God or other cause not within the Company's control.

If an employee is required to work a split shift in any one day and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay.

Any call may be rescinded by the Company by notification to the employee at least one (1) hour prior to the time for reporting for work.

(b) Where a crew is on piece rate and less than the required call time is furnished, the employees shall be paid their piece rate for the period worked, and the remainder of the required call time shall be at the hourly rate.

(c) Return to work after a meal period shall not constitute a call unless the meal period exceeds one (1) hour.

(d) Any time a crew is released it must be released for a minimum of one (1) hour.

(e) When the crew is released for the remainder of the day and no definite time is fixed by the Company, but the crew is required to call in to ascertain a starting time, the crew shall be given a full hour's period to call in. Starting time to be not less than one (1) hour after the final time designated to call in.

15.6 Standby Time. (a) In the case of standby time, in melon operations, when employees are on piece work, the sealing machine or press shall be used as the basis for maintaining such records. The hourly rate shall be paid to employees, other than melon packers, for standby. The Company shall assign an employee whose regular duties allow him or her to observe the sealing machine or press at all times to maintain start-stop records.

Unless the total period of standby time exceeds thirty (30) minutes accumulated over the shift, there shall be no pay for standby time. Employees shall be paid all standby time in excess of thirty (30) minutes per shift.

(b) Melon packer shall be paid for standby at the rate of the equivalent of forty (40) full wood crates per hour.

(c) Melon packers in mechanical presized operations shall be paid standby time whenever the average packer fails to average one hundred forty (140) cartons per hour computed over the shift in order to compensate for intermittent stops.

#### ARTICLE XVI

#### NORMAL WORK WEEK

The Company recognizes the need to provide a reasonable work week and will work with the Union to attempt to regulate and adjust the crew size toward the end of providing a minimum of thirty-five (35) hours work for its regular employees working in the packing of cantaloupes during each payroll week. In mixed melons, the number of hours shall be thirty (30). An employee who works each day the Company operates during the payroll week shall be considered a regular employee.

The foregoing provisions do not constitute a guarantee, but are intended to provide adequate work opportunities for the employees.

#### ARTICLE XVII

#### COMBINATION JOBS

When an employee performs a combination job, the wage rate shall be determined by mutual agreement between the Union and the Company. A combination job is one in which the employee is required to perform the work requirements of two or more job classifications resulting in a material increase in the work load. When an employee performs work in one hour in two or more classifications, but the work load is not materially increased over the work load of full time work on a standard job in one of the classifications, then he or she shall receive, for each such hour worked, the highest of the rates of pay in the classifications worked during such hour. When an employee performs work during a day in more than one classification, but the work of more than one classification is not comingled in any

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one hour, he or she shall receive for each hour the rate of pay specified for the job classification he or she is performing during that hour.

## ARTICLE XVIII

### WAGES

18.1 Rates of Pay. The wages to be paid in the packinghouse(s) covered by this Agreement shall be set forth in Exhibit A, Wage and Working Condition Addendum, attached hereto. If an employee, not a part of a group of employees that are paid as a crew, is receiving a rate of pay above scale and terminates his or her employment or is replaced, his or her replacement may be paid Union scale. If a group of employees are paid as a crew and are receiving more than Union scale and no member of that crew returns to work for the Company, then the new crew may be paid Union scale. The previous sentence shall not apply to a situation where because of unusual requirements or working conditions, an above scale rate has been negotiated between the Union and the Company or between the employees and the Company and which was approved by the Union. Future rates of pay higher than the contract rates herein provided must be approved by the Company, the employee and the Union representative.

18.2 Failure to Utilize Grievance Procedure. In the event that an employee fails to avail himself or herself of the Grievance and Arbitration procedures set forth in this Agreement

and resorts to a work stoppage, any rate of pay, fringe benefit, or working condition resulting from such work stoppage shall not be covered by the rate of pay clause of this contract.

18.3 Payday. Payday shall be twelve o'clock noon (12:00 noon) on any specified day other than Saturday or Sunday.

18.4 Pay Upon Termination. An employee who either quits or is laid off for the balance of the season shall have his or her paycheck made available to him or her at the packinghouse within twenty-four (24) hours after he or she quits or is laid off.

18.5 Pension Credits Accounting Upon Termination. When an employee is discharged or quits the Company will provide, along with his or her last paycheck, an itemization showing the number of hours for which pension credits were paid. This section is complied with if this information is provided more frequently.

