

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**L.E. COOKE CO.**

**AND**

**THE UNITED FARM WORKERS OF AMERICA  
AFL-CIO**

**[ MARCH 19, 2002 - OCTOBER 31, 2004 ]**

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**ATTACHMENTS:**

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**ARTICLE I**  
**RECOGNITION**

**Section 1.1 Parties:** This Collective Bargaining Agreement is by and between L. E. Cooke Co. (hereinafter the "Company") and The United Farm Workers of America, AFL-CIO (hereinafter the "Union.")

**Section 1.2 Certification:** The Company recognizes the Union as the bargaining representative of the Company's agricultural employees pursuant to ALRB Case No. 97-RC-1-VI; however, notwithstanding ALRB Certification, the Company and the Union agree that the terms of this Agreement shall not apply to, nor be effective upon supervisory employees, clerical, sales, and confidential employees, truck drivers, and shop employees/mechanics.

**Section 1.3 Bargaining Unit:** The Company and the Union agree that the terms of this Agreement shall apply to and be effective upon the Company's agricultural employees employed at the Company's facility located at 26333 Road 140, Visalia, California, and its facility located at 14226 Avenue 260, Visalia, California, exclusive of supervisory employees, clerical, sales, and confidential employees, truck drivers and shop employees/mechanics. The parties further agree that the above described inclusive unit of employees constitute the only agricultural employees employed by the Company as of the effective date of this Agreement.

**ARTICLE II**  
**UNION MEMBERSHIP**

**Section 2.1 Union Membership:** Union membership shall be a condition of employment. Each employee covered by this Agreement shall be required to become a member of the Union immediately following five (5) workdays (as defined per Section 9.8) after the beginning of employment, or five (5) workdays (as defined per Section 9.8) from the effective date of this Agreement, whichever is later.

**Section 2.2 Condition of Employment:** It shall be a condition of employment for employees who are members of the Union to maintain their membership in good standing. The sole criteria for good standing shall be the payment of normal and regular initiation fees, periodic dues, and assessments.

**Section 2.3 (a) Deduction of Dues and Fees:** The Company agrees to make deductions from employee payroll earnings for payment of initiation fees, periodic dues and assessments, and to forward the deducted amounts to the Union on a monthly basis, along with a list of the employees from whom such deductions are being made. Deductions shall be made from the payroll earnings from the first payroll period following the time periods set forth in Section 2.1 above, and from each payroll period thereafter. The Union shall have the sole obligation for obtaining signed deduction authorization forms for each employee in English and/or Spanish, whichever is appropriate, on deduction authorization forms supplied by the Union. The Union specifically agrees to hold the Company harmless and indemnify the Company against any and all claims, actions or complaints, arising from the Company's performance of its obligation arising under this provision. Unless and until signed authorization forms are received by the Company, the Company shall have no duty to make deductions called for in this provision.

**Section 2.3 (b) Membership Access:** Authorized Union representatives shall be permitted upon Company property for the purpose of obtaining signed deduction authorization forms. The conditions for such access are more particularly set forth in Article X § 10.16(b)

**Section 2.4 Failure to Pay Dues and/or Fees:** The Company shall discharge an employee within seven (7) work days (as defined per Section 9.8) after receipt of written notice from the Union that the employee has failed to pay initiation fees, periodic dues or assessments as the case may be. To be valid, such notice from the Union must include a proof of service reflecting that notice was served on the employees, and made within one (1) year of the employee's inclusion on the new employee list provided to the Union by the

Company pursuant to Section 2.5 below. Any employee not so served within one (1) year, (or where proof of service cannot be verified) shall not be subject to discharge hereunder by the Company, and cannot be required to pay initiation fees, dues, or assessments retroactively, but only Union dues from the date of the proof of service forward. The Union specifically agrees to hold the Company harmless and to indemnify the Company against any and all claims, actions, or complaints arising from the Company 's performance of its obligation arising hereunder.

**Section 2.5 New Employees:** The Company shall notify the Union of all new employees every thirty 30 days where applicable.

### **ARTICLE III**

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

**Section 3.1 No Strikes:** The Union and the employees agree that there will be no strikes, slowdowns, boycotts, work stoppages, picketing, job or any other economic actions or other interruption of work during the term of this Agreement. Any employee who engages in any of the above conduct and violation of this provision may be subject to immediate discharge, which shall be deemed for just cause. Shop stewards employed by the Company as well as Union officers, Ranch Committee members and representatives of the Union 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 provision. Best efforts shall include an obligation to advise the employees of the Union's position that all disputes are to be resolved through the grievance and arbitration provisions, and that all employees are expected to abide by this provision. Best efforts do not require the stewards, Union officers, Ranch Committee members and/or representatives of the Union employed by the Company, to subject themselves to physical abuse or threats of physical abuse of any kind. Best efforts does, however, require that the stewards, Union officers, ranch committee members and representatives of the Union

employed by the Company continue working and not participate in any way, in the work stoppage. Failure to make best efforts may result in individual disciplinary action up to and including discharge.

**Section 3.2 No Lockouts:** The Company agrees that there shall be no lockouts during the term of this Agreement.

**Section 3.3 Remedies:** A strike, or other economic action as described in Section 3.1 herein, or lockout during the term of this Agreement shall be deemed to be a violation thereof, and either party may seek such legal relief as may be available to it without first invoking the grievance and arbitration provisions.

**Section 3.4 Violations; Discipline:** The Company shall have the right to discipline or discharge any workers who engage in any of the activities outlined in this Article. In the event of an arbitration concerning disciplinary action taken by the Company against a worker, for violation of this Article, the arbitrator's authority shall be strictly limited to determining whether the worker in fact violated this Article. If the arbitrator finds that the worker violated any provision of this Article, the arbitrator shall not have the authority to modify the discipline imposed.

#### ARTICLE IV

#### EQUAL EMPLOYMENT OPPORTUNITY

**Section 4.1 No Discrimination:** The Company and the Union agree that there shall be no discrimination in hiring or employment based upon race, creed, religion, age, sex, sexual orientation, national heritage, or union or non-union affiliation. The Company and the Union further specifically agree that sexual harassment shall not be allowed at the workplace. The Company and the Union agree to work together in attempting to make reasonable accommodations whenever applicable, pursuant to the Americans' With Disabilities Act.

**Section 4.2 References:** All references in this Agreement to sex shall apply equally to both sexes; for example, any references to “he”, or “him” shall also apply to “hers”, “she” or “her” and vice versa. References to “they”, “them”, or “their” shall also apply to both sexes equally.

## **ARTICLE V** **SENIORITY**

### **Section 5.1 Definitions:**

A. Full-time Seniority: Is defined as an employee’s period of continuous unbroken service within a job classification, (hereinafter “job classification seniority”).

B. Seasonal Seniority: Is defined as a seasonal employee’s period of continuous, unbroken service with the Company based on successive seasons of employment.

**Section 5.2 How Obtained:** A Full-Time Seniority Employee is one who has worked 1600 hours, including introductory period hours in section 5.3 herein, in the fiscal year (9/1-8/31). Once this period is successfully completed, seniority will be set at the date of eligibility.

A seasonal seniority employee is one who has successfully completed his 90 workday (days actually worked) introductory period, as applicable to new hires. Once the relevant period is successfully completed, seniority will be set at the date of eligibility and a seniority ranking assigned.

Seasonal employees are those hired with the understanding that their employment will be temporary and for a limited duration. Seasonal employees may be assigned to work any number of hours per week (even as many as full-time employees) but will still remain

classified as seasonal employees unless and until they successfully complete the requisite 1600 hours, (including introductory period hours, if applicable) in the fiscal year (9/1 - 8/31). Once a seasonal employee is eligible for classification as a full-time seniority employee, seniority will be set and become effective from the employee's initial full-time eligibility date.

### **Section 5.3 Introductory Period(s):**

A. New Hires: An employee shall be entitled to recognition of his or her applicable seniority e.g., full time or seasonal only upon successful completion of the Company's ninety (90) workday (days actually worked) introductory period and upon satisfaction of other eligibility requirements pertaining to seniority as outlined in Section 5.2 herein. Successful completion will be determined by the Company by way of an evaluation of performance. Newly hired introductory employees shall have no seniority rights, preference for employment, eligibility for accrued vacation or eligibility for any Company-sponsored benefits. Newly hired introductory employees do not have access to the grievance and arbitration procedure and may be terminated by the Company at any time, with or without cause.

B. Transferred Employees: In the case of full-time employees who are transferred to other job classifications, the introductory period shall be twenty-one (21) workdays (days actually worked) during which the employee's right to their former job shall be retained. Transferred introductory employees may be returned by the Company to their former job at any time during the introductory period, with or without cause in the sole discretion of the Company. Transferred introductory employees do not have access to the grievance and arbitration procedure for claims relating to the transfer to a new job classification and/or for any claims relating to the return to their former job by the Company. Upon completion of this 21 workday (days actually worked) introductory period, the employee shall no longer have the right to their former job.

#### **Section 5.4 Seniority Lists:**

A. Full-Time Employees: The Union hereby agrees and acknowledges that the Seniority List posted and provided to the Union on or about November 26, 2001, is accurate and shall be the basis for all future seniority rankings. A seniority list consisting of all full-time seniority employees shall be prepared within thirty (30) days after the execution of this Agreement. Seniority ranking will be based on eligibility date. Thereafter, the Company will update the seniority list semi-annually, and will provide a copy to the Union. The Company shall also post the seniority list on the bulletin board at the yard and deliver five (5) copies to the designated Ranch Committee as designated by the Union and kept on file at the Company's offices.

B. Seasonal Employees: A separate seasonal employee seniority list shall be prepared consisting of all seasonal seniority employees within ninety (90) days after execution of this Agreement.

Seasonal employees seniority ranking will be based on consecutive seasons worked with a maximum relating back only to December 1994. All employees with a date of hire beyond or earlier than December 1994 shall be eligible only for the maximum accrual back to December 1994. When two (2) or more employees have the same accrual credit, the employee with the highest number of hours worked in the previous season will have the highest seniority. In the event the tie is still not broken, the employee with the lower last four digits of his/her social security number shall have the higher seniority. The Company will update the list semi-annually and will provide a copy to the Union.

C. Protests: Employees will have seven (7) workdays (as defined per Section 9.8) from the posting of the seniority list to raise any protests with regard to their seniority ranking or seniority date. Protests of seniority ranking or seniority date must be submitted in writing with copies provided to the Union and the Company. Employees on an authorized leave of absence or vacation shall have seven (7) workdays (as defined per Section 9.8) from their scheduled return date to raise a protest with regard to their seniority

ranking or seniority date. Employees on layoff shall have seven (7) workdays (as defined per Section 9.8) from their scheduled recall date to raise a protest with regard to their seniority ranking or seniority date. Employees may only protest the current posted list. The allotted time for protests will be computed from the date of the first list of reflecting such ranking and/or seniority date. If an Employee or the Union fails to raise a protest with regard to seniority ranking or seniority date, in writing within the allotted time, such ranking will be presumed to be accurate and the Employee and the Union each affirmatively waives the right to protest it hereunder, to file a grievance pursuant to Article IX; or to challenge it by any other method.

**Section 5.5 Application of Seniority:** Job classification seniority shall be the primary factor in the area of layoffs and recalls, transfers and promotions in other job classifications and in preferences relative to the granting of benefits, unless otherwise subject to a management right.

**Section 5.6 Loss of Seniority (Full-Time and Seasonal):** Whatever seniority an employee has shall be lost for the following reasons:

- A. Resignation.
- B. Discharge for cause.
- C. Abandonment of employment. (i.e., three (3) workdays (as defined per Section 9.8) "No Call - No Show" as set forth in the Company's Employee Handbook).
- D. Failure to report to work at the end or scheduled return of an approved leave of absence, without an approved extension or other reason satisfactory to the Company. Securing other employment during a leave of absence is not satisfactory.
- E. Failure to notify the Company of and/or failure to provide sufficient documentation showing good cause for any unexcused absence from work as set forth in the Company's policies.

- F. Promotion to a supervisory or other non-bargaining unit position within the Company.
- G. Securing other employment while on a leave of absence.
- H. Failure to respond to recall notification within three (3) workdays (as defined per Section 9.8) as set forth in Sections 19.3 - 19.6 herein, or to apply between October 1<sup>st</sup> and December 15<sup>th</sup> of the same year the employee was laid off.
- I. Participation in a work stoppage in violation of this Agreements' No Strike Clause (Article III)
- J. Taking of an unauthorized leave of absence.

## ARTICLE VI

### PROMOTIONS, TRANSFERS

**Section 6.1 Filling of Vacancies:** The filling of vacancies, new jobs, promotions, and transfers between job classifications within the bargaining unit will be made by the Company based upon the applicant employee's seniority. The Company shall post vacancies on the Union bulletin board for seven (7) workdays (as defined per Section 9.8). Employee applicants will be given an introductory period of twenty-one (21) workdays (days actually worked) in which to perform the work under normal supervision with reasonable proficiency. If the employee is unable to perform the job to the Company's satisfaction, he or she will be returned to his/her former position. Such determination with regard to an employees ability to perform the job shall be made in the sole discretion of management and not be subject to grievance and arbitration. "Transfers" as defined herein mean reassignment of an employee in a different job classification only. In instances where the Company concludes that no qualified applicants exist within the bargaining unit, the Company reserves the absolute right, pursuant to Article XI, to fill the position from outside the Company.

**Section 6.2 Work in Two or More Job Assignments:** Any employee who is assigned to perform, and does perform, work in more than one (1) job assignment during a given day or shift shall receive the rate of pay for the job assignment in which he or she performs. The Company shall have sole discretion in assigning employees based on its operational needs. Overtime will be computed based on the rate of pay for the job assignment in which he or she is performing work at the time overtime hours are commenced.

**ARTICLE VII**  
**DISCIPLINE/DISCHARGE**

**Section 7.1 Company Rules:** The Company shall have sole discretion in adopting and revising employment rules and procedures. A copy of such rules and procedures, and any changes thereto, shall be provided to the Union at its Delano, California location within 48 hours.

**Section 7.2 Discipline/Discharge for Cause:** Any disciplinary action taken by the Company, including discharge, must be for cause unless otherwise provided.

**Section 7.3 Suspension Pending Investigation:** The Company shall have the right to suspend employees, with or without pay, pending the investigation of any situation which may give rise to disciplinary action, including discharge, and by so doing, the Company does not waive such disciplinary action, including discharge, nor shall such action by the Company be interpreted as condoning wrongful conduct of the employee. The Company shall notify the Union of any suspension within forty-eight (48) hours thereafter.

**ARTICLE VIII**  
**SUBSTANCE ABUSE**

**Section 8.1 Intent of the Parties:** The Company and the Union both agree that the use, possession, distribution, or being under the influence of intoxicants and/or intoxicating substances at the workplace affects the safety of everyone and is strictly prohibited.

**Section 8.2 Drug and Alcohol Testing:** The Company has always been strongly committed to providing its employees with a safe, efficient and productive work environment. The Company desires to ensure that employees will perform their duties safely and efficiently and in a manner that protects their interests and those of their co-workers. The Company also desires to promote efficiency in the workplace and to provide the highest quality products and services. The Company recognizes that being under the influence of any controlled substance and/or alcoholic beverage while on the job poses serious risks to the health and safety of employees and customers. The safety of the public, as well as the safety of fellow employees, dictates that employees not be permitted to perform their duties while impaired by the influence of drugs and/or alcohol.

Considering the addictive nature of drugs/alcohol abuse, the accomplishment of this commitment will require the full support of all levels of management and supervision, as well as that of each employee.

**Application:** This policy applies to all employees and to all applicants for positions with the Company. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to perform the functions of his or her job effectively and safely.

### **Section 8.3 Policy Rules/Prohibited Activity:**

A. An employee shall not work under the influence of any drug or medication which impairs his or her ability to safely and efficiently perform the required duties of the position.

B. The use, possession, distribution, selling or receiving of a controlled substance ("drugs") or alcohol, or being under the influence of drugs or alcohol are strictly prohibited while on duty, while on Company property, or while operating a Company vehicle.

C. No employee shall purchase, possess, use, sell, or furnish alcoholic beverages during the course or performance of his or her assigned duties. Under no circumstances shall an employee report to the work site under the influence of an alcoholic beverage.

D. No employee shall purchase, possess, use, sell, furnish or be under the influence of any illegal drug or controlled substance during the course of performance of his or her assigned duties.

E. No employee shall purchase, possess, use, be under the influence of, sell, or furnish any prescription drug during assigned work hours, or while on duty or while using Company vehicles/equipment unless:

(1) the prescription was issued by authorized medical personnel and the employee follows the prescription instructions; and

(2) the employee shall have advised his or her supervisor of this fact before reporting to work. Violation of this policy will result in disciplinary action, which may include termination.

F. An employee who reports to the job site and advises his or her supervisor of limitations or restrictions resulting from a prescription or over-the-counter drug, may be assigned less than the full range of duties, at the sole discretion of the supervisor. Employees will not be subject to disciplinary action through compliance with this procedure.

G. Entry onto Company property is deemed consent to the inspection of your person, vehicle and/or personal property, including lockers. Such inspections will be conducted only for reasonable suspicion and all such inspections will be conducted by the Company, an independent security service or an applicable law enforcement agency.

H. The Company's management may lay out additional rules in accord with this policy and appropriate to the work requirements, as well as the responsibilities of the employees. Such additional rules shall comply with state and federal drug testing laws.

#### **Section 8.4 Terms/Definitions:**

- A. "Dosage": The appropriate amount of medication recommended by a physician for an over-the-counter or prescription drug.
- B. "Drug": An illegal drug, an over-the-counter drug, or a prescription drug.
- C. "Industrial or Vehicle Accident":
  - (1) "Industrial Accident" is an accident which arises out of and during the course of individual's employment with the Company.
  - (2) "Vehicle Accident" is an occurrence associated with the operation of equipment and/or a motor vehicle which is owned by or leased to the Company, including an employee's personal vehicle used for Company business.

D. "Illegal Drug": A controlled substance as defined by state or federal law that has not been obtained in accordance with the regulations promulgated to administer its distribution, or a drug that has not been assigned an FDA number.

E. "Over-the-Counter Drug": A drug lawfully available for retail purchase without a prescription.

F. "Prescription Drug": A drug lawfully available for retail purchase only with a prescription.

G. "Reasonable Suspicion": Reasonable suspicion shall exist when a supervisor can articulate and can substantiate, in writing, specific behavioral, performance or contemporaneous physical indicators of being under the influence of drugs or alcohol on the job. The objective indicators shall be recognized and accepted symptoms of intoxication or impairment caused by drugs or alcohol. Suspicion is not reasonable and thus not a basis for testing, if it is based solely on the observations and reports of third parties. The grounds for reasonable suspicion must be documented by the use of an incident report form.