18.6 Increased Load Height. In the event the Company is required to load carriers higher than the level previously established, the Company will meet with the Union to determine whether or not the employees' duties are thereby substantially increased, and if so, what if any, premium should be paid therefore. If the Company and the Union cannot agree upon the rate, the issues will be submitted to arbitration under Article I, Recognition, Section 4 (New or Experimental Operations).

#### ARTICLE XIX

#### LIFE, HEALTH AND WELFARE INSURANCE

19.1 Company Maintained Program; Eligibility; Employee Maintenance of Programs. (a) The Company will provide a life, health, and welfare insurance policy to each eligible employee covered by this Agreement providing benefits, terms and conditions as set forth in Paragraphs (b) or (c) hereof. The Company will pay the insurance premium for each month in which the employee qualifies. The Company will be responsible for the first 5.3% of any increase during each year of this Agreement. Employees will be responsible for all additional increases.

(b) The Company shall provide eligible melon and onion packinghouse employees with benefits comparable to Plan 33B of the Western Growers Assurance Trust Fund modified to include the following:

- (1) Increase life insurance benefit to ten thousand (\$10,000)/twenty thousand dollars (\$20,000 accidental);
- (2) Death benefit to be paid immediately upon verification of death; and
- (3) Include Widowed Spouses and Orphans Benefit comparable to that provided by Western Growers Assurance Trust Fund.

A melon or onion packinghouse employee shall have completed all qualifications for insurance coverage when he or she has worked sixty (60) hours in the prior month for the Company paying the premium and is not disabled on the commencement of the first day of the first month in which he or she is to be insured.

(c) The company shall provide eligible asparagus packinghouse employees with benefits comparable to the Asparagus Workers Plan of the Western Growers Assurance Trust Fund.

An asparagus packinghouse employee shall have completed all qualifications for insurance coverage when he or she has worked seventy (70) hours in the prior month for the Company paying the premium and is not disabled on the commencement of the first day of the first month in which he or she is to be insured.

(d) An employee who immediately prior to qualification for a plan provided herein was covered by Plan 34 under the Vacuum Cooler Agreement may continue that Plan by the self-payment of the difference between the monthly billed rate for that Plan and the plan provided herein by making payments as set forth in Section (f) hereof. The Company shall continue to report and make payments on behalf of the employee under the plan provided herein to the Administrator of the Plan. The employee shall, under the provisions and restrictions of employee self-payments, make payments to the Administrator on the prescribed reporting form and in accordance with the conditions for such payments as set forth on the form.

(e) An employee covered by a plan comparable to Plan 34 under the Vacuum Cooler Agreement may continue the level of such benefits under the plan provided herein of the Western Growers Assurance Trust by making payments as set forth in Section (d) above and Section (f) hereof. A continuation under this Section shall be subject to the Notification Clause on the reporting form which sets forth the master policy provision excluding medical

expense payments for any condition for which treatment was received or expense incurred within ninety (90) days of the effective date of the employee's insurance and will continue until the employee or eligible dependent has received no medical treatment or services for a ninety (90) day period or has been insured for twelve (12) consecutive months.

(f) Right of employee to pay premium when not employed by Company under this Contract: After termination of employment for the season, the employee may pay his or her own insurance premium, at the group rate, for a period not to exceed 11 consecutive months. The first payment of premium by the employee must be paid by the 10th day of the first month following termination of employment for the season, unless the premium for that month has been paid by the Company, in which case the first payment by the employee must be made by the 10th day of the next consecutive month. Thereafter, each payment must be made consecutively by the 10th of the month, provided the Company is not obligated to pay insurance for that month. The employee has the option to pay the premium for either life insurance only, or the complete coverage including life. This option is to be made by the employee at the start of the period of self-payment of premium and is binding thereafter.

(g) Any employee who retires from the vegetable industry and who was covered under the terms and conditions of this Agreement, who is not self-employed or employed by any other person, firm, corporation or company and who is receiving retirement benefits from the Western Growers Pension Plan shall

be entitled during the life of this Agreement to pay his or her own insurance premium, at the then current group rate. The first payment of premium by the employee must be paid by the 10th day of the first month following termination of employment under this Agreement for which the Company does not pay the premium. The initial payment must be on the prescribed reporting form and in accordance with the conditions for such payments set forth on the form. Thereafter, each payment must be made consecutively by the 10th of each month with no break in payments.