The following objective factors are examples of reasonable suspicion:

1. Incoherent or slurred speech, disorientation or inattention;
2. Odor of drugs or alcohol on breath or clothing;
3. Staggering gait or balance problem;
4. Red, watery eyes with dilated or constricted pupils;
5. Hand tremors;
6. High energy, agitated, talkative, paranoid or bizarre behavior.

H. "Using Company Equipment": Operating or assisting in operating equipment or a motor vehicle which is owned by or leased to the Company, including an employee's personal vehicle used for Company business.

**Section 8.5 Testing:**

A. Conditional Offer: The Company reserves the right to test any and all successful job applicants for the use of illegal drugs during the conditional offer screening process. If tested, employment will be conditioned on passing a standard drug screening test administered and evaluated by an independent medical professional. All results will be kept confidential. If an applicant is put to work before the test results are received, hiring will be conditional on such results. Applicants who test positive for illegal drugs will be ineligible for employment. The cost of such testing will be paid by the Company.

B. Reasonable Suspicion Testing: In cases where an employee, supervisor, or other member of management has reasonable suspicion to believe that an employee possesses or is under the influence of drugs and/or alcohol and such use or influence may adversely effect the employee's job or the safety of the employee, co-workers, or customers of the Company, drug and/or alcohol screening may be ordered. "Reasonable suspicion" means objective symptoms such as factors related to the employee's appearance, behavior and/or speech as defined in Section G above. Refusal to submit to screening as ordered may result in immediate termination.

C. Post Accident Testing: Drug and/or alcohol screening will be required following a work related accident, industrial accident or vehicle accident (as defined above); or any violation of the safety precautions or standards, if there is reasonable suspicion (as defined above) of a drug and/or alcohol causal connection, whether or not any injury resulted from such accident or violation. Refusal to submit to screening may result in immediate termination.

D. Random Testing: Due to the safety sensitive nature of the Company's business, drug and/or alcohol screening will be required upon random selection by a Company designated laboratory. The method by which covered employees are selected for random testing shall be completely neutral, so that all covered employees subject to testing will have an equal chance of being selected in each test cycle. Employees out on medical leave for any reason shall not be included in the regular test cycle for random testing. Failure to take the test at the designated time may result in immediate termination. Refusal to submit to such screening at the designated time may result in immediate termination.

**Section 8.6 Violations of Policy:**

A. On receipt of a positive drug test or alcohol impairment test result that indicates a violation of this written policy, on the refusal of an employee or prospective employee to provide a drug testing sample, or on the refusal of an employee to provide an alcohol impairment testing sample, the Company may use that test result or test refusal as a basis for disciplinary actions that may include any of the following:

- (1) Termination of employment;
- (2) Suspension of the employee without pay for a designated period;
- (3) In the case of conditional offer testing; refusal to hire a prospective employee.

B. Any employee who admits illegal drug use when questioned by the Company, or who approaches the Company seeking assistance with a substance abuse problem and who has not been engaged in misconduct, unsafe conduct or poor job performance may be placed in a non-paid personal leave of absence, in lieu of termination for a maximum for one (1) month for the purpose of rehabilitation, which may include successful completion of a Company designated substance abuse rehabilitation program. However, prior to reinstatement, to the next job vacancy for which he is qualified, the employee must present reliable medical evidence that he or she has overcome the

substance abuse problem and must consent in writing to random testing "on request" over the next twelve months, to be certain that there has not been any resumption of usage of drugs or alcohol in violation of this policy ("Back to Work/Consent to Random Testing Agreement"). Failure to take and pass any such requested test will result in immediate termination.

C. Tampering: Any tampering with or diluting of samples will result in immediate termination.

## **ARTICLE IX**

### **GRIEVANCE AND ARBITRATION**

**Section 9.1 Intent of the Parties**: The Company and the Union recognize the necessity for speedy resolution of grievances concerning the employment relationship. Therefore, the parties agree that any and all disputes arising under this Agreement shall be resolved via the following procedures which are available to both parties:

In furtherance of the parties stated intent, the parties further agree that except as specifically provided with a specific Article of this Agreement, the grievance procedures shall be the exclusive remedy with respect to any and all disputes arising under this Agreement and no other remedy shall be utilized by any person with respect to any dispute involving this Agreement until the grievance procedure has been fully exhausted.

### **GRIEVANCE PROCEDURE**

**Section 9.2 STEP ONE**: Any grievance arising under this Agreement shall be addressed by a designated Management Representative, the grievant and the Union Steward, and/or Union Representative who will use their best efforts to resolve the grievance.

**Section 9.3 STEP TWO:** In the event the grievance cannot be satisfactorily resolved, the matter shall be reduced to writing by the Union representative or designated Company representative(s), as the case may be, (hereinafter "grieving party". The grievance must be filed within seven (7) workdays beginning with the date of the occurrence giving rise to the grievance. Failure to file within the allotted time period will result in waiver of the grievance with prejudice. The grievance must be in writing; in English and shall set forth the following information:

- A. The name of the grieving party, including the specific employee, if applicable;
- B. The substance of the grievance including the date of the alleged occurrence;
- C. The sections of the Agreement which the grievant claims to have been violated;
- D. The relief sought by the grievant; and
- E. The date of the first discussion between the parties and the names of the parties' representatives.

If the grievance is not written and submitted in English and containing all information required by this provision, it will result in waiver of the grievance with prejudice.

The party receiving the grievance (hereinafter the "receiving party") will provide the grieving party with a written response within seven (7) workdays from the date received as reflected by the "intake received stamp" or the fax transmittal record. If the receiving party fails to respond within the allotted time period, the grievance will be deemed denied.

**Section 9.4 STEP THREE:** Any grievance not resolved in STEP TWO will be discussed in a meeting between the Union, the Grievance Committee, the Employee (if applicable), and a designated management representative to resolve the matter. This meeting must be requested by the grieving party within fourteen (14) workdays of the filing

of the grievance as set forth in STEP TWO. Failure to request a STEP THREE meeting within the allotted time period will result in a waiver of the grievance with prejudice. If the grievance is not satisfactorily resolved in such a meeting, the party receiving the grievance will provide the grieving party with a written response including, if applicable, the basis for denial, within ten (10) workdays of the STEP THREE meeting. If the receiving party fails to respond within the allotted time period the grievance will be deemed to be denied.

**Section 9.5 STEP FOUR:** If the grieving party is not satisfied with the response, it may file a written Notice of Intention to Arbitrate with the other party within fifteen (15) workdays of receipt of the written response, or denial (or, within fifteen (15) workdays of the STEP THREE meeting). Failure to file within the allotted time period will result in a waiver of the grievance with prejudice.

- a. Grievances dropped by either party prior to an arbitration hearing, shall be considered as "withdrawn with prejudice" to either party on related matters in the future, and therefore may not be used in any manner whatsoever.
- b. Submission of Matter: The grieving party must submit the matter in writing for binding arbitration before the Federal Mediation and Conciliation Service ("FMCS") concurrently with a Notice of Intention to Arbitrate, or the matter will be deemed waived with prejudice. An arbitrator candidate of at least seven (7) names shall be requested. Upon receipt of the list the parties shall select the arbitrator by alternatively striking names with the grieving party striking the first name. The grieving party shall have the responsibility of providing the arbitrator with copies of this Agreement, the written grievance and any responses thereto.
- c. Hearing: At the onset of the arbitration hearing, the arbitrator shall attempt to obtain in a stipulated issue statement from the parties, and if unsuccessful, will decide what issue(s) is to be resolved. The arbitrator will

receive evidence and testimony relevant to the issue and will render a decision based upon the terms of this Agreement only, and may only award compensation for actual damages suffered, if appropriate. Under no circumstances will the arbitrator have the authority to award punitive damages, attorneys fees, costs or interest. The arbitrator's decision shall be final and binding upon the parties and may be confirmed by a court of competent jurisdiction.

- d. Decision, Briefing Schedule: The arbitrator will render a bench decision, unless either party requests a written decision, which shall then be issued within thirty (30) calendar days following conclusion of the hearing or after the date for filing briefs, whichever is later. Briefs may be filed by either party, but in any event, shall be filed no later than ten (10) days after the conclusion of the hearing, unless extended by mutual agreement of the parties, or by order of the arbitrator.
  
- e. Costs: The costs of arbitration, including the arbitrator's fees and expenses shall be borne equally by the parties. Each party shall be responsible for its own attorney's fees in presentation of its own case. The prevailing party in any action to enforce this Article, or any arbitrator's award shall be entitled to reasonable attorney's fees and court costs.
  
- f. Venue: Venue for any court action or the arbitration under this Agreement shall be in Visalia, California.

**Section 9.6. Discipline and Discharge Cases**: In discharge and discipline cases, the arbitrator shall render his or her decision at the end of the hearing unless either party requests that the arbitrator render a written decision and based on briefs submitted in accordance with the time line set forth herein.

**Section 9.7. Service and Filing:** Service and filing of any documents described in this section may be by personal delivery to the party to be served, or his or her attorney, or may be made by mail, certified receipt requested.

**Section 9.8 Time Periods; Computation:** In computing any time period prescribed by this section, "workday's" shall govern. Intermediate Saturdays, Sundays and holidays shall not be included unless worked. The date of the occurrence shall be counted as the first day for the purposes of computing time periods herein.

**Section 9.9 Extension of Time Periods; Waiver of Procedural Steps:** By agreement of the parties, time limits provided by this Article may be extended, and compliance with any procedural step may be waived in writing signed by both parties or their respective representatives.

**Section 9.10 Non-Compliance with Specified Time Limits (Grieving Party):** All grievances, requests, and notices of intention to arbitrate not filed within the time limits specified in this Agreement by the grieving party, or as mutually extended or waived, shall be barred for all purposes. The Arbitrator shall not have the authority to ignore or excuse any failure to comply with the time limits set forth in this Article no matter what reason is advanced for any such failure, and any untimely grievance shall not be eligible for further consideration.

**Section 9.11 Designated Management Representatives:** For the purposes of this article the Designated Management Representatives are as follows:

1. David Cox
2. Ron Ludekens
3. Bob Ludekens
4. Santiago Hernandez

**Section 9.12 Union Stewards/Union Representatives:** For purposes of this Article the Union will provide a list of Union Stewards, Grievance Committee Members, Ranch Committee Members and other designated Union representatives upon execution of this Agreement; and every year thereafter on a quarterly basis, with any changes reported within forty-eight (48) hours.

**ARTICLE X**  
**WORKING CONDITIONS**

**Section 10.1 Job Classifications and Wage Rates:** The Company uses the following job classifications which shall be paid at the rates indicated:

**Class A: General Labor Base:**

|             | <u>3/19/02</u> | <u>11/01/02</u>     | <u>11/01/03</u>     |
|-------------|----------------|---------------------|---------------------|
| Start       | \$6.75         | \$6.75 (or mw if >) | \$6.75 (or mw if >) |
| 800 Hrs.    | \$6.85         | \$6.95              | \$7.10              |
| 1600 Hrs.   | \$7.00         | \$7.15              | \$7.30              |
| *2400 Hrs.  | \$7.15         | \$7.35              | \$7.55              |
| **2400 Hrs. | \$7.60         | \$7.80              | \$8.00              |

\* Seasonal worker with 2400 hours

\*\* Full-time seniority worker with 2400 hours

*Note: No retro will be applied. All terms and conditions will commence upon signature of the Collective Bargaining Agreement.*

**Temporary Assignment Rates:**

The following tasks are temporary assignments made based upon needs of the Company and skills of the available employees at time of need.

**Specialist I** .10 over base  
*(Regular Crew Leaders & Labelers - not substitutes)* Grading, Pit, Truck Loading Crew Leaders & Labelers

**Specialist II** .20 over base  
*(Regular assigned to job - not substitute)* Bareroot Processing - Counters, Pit Checkers, Processing Supervisor, Pit Supervisor, Labeling Supervisor, Grading Supervisor, Counting Supervisor, Checking Supervisor, Trailer Taggers, Tying Machine Operators, and the Pit employee classified as cuttings handler crew leader

**Field Quality Specialist** .30 over base

**Specialist III** .40 over base  
*(This designation is established by key management)* Year round specialist with special talents to meet the seasons.

**Specialist IV**

|  |                          |
|--|--------------------------|
| <b>Irrigation</b> <i>(occasional)</i>  | .15 over base            |
| <b>Forklift Driver</b><br><i>(regular winter assignment)</i>   | .25 over base            |
| <b>Tractor Driver</b> <i>(occasional)</i><br><i>(not pulling trailers in winter)</i>                                     | .15 over base            |
| <b>Spray, Herbicide</b> <i>(occasional)</i>  | .25 over base            |
| <b>Spray, Herbicide</b> <i>(regular)</i>   | .45 over base            |
| <b>Spray Insecticide</b> <i>(occasional)</i>   | .50 over base            |
| <b>Spray Insecticide</b> <i>(regular)</i>  | .80 over base            |
| <b>Tree Health</b> <i>(crew leader)</i>  | 1.20 over base           |
| <b>Grafter, Field</b><br><i>( 85% stand required for this position<br/>Less than 85% stand - subject to replacement)</i> | 1.30 over base           |
| <b>Grafter, Bench</b>  | .30 over base            |
| <b>Wax/Tape</b>  | .10 over base            |
| <b>Budder</b>  | see Sections 10.2 - 10.8 |
| <b>Tier</b>  | see Sections 10.2 - 10.8 |



C. Budders averaging less than 2000 buds per day or 250 buds per hour, but greater than or equal to 1700 buds per day or 213 buds per hour on a weekly average, will be paid at their base rate except for "trainees" as set forth in section 10.3 below.

D. Budders averaging less than 1700 buds per day or 213 buds per hour on a weekly average, will be replaced except for "trainees" as set forth in section 10.3 below.

E. Budders averaging less than seventy percent (70%) stand will be replaced.

**Section 10.3 Training Rate:** Trainees shall be required to complete the introductory period pursuant to Sections 5.3 or 5.4 whichever is applicable. During the introductory period trainees shall be paid a base wage of \$8.25/hr., unless weekly average performance qualifies for higher rates as set forth in Section 10.2.

**Section 10.4 Summer (Dormant) Budding Bonus:** Budding will be paid at a rate not to exceed those set forth in Section 10.2 herein for budding during the season. Bonuses will be paid at the beginning of each season for the previous season's counts or upon completion of counts. All rates herein apply to the complete budding season. To be eligible for any part of the budding bonus, a budder must complete the dormant budding season (including rebudding), which is July of the previous year through June of the current year. Each bonus will be based on an annual average stand. Budding bonus is based on the following charts less the hourly rate paid in Section 10.2 times hours budded in applicable season. Average hourly rate thresholds are based upon total summer buds (not counting re-buds) divided by summer budding hours worked. Annual percent stand is based upon total live trees divided by total buds (including re-buds). Employees must be employed at the time of bonus distribution to be eligible to receive bonus payout, or any portion thereof.

A. Summer (Dormant) Budding Rates Showing Bonus Applied:

**For Budding Season 7/1/01 thru 6/30/02:**

|                                  |                 | <u>Stand %</u>   |            |            |            |            |            |            |
|----------------------------------|-----------------|------------------|------------|------------|------------|------------|------------|------------|
| <u>Greater than or equal to:</u> |                 | <u>Less Than</u> | <u>73%</u> | <u>75%</u> | <u>80%</u> | <u>85%</u> | <u>90%</u> | <u>95%</u> |
| <u>Buds/Day</u>                  | <u>Buds/Hr.</u> |                  |            |            |            |            |            |            |
| 2000                             | 250             | 9.00             | 9.00       | 9.18       | 9.63       | 10.08      | 10.53      | 10.98      |
| 2200                             | 275             | 9.00             | 9.90       | 10.10      | 10.59      | 11.09      | 11.58      | 12.08      |
| 2400                             | 300             | 9.00             | 10.80      | 11.02      | 11.56      | 12.10      | 12.64      | 13.18      |
| 2600                             | 325             | 9.00             | 11.70      | 11.93      | 12.52      | 13.10      | 13.69      | 14.27      |

**For Budding Season 7/1/02 thru 6/30/03:**

|                                  |                 | <u>Stand %</u>   |            |            |            |            |            |            |
|----------------------------------|-----------------|------------------|------------|------------|------------|------------|------------|------------|
| <u>Greater than or equal to:</u> |                 | <u>Less Than</u> | <u>73%</u> | <u>75%</u> | <u>80%</u> | <u>85%</u> | <u>90%</u> | <u>95%</u> |
| <u>Buds/Day</u>                  | <u>Buds/Hr.</u> |                  |            |            |            |            |            |            |
| 2000                             | 250             | 9.25             | 9.25       | 9.44       | 9.90       | 10.36      | 10.82      | 11.29      |
| 2200                             | 275             | 9.25             | 10.18      | 10.38      | 10.89      | 11.40      | 11.90      | 12.42      |
| 2400                             | 300             | 9.25             | 11.10      | 11.33      | 11.88      | 12.44      | 12.99      | 13.55      |
| 2600                             | 325             | 9.25             | 12.02      | 12.26      | 12.87      | 13.47      | 14.07      | 14.67      |

**For Budding Season 7/1/03 thru 6/30/04:**

|                                  |                 | <u>Stand %</u>   |            |            |            |            |            |            |
|----------------------------------|-----------------|------------------|------------|------------|------------|------------|------------|------------|
| <u>Greater than or equal to:</u> |                 | <u>Less Than</u> | <u>73%</u> | <u>75%</u> | <u>80%</u> | <u>85%</u> | <u>90%</u> | <u>95%</u> |
| <u>Buds/Day</u>                  | <u>Buds/Hr.</u> |                  |            |            |            |            |            |            |
| 2000                             | 250             | 9.35             | 9.35       | 9.54       | 10.00      | 10.47      | 10.94      | 11.41      |
| 2200                             | 275             | 9.35             | 10.29      | 10.49      | 11.01      | 11.52      | 12.03      | 12.55      |
| 2400                             | 300             | 9.35             | 11.22      | 11.45      | 12.01      | 12.57      | 13.13      | 13.70      |
| 2600                             | 325             | 9.35             | 12.16      | 12.39      | 13.01      | 13.62      | 14.22      | 14.83      |

**For Budding Season 7/1/04thru 6/30/05**

|                                  |          | Stand %    |            |            |            |            |            |            |
|----------------------------------|----------|------------|------------|------------|------------|------------|------------|------------|
| <u>Greater than or equal to:</u> |          | Less Than  |            |            |            |            |            |            |
| Buds/Day                         | Buds/Hr. | <u>73%</u> | <u>73%</u> | <u>75%</u> | <u>80%</u> | <u>85%</u> | <u>90%</u> | <u>95%</u> |
| 2000                             | 250      | 9.50       | 9.50       | 9.69       | 10.16      | 10.64      | 11.16      | 11.59      |
| 2200                             | 275      | 9.50       | 10.46      | 10.66      | 11.19      | 11.70      | 12.22      | 12.75      |
| 2400                             | 300      | 9.50       | 11.40      | 11.63      | 12.20      | 12.77      | 13.34      | 13.92      |
| 2600                             | 325      | 9.50       | 12.36      | 12.59      | 13.22      | 13.84      | 14.44      | 15.07      |

**Section 10.5 Budding Rules:**

A. Re-buds: All re-buds are included in bud counts for stand percentage calculations. Re-buds for the purpose of this Agreement, are considered to the previous summer budding and are required to be performed in order to be eligible for the budding bonus set forth herein. Re-buds will be paid at the employee's base wage.