19.2 Program Information to Employees. The Company will mail to eligible employees certificates of insurance and explanation of the health and welfare plan.

#### ARTICLE XX

#### UNEMPLOYMENT INSURANCE

The Company will comply with the provisions of the California Unemployment Insurance Act.

#### ARTICLE XXI

#### PENSION

21.1 Benefits (Ending December 31, 1985). The Company shall maintain in effect until December 31, 1985, the Western Growers Pension Plan with benefits now in effect, which provide for benefits of twenty-eight dollars (\$28.00) per month (eight dollars (\$8.00) for asparagus operations) for each year of credited service accrued under the Plan through December 31, 1985, and including the Automation-Adjusted Retirement, Death,

and Widows and Orphans benefits (melon and onion operations only) provided for under this Agreement.

21.2 Benefits (Commencing January 1, 1986). Commencing January 1, 1986, the Company shall maintain in effect during the remaining term of this Agreement the Western Growers Pension Plan A, as amended January 1, 1986, providing benefits of twenty-eight dollars (\$28.00) per month (eight dollars (\$8.00) for asparagus operations) for each year of credited service accrued under the Plan through December 31, 1985, and including the Automation-Adjusted Retirement, Death, and Widows and Orphans benefits (melon and onion operations only) provided for under this Agreement.

Effective January 1, 1986, benefits will be accrued at a percentage of contribution established by the Trustees under the terms of Plan A, as amended. In addition, the Company agrees to contribute the sums determined by the Trustees to provide the Automation-Adjusted Retirement, Death, and Widows and Orphans benefits.

21.3 Disability Benefits. An employee may retire with benefits based on continuous service if he or she has 10 or more years of unbroken service and becomes totally disabled from any type of gainful employment. The Workmen's Compensation set-off in the original plan shall be continued.

21.4 Maintenance of Employee Benefit Upon Company Failure to Contribute. No employee shall suffer a break in service because any Company who is a party to this Agreement fails to pay the

required contribution on behalf of an eligible employee. However, if no contributions are made, no benefits will accrue.

21.5 Company Obligation to Pay Costs for Collection of Contributions. A Company which fails to make the required pension contribution on behalf of an eligible employee shall pay all reasonable costs of collection incurred by the employee and/or Union.

21.6 Death Benefit. The Company shall contribute to the Western Growers Pension Trust an amount determined by the actuary to provide a death benefit payable in the event of death before a fully vested participant is eligible for early retirement.

In lieu of the current benefit of 30% of contributions up to \$1,000, the benefit would be as follows:

(1) If there is a surviving spouse

The benefit would have a value equal to the greater of:

- (a) 30% of contribution without limit, or
- (b) 1/2 of the actuarial value of the accrued (earned) pension of the participant

The benefit would be paid in the form of a pension payable for life unless the monthly amount would be less than \$10.00 in which event it would be paid in a lump sum.

21.7 Limit on Contributions. The Company's obligation to make contributions is limited to the first one hundred and seventy-three (173) hours of work per employee, per month (melon and onion operations only).

ARTICLE XXII

AUTOMATION-ADJUSTED RETIREMENT BENEFIT

A melon or onion packinghouse employee who has maintained his or her seniority for at least three (3) years with the Company and the Company certifies that such employee's employment has been eliminated by reason of a change in operations due to mechanization as set forth in Article I, Section 4, shall be entitled to an adjustment in normal age of retirement sixty-five (65) as follows:

22.1 Eligibility. The employee must have worked in the year for which certification was issued, or in any subsequent year, 50% or less of the average number of hours worked in the industry by said employee during the three (3) calendar years prior to the year of certification.

An Employee whose work during the three (3) calendar years was only for the Company issuing the certificate shall be entitled to commence receiving benefits for which he or she is otherwise entitled upon application to Western Growers Pension Trust and shall not be required to wait until the end of that calendar year. Should such employee subsequently resume employment in the industry and work sufficient hours so as to no longer be eligible for this benefit, any excess payments shall be withheld from benefits he or she subsequently becomes entitled to.

22.2 Vesting Requirements. The employee must have ten (10) years of vesting service in the Western Growers Pension Trust at the time his or her certification is issued.

22.3 Service Hours Requirement. The employee must have five thousand (5,000) future service hours in the Western Growers Pension Trust at the time certification is issued.