B. Quality: Management will monitor quality during each season. Poor quality as determined by management in its sole discretion pursuant to Article XXI shall be grounds for discipline up to and including replacement.

C. Hold Harmless; Indemnification: The Union specifically agrees to hold the Company harmless and to indemnify the Company against any and all claims, actions or complaints including grievances arising from the replacement of budders for low counts, low stands; and or poor quality, including but certainly not limited to employees affected by "bumping" which occurs as a result of a replaced budder/tier asserting his/her seniority.

D. Budding Workday; Workweek: The budding workday is eight (8) hours per day, and the budding workweek is forty (40) hours per week, but both are subject to changes governed by the weather and the operational needs of the Company, and does not constitute a guarantee of minimum work opportunities. The Company in its sole

discretion may require additional hours per day and/or additional days per week. All budding assignments are discretionary pursuant to Article XXI, (Management Rights), and not subject to challenge under the Grievance and Arbitration procedures or by any other method.

**Section 10.6 Management Selections (New Hire-Teams):** The Company has the absolute and unfettered right to hire up to six (6) new teams per year from outside the bargaining unit. Potentially affected Employees and the Union hereby waive any and all rights to grieve or challenge such hiring under the grievance and arbitration procedures or by any other method.

**Section 10.7 Supervision:** The Company shall be entitled to continue utilizing working supervisors as per past practice. Such work has encompassed the full scope of the business and the Company has the absolute right to continue such full use of its working supervisors. The Company shall have the right to add working supervisory positions so long as bargaining unit positions are not eliminated, or hours reduced for the season in question.

**Section 10.8 Performance of Work Covered By This Agreement:** The employer agrees that its non-supervisory/non-bargaining unit employees shall not perform bargaining unit work except:

1. In case of emergencies, or
2. In training or instructing another employee; or
3. In situations consistent with the Company's past practice provided that performance of such work does not result in the elimination of bargaining unit employees, or in a reduction of hours for the season in question.

**Section 10.9 Outside Services:** The Company shall be entitled to continue utilizing labor contractors and independent contractors as per past practices. The Union specifically waives any right to be informed or to negotiate about the Company's use of such contracted outside services during the term of this Agreement.

**Section 10.10 Time Records:** The Company shall keep an accurate record of hours worked by each employee.

**Section 10.11 Physical Examinations:** Any and all physical examinations, including initial testing for drugs and alcohol, shall be at the Company's expense at care facilities selected by the Company. Any retesting shall be at the employee's expense.

**Section 10.12 Hours and Overtime:** All work performed by non-exempt employees in excess of ten (10) hours per day or sixty (60) hours per week shall be paid at one and one-half (1 ½) the employee's hourly rate of pay. The Company shall have the sole discretion to determine if, when and by whom overtime shall be worked. The Company will otherwise comply with the provisions of the applicable State and Federal laws and regulations pertaining to hours and overtime. Employees performing unauthorized hours or overtime are subject to discipline.

**Section 10.13 Working Hours For Production Personnel:** The following shall be considered to be a normal work schedule, but is subject to changes governed by the weather and the operational needs of the Company, and does not constitute a guarantee of minimum work opportunities. Starting time varies during the year based on weather.

- A. Late November to Late January: Monday through Saturday - nine (9) hours or more per day. Three Sundays of work from mid-December to mid-January. Starting time is 7:30 a.m. if weather permits.
  
- B. February, March & April: Monday through Friday - nine (9) hours per day,

one-half day Saturday or a total of fifty (50) hours a week. OFF the last Saturday of each month.

- C. May to mid-October: Monday through Friday - eight (8) hours a day. Saturday and Sundays off except when Company operational needs arise. Total of forty (40) hours per week.
- D. Mid-October into November: Monday through Friday - nine (9) hours a day, one-half day Saturday or a total of fifty (50) hours per week.

**Section 10.14 Make-Up Days**: In the event a crew or crews are prevented from working during the week due to inclement weather, power outages (voluntary or involuntary) or when operations cannot continue due to threats due to employees or property, or when recommended by civil authorities, or when the interruption of work is caused by an act of God or other cause not within the Company's control resulting in a backed-up production schedule, employees may be required to work on the immediate following Sunday at straight time not to exceed ten (10) hours at the straight time rate. Volunteers will be sought by the Company in order of seniority and if the requisite manpower cannot be assembled, employees will be required to work the designated make-up day in order of reverse seniority. Failure to report for work or work the scheduled make-up days shall result in discipline up to and including termination.

**Section 10.15 Night Shift Premium**: Night shift pay shall be paid to all employees required to work on frost protection. Frost Protection Workers shall receive a premium of one dollar (\$1.00) per hour for all hours worked between 6:00 p.m. and 6:00 a.m.

**Section 10.16(a) Union Access**: Authorized Union representatives shall be permitted upon Company property only upon the following conditions:

- The Union notifies the Company at least two (2) hours in advance.

- The Union representative wears a label or badge identifying the representative by name.
- The Union representative contacts the Company supervisor before entering the work site.
- The Union representative does not interfere with operations, and does not enter work areas or communicate with employees during work hours (i.e., only during meal and rest breaks). In cases of emergency, access will be permitted during work hours not to exceed fifteen (15) minutes.
- The Union's representative recognizes and adheres to the Company's prohibitions against visitors in the posted areas and the Company's sanitation and safety rules.

In the event a Union representative violates any of the above conditions, the Company shall notify the Union. The parties shall immediately meet and confer to resolve the violation. Repeated violations of any kind will result in the complete bar to Union personnel involved on a case by case basis. Such barring of Union personnel is not subject to grievance and arbitration and the Union hereby specifically waives the trespass exemption under the California Penal Code as more specifically set forth in Penal Code Section 552.1. A maximum of two (2) authorized Union representatives shall be permitted on Company property at any one time.

**Section 10.16(b) Membership Access:** Authorized Union Representatives shall be permitted to communicate with employees during work hours, in designated areas on the second, third and fourth paydays of December during the term of this Agreement. Agriculture in its various forms is a hazardous activity and can result in injury or death. During such access the Union agrees to adhere to the Company's safety and sanitation rules, and the Union specifically agrees to hold the Company harmless for any injuries to its personnel arising out of such access.

**Section 10.17 Special Equipment/Clothing:** The Company shall provide any required special equipment and/or clothing as per past practice. The Company shall have the employee sign a payroll deduction authorization which authorizes the Company to deduct the value of lost or damaged equipment. Employees shall be responsible for returning all such equipment that is checked out to them and will be responsible for breakage, normal wear and tear excepted. Employees shall be charged for actual cost for equipment that is either not returned or broken. Receipts for returned equipment will be given to the employee by the Company.

**ARTICLE XI**  
**LEAVES OF ABSENCE**

**Section 11.1 Leaves; Procedures:** Employees may apply for unpaid leaves of absence on written forms provided by the Company. Such leaves shall be granted at the sole discretion of the Company. If an employee takes a leave of absence, he or she must return to work on the next regular working day after his or her leave of absence ends. If an employee does not return, he or she will be considered to have abandoned his or her job. If the request is for two (2) workdays (as defined by Section 9.8) or more, other than for a scheduled vacation, an employee must request a leave of absence in writing. This must be done with at least ten (10) workdays (as defined by Section 9.8) notice and is subject to the approval of management. In emergency situations, management may waive the two weeks' notice prior to approving the leave of absence.

Employees on leave of absence for any reason do not accrue vacation or holiday benefits during the period they are on leave of absence, and employees will be required to first use any accrued paid leave time before taking unpaid leave. Such leaves will not affect an employee's seniority with the Company unless and until it is established that a break in service has occurred. Any leaves taken for union business and/or in processing grievances pursuant to Article IX are unpaid.

The parties agree that each type of leave of absence has its own rules. If an employee wishes to take leave of absence, he or she must consult with the Personnel Department or the Company's employee handbook about applicable restrictions under the law. The Company complies fully with the provisions of the Family and Medical Leave Act and the California Family Rights Act.

**Section 11.2 Short Term Union Business:** Leaves may be granted by the Company for short term Union business to Union Stewards, Convention delegates and Ranch Committee members ONLY. The Union shall be required to provide the Company a list of these employees at least once per year with any changes reported within forty-eight (48) hours. Leaves under this provision shall be limited to six (6) days per year. Such leaves shall be granted at the sole discretion of the Company relative to its operational needs.

## **ARTICLE XII**

### **HOLIDAYS**

**Section 12.1 Holidays:** The following shall be paid holidays:

1. Memorial Day
2. Independence Day
3. Labor Day
4. Thanksgiving Day
5. Christmas Day

**Section 12.2 Holiday Pay:** Holiday pay shall be based on the normal workday for the season in question but in no event more than nine (9) hours pay at the worker's hourly rate. Work on any holiday shall be paid at the normal straight time hourly rate for ineligible employees. Eligible employees who work will receive their normal straight time rate in addition to their holiday pay.

**Section 12.3 Eligibility:** To be eligible for holiday pay as provided for in paragraphs 12.1 and 12.2 above, an employee must be a full-time seniority employee, must have worked at least 175 hours in last sixty (60) calendar days, must have worked the scheduled day before and the next scheduled day after the holiday. Holidays are not paid while the worker is on an unpaid leave of absence.

### **ARTICLE XIII**

#### **VACATIONS**

**Section 13.1 Eligibility:** Vacations with pay shall be granted (can be taken) to eligible full time seniority employees who qualify for such vacations. In order to qualify for vacation and/or vacation pay employees must work at least sixteen hundred (1600) hours in the previous twelve (12) month period. Vacation time is computed on a twelve (12) month period, from September 1 to August 31. An employee starts to accrue vacation upon completion of his introductory period, retroactive to his date of hire.

**Section 13.2 Earning Schedule:** The amount of paid vacation time employees accrue each year increases with the length of their unbroken continuous service as shown in the following schedule:

#### **VACATION EARNING SCHEDULE**

| <u>YEARS OF SERVICE</u> | <u>VACATION BENEFIT</u>   |
|-------------------------|---------------------------|
| 1-2 Years               | 1 week (5 days)           |
| 3 Years                 | 1 week and one (1) day    |
| 4 Years                 | 1 week and two (2) days   |
| 5 Years                 | 1 week and three (3) days |
| 6 Years                 | 1 week and four (4) days  |
| 7 Years or More         | 2 weeks (10 days)         |

Vacation credits are accrued for all straight time hours worked and are based on the normal summer workweek but in no event more than (9) hours pay at the employee's hourly rate. Vacation is not accrued when an employee is suspended, or on an unpaid

leave of absence. Vacation advances are not permitted.

Employees should take vacation within the calendar year after it is earned. Most vacations fall in August, September and October.

**Section 13.3 Maximum Accrual:** Employees may accrue a maximum of two (2) weeks of unused vacation (based on length of service). Once an employee has accrued two (2) weeks they cannot accrue more vacation time until they have used a portion of their accrued unused vacation time. Employees may not receive pay instead of vacation, except when they separate from the Company. If an employee is separated from the Company for any reason prior to obtaining full-time seniority and eligibility to take vacation, he will not be eligible for a pro-rated payout. Scheduling conflicts will be determined by job classification seniority, giving the more senior employee the choice of scheduling. Operational needs of the Company will always dictate scheduling.

#### ARTICLE XIV

##### ROBERT F. KENNEDY FARM WORKERS MEDICAL PLAN (“RFK” PLAN”)

**Section 14.1 In General:** The Company will contribute to the RFK Farm Workers Medical Plan# A02A at a cost of \$1.645 per hour with options listed below, for the term of this Agreement for each hour worked by each full-time seniority employee, capped at 160 hours worked per month.

**Additional Options:**

Effective 11/01/03 the Company will contribute to VSP Vision Option # 2 at \$0.139/hr. capped at 160 hours worked per month.

- All plan enrollment will be done by the Union with additional access given in designated times and places to assist in fulfilling its enrollment allocation -

**Section 14.2 Eligibility:** Participation in the medical and vision plans shall be granted to eligible full-time seniority employees. Plan participation will then commence on the first day of the month following such eligibility being granted hereunder. Should an employee lose his or her seniority by way of a seniority break in service as Defined in Article V, Section 5.6, his or her right to medical and vision benefits terminate. There are exceptions for certain State and Federal leave laws.

Employees currently considered eligible for participation in the Company sponsored medical plan as of the effective date of this Agreement shall continue to be considered as an eligible employee notwithstanding the increased hour requirement imposed by section 5.2 to attain seniority.

**Section 14.3 Maintenance of Benefits:**

The level of the medical benefits exclusive of vision which are effective as of the effective date of this Agreement will continue to be maintained through October 31, 2004 through the RFK Plan and any increases up to 11% annually on medical only coverage shall be borne in full by the Company. Any increases in contributions necessary to maintain such benefits under the RFK Medical Plan in excess of 11% annually on the medical plan will be borne by way of employee contributions.

The level of vision benefit which becomes effective 11/01/03 will continue to be maintained through October 31, 2004 and any increases up to 5% annually on the VSP Vision component shall be borne in full by the Company. Any increases in contributions necessary to maintain such benefits under the RFK Vision Plan in excess of 5% annually on the vision plan will be borne by way of employee contributions.

Any employee contributions hereunder will be deducted by the Company as an authorized payroll deduction and remitted to the Union on a monthly basis.

Benefits hereunder will be subject to increase on September 1 each year.

**Section 14.4 Reporting Requirements:** The Union will provide the company with a schedule of benefits provided for the workers. In the event the benefits provided by the RFK Farm Workers Medical Plan are reduced or are contemplated to be reduced, the Union shall immediately notify the Company. At the Company's request, the Union shall meet with the Company and negotiate in good faith toward a mutually agreed upon solution to the reduced medical benefits.

The Union shall provide or cause to be provided, to the Company the following materials:

1. A copy of the summary plan description filed with the Department of Labor and copies of all annual report form 5500's as filed with the Department of Labor;
2. Summary annual reports within 60 days after the filing of 5500 listed in item #1;
3. Summary of material modifications during the preceding plan year within 60 days after the filing of 5500 listed in item #1;
4. The Union will provide the Company with an annual summary of claims paid for L.E. Cooke employees participating in the RFK Medical Plan by no later than March 1 of each year hereunder.

## **ARTICLE XV**

### **LIFE INSURANCE**

Eligible employees will receive life insurance pursuant to the terms of the RFK Medical Plan.

## ARTICLE XVI

### JUAN DE LA CRUZ FARM WORKERS PENSION PLAN

**Section 16.1 Contributions:** The Company shall continue contributing to the Juan De La Cruz Farm Workers Pension Plan twelve (\$.12) cents per hour for every hour worked by each full time seniority employee (as defined in Section 5.2) during the term of this Agreement. Any employee currently considered to be eligible under the JDLC as of the effective date of this Agreement shall continue to be considered an eligible employee notwithstanding the increased hour requirement imposed by section 5.2 to attain seniority.

**Section 16.2 Remittance:** The monies and a summary report shall be remitted to the Union Bank of California, P.O. Box 515317, Los Angeles, CA 90051-6617. In the event the Plan Administrator changes said designated address during the term of this Agreement, the Company shall not be bound by such change until it receives written notice thereof, certified mail, return receipt requested.

**Section 16.3 Reporting On Fringe Benefit Funds:** All contributions due hereunder shall be computed on the preceding monthly payroll periods for every eligible employee. In conjunction therewith, the contributions and a monthly summary report will be submitted on or before the 20th of every month covering the preceding monthly payroll for which contributions are due. The monthly summary report shall include the eligible employees' names, Social Security numbers, total hours worked by eligible employees, total number of eligible employees and total amount of contributions.

In the event the Company has no employees in its employ during any monthly payroll period, the Company shall submit by mail, a statement to that effect before the twentieth (20th) day of the following calendar month.

**Section 16.4 Past Service Credits:** The Company agrees to assist in verifying past service information provided to the pension plan administrator by employees. The

Union agrees to hold the Company harmless and to indemnify it against any actions brought based on the past service credit.

**ARTICLE XVII**  
**NEW OR CHANGED OPERATIONS**

**Section 17.1 Notice to Union:** In the event a new or changed operation and/or classification is anticipated by the Company, which is within the scope of the bargaining unit described in ALRB Case No. 97-RC-1-VI, the Company shall notify the Union and attempt to negotiate the rate for the new or changed operation and/or classification. The terms of this Agreement shall not apply unless the parties agree in writing. This provision shall not apply to changes in operations and/or classifications that are consistent with the Company's past practices.

**Section 17.2 Interim Rate:** In the event that such change or rate cannot be agreed upon, the Company may implement an interim wage rate. If the Union is not in agreement, the issue may be submitted to binding arbitration. Any determination by the arbitrator shall be effective from the time the new or changed operation and/or classification was established. The arbitration shall be conducted pursuant to the procedures set forth in Article IX.

**ARTICLE XVIII**  
**SUCCESSORSHIP**

The Company shall, upon any sale or transfer and/or change of ownership of the business, provide a copy of this Agreement to the transferee, or purchaser. Such notice shall be in writing with a copy to the Union prior to the conclusion of the transaction. Notice to the Union shall include the name and address of the new party, nature of the transaction, acres and operation involved, and date said transaction is to take place. By

this Article, the Parties seek to define contractual rights and do not waive any statutory rights. The Company's obligations with respect to this Agreement and under applicable law ends upon the Company's compliance with these provisions.

**ARTICLE XIX**  
**LAYOFF AND RECALLS**

If a layoff should become necessary, the following procedure will be followed:

**Section 19.1 Scope of Layoffs:** Once it is determined what the scope of a layoff will be, employees will generally be laid off in the following order:

1. Introductory Period Employees \* (in any order in the discretion of management)
2. Seniority Seasonal Employees \*
3. Seniority Full-Time Employees

\*Subject to management selection discretion pursuant to Section 19.7 below

Each laid off employee is given a "Departure Letter" explaining rehiring procedures. The Union will be notified in advance of any seniority full-time employee being laid off.

**Section 19.2 Layoff Criteria:** Employees in the General Labor Class will be selected by job classification seniority for layoffs subject to the management selection provisions in § 19.7 herein.

Employees in Specialist positions as listed in § 10.1 of this Agreement will be selected by classification seniority, however the Company in its discretion has the right to retain such specialist employees according to the following criteria:

- A. The operational needs of the Company; or

- B. Employees possessing special skills and abilities within the specialist class and/or department, and an overall ability to learn.