22.4 Retirement Age Adjustment. The employee's normal retirement age sixty-five (65) shall be reduced by one month for each one hundred fifty (150) hours of future benefit service in the Western Growers Pension Trust as of the time the certification is issued.

22.5 Retirement Age Adjustment Requirement. An employee who qualifies for this benefit shall have his or her reduction in his or her normal retirement age reduced one (1) year for each year in which he or she accrues future service hours equal to seventy-five percent (75%) or more of the hours set forth in Section 22.1 above subsequent to the date that the employee's employment falls to fifty percent (50%) or less as provided in Section 22.1 above.

22.6 Employment After Commencement of Benefits. If an employee is receiving benefits under these provisions, he or she will lose one month of pension payment for each month he or she works after the commencement of benefit payments.

22.7 Minimum Retirement Age. In any event, the employee's normal retirement age shall not be reduced before age fifty-five (55) by reason of this Article.

The actuary will determine the required payment per hour per eligible employee necessary to fund the Pension Plan with

benefits as modified above. The amount so determined shall be paid on all hours worked for the Company by employees covered by this Agreement.

#### ARTICLE XXIII

##### DISCHARGE AND WARNING NOTICES

The Company will not discharge or suspend any employee without just cause, but in respect to discharge, shall give at least one warning to the employee before such action is taken, except for flagrant insubordination, or for intoxication and/or the use of intoxicants during working hours.

#### ARTICLE XXIV

##### ALCOHOL/DRUG USE

The Company and the Union agree that alcohol and/or drug intoxication affects the safety of everyone concerned and recognize that all parties to this Agreement have a responsibility to both maintain and insure a safe and drug and/or alcohol free environment for all employees. Therefore, the Company and Union have agreed to create a Quality Circle to protect employees and management from both drug and alcohol abuse at the workplace.

The Quality Circle shall consist of not less than two (2) employees and two (2) members of management. Either party may at any time inform the other of a need to correct a drug or alcohol problem. The Quality Circle will, if at all possible, attempt to resolve the immediate problem. Such resolution may include suspension for just cause or time off for medical attention. If

in the event the Quality Circle is unsuccessful in correcting said problem, the Company may take whatever actions it may deem necessary to correct such drug or alcohol problem.

The purpose of this Agreement is to afford the employees and management the opportunity to correct drug and alcohol problems.

Any employee taking medication pursuant to a prescription (that has labeled warnings and instructions) is required to advise his or her immediate supervisor.

#### ARTICLE XXV

#### FUNERAL LEAVE

A seniority employee shall be granted, upon request, funeral leave for a period of up to three (3) days to arrange for or attend the funeral of the employee's spouse, children, mother, father, brother, or sister. The Company agrees to pay the employee's straight time hourly rate for any time lost during any of the days up to a maximum of eight (8) hours for each such day. Any hours paid under this provision shall not be considered as hours worked for any other provision of this Agreement. A maximum of five (5) employees may invoke this provision at any one time.

#### ARTICLE XXVI

#### DURATION OF AGREEMENT

This Agreement shall be in effect beginning March 16, 1987. It shall remain in effect for five years from such date and shall

thereafter be automatically renewed from year to year, except as hereinafter set forth.

(a) On or before January 15, 1992, or on or before January 15 of any year thereafter, either party may give to the other a written notice of termination, whereupon this Agreement shall terminate on the following March 15.

(b) On or before January 15, 1992, or before January 15 of any year thereafter, either party may give to the other a written notice of request for modification, or alteration or amendment to this Agreement. When such notice is given, the party giving the notice shall specify therein the particular modification, or alteration of, or amendment to the contract desired. After such notice, it is the duty of the parties on or after January 15 to bargain for the purposes of agreeing upon such modification, alterations or amendments. If this form of notice is given, this Agreement shall remain in effect for one additional year, subject to whatever changes are agreed to by the parties.

(c) The notices provided in (a) and (b) above may be given by either of the parties of this Agreement, or by the duly authorized representative of either party.

#### 26.2. Reopening of Agreement

(a) On or before January 15, 1990, or on or before January 15 of any year thereafter, either party may give notice to the other that it intends to seek modification of the wages and economic working conditions (excluding fringe benefits) applicable to the cantaloupe packinghouse operations.

(b) On or before June 15, 1988, or on or before June 15 of any year thereafter, either party may give notice to the other that it intends to seek modification of the wages and economic working conditions (excluding fringe benefits) applicable to the honeydew/mixed melon packinghouse operation.

(c) On or before September 15, 1988, or on or before September 15 of any year thereafter, either party may give notice to the other that it intends to seek modification of the wages and economic working conditions (excluding fringe benefits) applicable to the asparagus and/or onion packinghouse operation(s).

### 26.3 Reopener Provisions

The following provisions are applicable to any request for modification under Section 26.2, Reopening of Agreement:

(a) The party requesting the reopener shall detail the specific modifications sought by that party at the time any notice to reopen is made.

(b) The parties shall meet and use their best efforts to reach a resolution on the issues raised. If no resolution is reached within sixty (60) days of the request to reopen, the parties shall submit any unresolved issues to binding arbitration.

(c) An arbitrator shall be selected in any of the following manners:

- Mutual agreement by the parties;
- The request for a list of candidates from the Federal Mediation and Conciliation Service, with each

party alternately eliminating candidates until a single name remains. A coin toss shall determine which party shall begin the elimination process.

(d) The party seeking modification shall have the burden of proof in any arbitration proceeding. The parties agree that any or all of the following factors may be used in support or in opposition to the modifications sought.

- The relevant Department of Labor Consumer Price Index

- A comparison of the wages and economic working conditions paid by the Company and its regional competitors;

- Facts of sustained economic disadvantage suffered by either party.

- Any major technological change or method of operations introduced by the Company in the subject operation or the movement of all or part of the subject operation to field-packing.

(e) The parties agree that they shall use their best efforts to aid the arbitrator in reaching a decision as soon as possible. Any decision of the arbitrator shall be applied retroactively to the beginning of the current season. If the arbitrator rules in favor of reductions to the current levels, the amounts shall be deducted from the employees remaining seasonal wage in a manner to be determined by the arbitrator. Any increases shall be satisfied by payments made in accordance with the arbitrator's ruling.

(e) The parties recognize and agree that Article XI, No Strike/No Lockout shall remain fully applicable throughout the period of negotiations and/or the arbitration process.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this \_\_\_\_ day of \_\_\_\_\_, 1988.

ABATTI PRODUCE, INC.

FRESH FRUIT AND VEGETABLE  
WORKERS, LOCAL 78-B,  
AFL - CIO AND CLC:

By \_\_\_\_\_  
Ben Abatti

By \_\_\_\_\_  
Michael Lyons

\_\_\_\_\_  
Ronald H. Barsamian

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT A

WAGE AND WORKING CONDITION ADDENDUM

CANTALOUPE PACKINGHOUSE

<u>Job Classification</u>	<u>Average Packer/ Piece Rate</u>	<u>Hourly/ Standby</u>
Packer	\$.1472/pc	[per contract Section 15.6(c)]
Sorter	.0671/apr	\$10.11
Receiver	.0609	8.77
Dumper	.0641	8.77
Sealer	.0609	8.77
Palletizer [Red Circle]	.0879	9.30
Mechanic [Red Circle]		15.00
Shearboard [Red Circle]	.0987	10.11
Misc. Floor Help	.0585	8.62
Dock Crew	.10/pc(collectively)	15.47 (Indiv.)

Dock Crew shall be responsible for all dock and loading as per past practice.

HONEYDEW/MIXED MELONS

<u>Job Classification</u>	<u>Rate</u>
Packer	\$.1111/pc
Sorter	7.96/hr.
Bin Person	7.63
Sealer Mechanic	7.91
Set-Off	10.24
Misc. Floor Help	7.55
Forklift	7.76
Forklift Loader [Red-Circle]	13.00
Checker	7.73

ONION PACKINGHOUSE

<u>Job Classification</u>	<u>Rate</u>
Sorter	\$ 6.50/hr.
Sacker	6.60
Dumper	6.75
Forklift Loader	7.65
Maintenance	7.15
Forklift	7.15

ASPARAGUS PACKINGHOUSE

<u>Job Classification</u>	<u>Rate</u>
Packer	\$.47/pc [\$6.42/hr.]
Sorter	\$ 6.24/hr
Loader	7.15
Miscellaneous, Stampers	6.24
Forklift Op.	6.95

"Red Circle" rates are personalized rates paid to particular individuals working at the time of execution of the Agreement. If such individuals are replaced during the term of this Agreement, the Company and Union shall meet to determine the new applicable rate pursuant to Article I, Recognition, Section 1.4, New or Experimental Operations.