**Section 19.3 Employee Obligations:** Employees that are on layoff status must provide the Company and the Union with an address and telephone number (P.O. boxes must be accompanied with a physical address) where they can be reached, and it is the sole duty of each and every employee to keep the Company informed as to any changes in personal information.

**Section 19.4 Seasonal Employees:** Seasonal employees may be re-hired upon re-application for general winter work consistent with the criteria set forth in Section 19.2 above. The Company's policy is to hire from applications submitted after October 1<sup>st</sup>.

**Section 19.5 Contact Procedure:** Recalls or New Applicant contacts are made by telephone. In the event contact is not made a post card is mailed. Hiring normally continues through late December.

**Section 19.6 Failure to Receive Recall Notification:** Failure to receive a notice of recall, either mailed or by telephone (including on Saturdays, Sundays or holidays) to the last address and/or telephone number provided to the Company, by each employee, is an unacceptable reason for not returning or reporting to work, or reapplying between October 1<sup>st</sup> and December 15<sup>th</sup> of the same year the employee was laid off.

**Section 19.7 Management Selections (Layoffs):** The Company has the absolute right hereunder to schedule the layoff of thirty (30) seasonal employees per calendar year without regard for their seniority ranking. Neither the affected employee nor the Union shall have the right to challenge such selections under the Grievance and Arbitration procedures herein or by any other method.

**Section 19.8 Management Selections (Recalls):** The Company has the absolute right hereunder to schedule the recall of thirty (30) seasonal employees in each calendar year without regard for their seniority ranking. Neither the affected employees nor the union shall have the right to challenge such selections under the Grievance and Arbitration procedures herein or by any other method.

**Section 19.9 Management Selections-How Applied:** Layoff and Recall management selections as referred to in Sections 19.7 and 19.8 above shall apply herein on a calendar year basis commencing on January 1 and ending on December 31 of each year.

**Section 19.10 Hiring and Placement of Seasonal Employees:** The Company has the right to hire and place into full-time positions any five (5) seasonal employees per year (contract year) under this Agreement without regard for their seniority ranking or adherence to Article VI. Upon hire and placement such employees shall be treated in all respects pursuant to Article V, Section 5.3. Hiring and placement into full-time positions shall not be grievable issues. Affected employees, or the union shall not have the right to challenge these management decisions under the Grievance and Arbitration procedures or by any other method.

## **ARTICLE XX**

### **MODIFICATION**

This Agreement may be modified only in writing signed by both parties.

## **ARTICLE XXI**

### **MANAGEMENT RIGHTS**

**Section 21.1 Reservation of Rights:** The Company reserves all rights, authority, functions and powers which were possessed prior to the election which resulted in the

certification of the Union and which are not inconsistent with the terms of this Agreement, including, but not limited to, the right to determine: standards of quality and job performance, the Company's business needs, the assignment of employees to particular job functions, the method of performance and the scheduling of work, the policies and procedures for employment and whether to partially or fully close operations based on the Company's operational needs, and to evaluate quality and job performance based on the Company's internal grading system and the employee's cumulative average score in the previous season's gradings. The Company's grading system is contained in the Company's employee handbook which is fully incorporated herein by this reference, and the Union hereby acknowledges and agrees that the Company's grading system is fully consistent with this Agreement as called for in this Article.

**Section 21.2 Exclusive Rights:** The rights to manage the business and to direct the work force, including, but not limited to, the right to hire, assign employees to work shifts and job classifications; to determine job content, the means and accomplishment of any work; to suspend, promote, transfer or discharge for cause. and the right to select, hire, evaluate, and promote employees; the right to transfer or relocate employees; the right to determine and promulgate standards of performance; the right to promulgate work rules; the right to determine hours of operation, work schedule shifts, shift runs and reasonable products rates; and to select, change, remove and/install equipment, facilities and methods and procedures; the right to relieve employees from duty because of lack of work, quality or quantity of work, or for other legitimate reasons; and the right to engage and contract with business partners of its own choosing to provide products and services that the Company shall determine; the right to partially or fully close operations based on the Company's operational needs and the rights to make all decisions which are necessary for the efficient and/or economical operation of its business are vested exclusively in management, so long as consistent and they do not violate any provision(s) of the Collective Bargaining Agreement.

**Section 21.3 Temporary Assignments:** Management shall also have the right to assign bargaining unit personnel to non-bargaining unit work based on business needs or as an accommodation. Such assignments shall not exceed the following time periods:

- a. Injured worker (accommodation): The period designated by the treating physician;
- b. Business necessity: 45 days

Such assignments are not intended to be nor will be considered as an extension of the coverage of this Agreement to such non-bargaining unit work. Such assignments will not be considered a break in service for the purposes of seniority pursuant to Article V.

**Section 21.4 Reduction of Workforce:** Management shall also have the right to reduce the workforce if, in the sole judgment of management, such reduction of force is required, and nothing in this Agreement shall be construed to restrict the right of management to adopt, install or operate new or improved equipment or methods of operation.

**Section 21.5 No Waiver:** Nothing herein contained shall be intended or shall be considered as a waiver of any of the generally recognized, inherent and/or fundamental rights of management, whether or not the same were exercised heretofore and the same are hereby expressly reserved by the Company.

**Section 21.6 Employee Handbook Approval:** The Union hereby acknowledges and agrees that it has been given a copy of the Company's Employee Handbook and has read and understands its' contents. The Union hereby agrees that said Handbook attached hereto as **Attachment No. 1** is consistent with this Agreement as called for in Section 21.1 and will be effective upon the execution of this Agreement.

**ARTICLE XXII**  
**BULLETIN BOARDS**

The Company will permit the Union to provide its own bulletin board to be placed at a mutually agreeable location for Union Postings.

**ARTICLE XXIII**  
**SAVINGS**

In the event that any portion of this Agreement becomes ineffective as the result of any applicable local, state or federal law or regulation, only that portion of the Agreement will be deemed ineffective, and in no event will the remainder of this Agreement be deemed ineffective.

**ARTICLE XXIV**  
**DURATION**

This Agreement shall be in effect from March 19, 2002 to and including October 31, 2004 and shall thereafter be automatically renewed from year to year, except as hereinafter set forth.

(a) On or before September 1, 2004 or before September 1<sup>st</sup> of any year thereafter, either party may give to the other a written notice of termination whereupon this Agreement shall terminate on the following October 31<sup>st</sup>

(b) On or before September 1, 2004 or before September 1<sup>st</sup> of any year thereafter, either party may give to the other a written notice of request for modification, alteration or amendment to this Agreement. When such notice is given, it is the duty of the parties on or after September 1<sup>st</sup> to bargain for the purpose of agreeing upon such

modification, alterations or amendments. If this form of notice is given, this Agreement shall remain in full force and effect pending such negotiations, subject to the right of either party hereto to terminate this Agreement upon thirty (30) days written notice by certified mail to the other party.

LECOOKE\2001UFWNEGOS\CBA-PROPOSAL 3-19-02

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this 19th day of March, 2002.

L.E. COOKE CO., INC.

By: [Signature]  
Title: Gen'l Mgr

By: Robert L. Ludlow  
Title: President

By: Bob Ludlow  
Title: V.P.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

THE UNITED FARM WORKERS OF AMERICA, AFL-CIO

By: Arturo Rodriguez  
Title: \_\_\_\_\_

By: Toni J. [Signature]  
Title: Sec. Treasurer

By: [Signature]  
Title: Lupe Martinez

By: Luis E. Lopez  
Title: \_\_\_\_\_

RANCH COMMITTEE  
Jose H. Rivera  
Modesto Tapia  
Rosendo [Signature]  
Jesus C. Barrios  
Juan Hidalgo  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# ATTACHMENT 1

# **EMPLOYEE HANDBOOK**

**L.E. Cooke Co.  
26333 Road 140  
Visalia, CA 93232  
Phone: (559) 732-9146**

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Title: Policy No. 001  
WELCOME Effective Date: March 19, 2002

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Welcome to L.E. Cooke Co. We wish you great success while employed with our Company. The strength of L.E. Cooke Co. is our loyal, dedicated team members. Effective communication and teamwork ensure the success of L.E. Cooke Co. and are at the forefront of our goals. If you ever have any questions or concerns regarding your employment, please contact David Cox, or your supervisor.

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Title: Policy No. 002  
INTRODUCTION Effective Date: March 19, 2002

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This handbook is intended to provide employees with a general understanding of our personnel policies. Employees are encouraged to familiarize themselves with the contents of this handbook, for it will answer many common questions concerning employment with L.E. Cooke Co. Additional regulations may be found in the collective bargaining agreement ("contract"). You will need to familiarize yourself with this contract.

In keeping with our commitment to the communities in which we do business, L.E. Cooke Co. is an equal employment opportunity employer. This means that employment decisions are based upon individual merit and business needs and not upon race, color, citizenship status, national origin, ancestry, sex, sexual orientation, age, religion, creed, physical or mental disability, physical handicap, medical condition, marital status, or veteran status. L.E. Cooke Co. complies with the law regarding reasonable accommodation for disabled employees.

We also wish to inform you that there are rules that you will be expected to obey, and that there are penalties for failure to follow the rules. We have attempted to include as much information as possible. However, this is not all inclusive. L.E. Cooke Co. retains the right to add to, delete from, change, rescind, or modify any provision of this handbook from time to time, in its sole and absolute discretion and to interpret each situation on a case-by-case basis. The handbook will serve as a general guideline and you will be advised of any material changes within a reasonable time. Also, because the handbook has direct impact upon your employment, you should feel free to offer suggestions to improve its usefulness, and inquire about changes to the provisions. We trust that you will enjoy your work here and that we will be proud of you as a good employee. We have tried to use clear and simple language in order to avoid misunderstandings. If any statement in this employee handbook is not completely clear to you, please ask your supervisor for clarification.

We hope that you will be happy in your work. May we both enjoy a profitable and pleasant relationship.

YOU ARE A MEMBER OF A TEAM

The Company recognizes the unique value of every individual and the dignity of labor. Without labor, the Company cannot operate. Without management and investment, there is no need for labor. This means that we all must be motivated to work together in team effort to ensure our common goals of economic well being, safety and job security.

With this concept in mind, the Company is committed to trying to maintain steady employment and to offer competitive wages and benefits to its employees. Because we believe successful employees will want to embrace the team effort concept, the following details the responsibilities of a team member:

1. Perform your job as directed;
2. Ask questions about anything you do not understand;
3. Be respectful of fellow employees;
4. Use equipment and machinery in the proper and safe manner; and
5. Offer suggestions to increase safety, productivity and efficiency.

It is our policy to provide equal employment opportunity for all applicants and employees. The Company does not unlawfully discriminate on the basis of race, color, religion, sex, national origin, ancestry, age, medical condition, disability, veteran status, marital status or sexual orientation. The Company also makes reasonable accommodations for disabled employees. Finally, the Company prohibits the harassment of any individual on any of the basis listed above. This policy applies to all areas of employment, including recruitment, hiring, training, promotion, compensation, benefits, transfer and social and recreational programs.

For purposes of this policy, impermissible harassment includes verbal, physical, and visual harassment; solicitation of sexual favors; unwelcome sexual advances; and creating or maintaining an intimidating or hostile work environment. Any employee who violates this policy is subject to discipline up to and including termination.

Employees can raise concerns and make reports of illegal discrimination or harassment without fear of reprisal. Any employee who retaliates against another employee who reports illegal discrimination or harassment, or who assists in an investigation of illegal discrimination, is subject to discipline up to and including termination.

It is the responsibility of every manager and employee to conscientiously follow this policy.

The Company encourages employees to raise their work-related concerns informally with their immediate supervisor, with the Personnel Department or with upper management. The Company will attempt to keep all such expressions of concern, their investigation and the terms of any resolution confidential; recognizing, however, that in the course of investigation and resolving the concerns, some dissemination of information to others may be appropriate.

You are encouraged to raise work-related concerns with your immediate supervisor as soon as possible after the event that causes the concerns. Alternatively, if you believe that your immediate supervisor is not the appropriate person with whom to raise the concern, you may raise it with the Personnel Department or with upper management.

You are encouraged to pursue discussion of your work-related concerns with the supervisor of your choice until the matter is fully resolved. It may not always be possible to achieve the result you want, but if not, the Company will attempt in each case to explain why. The Company believes that employee concerns are best addressed through informal and open communication. No employee will be disciplined or otherwise penalized for raising a good-faith concern.

It is our policy to provide a workplace free of unlawful and improper harassment. Harassment is considered an act of misconduct and may result in disciplinary action up to and including termination. All supervisors and department heads are responsible for implementing and monitoring compliance with this policy.

A. **Definition**

Harassment is defined as unwelcome or unsolicited verbal, physical, or sexual conduct which is made a term or condition of employment, is used as the basis for employment decisions, or creates an intimidating, hostile, or offensive working environment. Examples of what may be considered harassment, depending on the facts and circumstances include, but are not limited to, the following:

1. **Verbal Harassment:** Derogatory or vulgar comments regarding a person's race, sex, religion, ethnic heritage, physical appearance, or distribution of written or graphic material having such effects.
  
2. **Physical Harassment:** Hitting, pushing, or aggressive physical conduct, or threats to take such action.

3. **Sexual Harassment:** Unwelcome or unsolicited sexual advances, demands for sexual favors, or other verbal or physical conduct of a sexual nature or distribution of written or graphic material having such effects.

Any employee who has a complaint of harassment at work by anyone, including supervisors, co-workers, or visitors, should promptly notify his or her supervisor, or the Personnel Department. If the complaint involves someone in the employee's direct line of command, the employee may go to another supervisor with the complaint. No action will be taken against any employee who files a complaint of harassment.

Supervisors who become aware of any harassment, whether it involves employee-to-employee, supervisor-to-employee or employee to supervisor conduct, must report the matter to the department head or Personnel Department. If supervisors observe such harassment, they should take immediate action to stop it and report the activity to the department head or Personnel Department.

Special privacy considerations will be applied in handling all harassment complaints. All employees should be aware that the identity of the charging party and the person accused of harassment will be kept as confidential as an effective investigation will allow. The Company will retain confidential documentation of all allegations and investigations and will take appropriate corrective action, including disciplinary measures when justified, to remedy all violations of the Company's harassment policy.

4. **Legal Remedies and Complaint Process:** In the event that you are dissatisfied with the action taken by the Company, you have the right to file a formal discrimination complaint with the Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing. Those agencies may be reached as follows:

Equal Employment Opportunity Commission  
1265 West Shaw Avenue, Suite 103  
Fresno, California 93711  
Telephone: (209) 487-5793

Department of Fair Employment & Housing  
1900 Mariposa Mall, Suite 130  
Fresno, California  
Telephone: (800) 884-1684

L.E. Cooke Co. is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

The Immigration Reform and Control Act of 1986 requires each new employee, as a condition of employment, to complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. L.E. Cooke requires that former employees who are rehired must also complete the form.

Thus, all offers of employment are contingent on verification of your right to legally work in the United States. On or before your first day of work, you will be asked to provide original documents verifying your right to work and to sign a verification form required by federal law. If you cannot, within 3 business days, or at any time thereafter, verify your right to legally work in the United States, the Company may be obligated to terminate your employment, under applicable statutes.

All prospective employees must complete the following forms:

1. Employment form
2. Employment Withholding Allowance Form W-4
3. Form I-9

Falsification of employment records, or offering false documents, may result in discipline up to and including termination.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the Personnel Office. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

New employees are on introductory status for the first 90 days of employment. During this period, you will have an opportunity to learn your new position and to see whether you enjoy your employment at L.E. Cooke Co. The Company will use this period to see if you are able to meet its expectations.

In the event that the working arrangement is not satisfactory to either party, the relationship can be severed at any time. Successful completion of your introductory period is not a guarantee of continued employment.

After the first 90 days of the initial introductory period, the Company will evaluate your performance and decide whether to extend the introductory period for a specified period, or to allow you to enter the "regular" employment classification. This does not qualify for seniority. Seniority issues are addressed in the contract. Unless and until the Company performs this evaluation and reaches its decision, you will remain on "introductory status".

As a general rule an introductory employee is not eligible for Company-sponsored benefits. Management reserves the right to grant such benefits at its sole discretion without waiving the introductory status of the employee.

Employees receive one 10 minute rest break during each four (4) hour work period. Breaks are called by your supervisor. Rest breaks are paid time. Rest breaks may not be used to extend meal breaks, or be stored up to use at the end of your shift. Rest breaks are taken at the work site.

Employees receive a meal break of 30 minutes. Meal breaks for lunch are normally at noon and will be called by your supervisor. Meal breaks are unpaid time. Those working evenings must take a 30 minute meal break.

Rest and lunch break times may vary with the season when start times are earlier.

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Title: PAY PERIODS Policy No. 014  
Effective Date: March 19, 2002

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The workweek begins on Monday and ends on Sunday. Payday is every Wednesday at the end of the shift. If payday falls on a holiday, checks will be available the preceding workday.

All paychecks not picked up on payday may be picked up from the Personnel office, Monday through Friday, from 8 a.m. to 5 p.m.

No checks will be given out early and checks will only be given to the employee named on the check, unless written permission is given. Any errors on your paycheck should be reported immediately to the Personnel office or your supervisor.

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Title: TIMEKEEPING Policy No. 015  
Effective Date: March 19, 2002

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All hourly employees must punch in and punch out at the beginning and end of their shifts and whenever leaving work premises for meal breaks or before the end of their shifts. A time card is a legal document and must not be tampered with. Corrections or missed punches must be timely submitted in writing and approved by your supervisor or other authorized personnel. Punching the time card of a fellow employee, or falsifying your own time card is dishonest and may lead to immediate termination.

Any time records with hand-written times or corrections (not time clock stamped) MUST be signed by the employee before a check can be issued. It is the employee's responsibility to insure that the time submitted is correct. Timing errors that are overlooked and verified by the supervisor will be made up on the next paycheck.

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Title: PAYROLL DEDUCTIONS AND SET-OFFS Policy No. 017  
Effective Date: March 19, 2002

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Federal and state laws require that the company make certain deductions from every employee's compensation. Among these are withholding for federal income tax (FWT); California income taxes (SWT); Social Security and Medicare (FICA); and California State Disability Insurance (SDI). Social Security taxes each employee's earnings up to a specified limit that is called the Social Security "wage base". L.E. Cooke Co. matches the amount of Social Security taxes paid by each employee.

No payroll checks can be issued without your Social Security number.

Questions concerning any aspect of this policy should be directed to: David Cox

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Title: REPLACEMENT PAYROLL CHECK POLICY Policy No. 020  
Effective Date: March 19, 2002

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On occasion the Company is asked to replace payroll checks that were either destroyed, damaged or that were lost completely. The following procedures are necessary on any payroll check before it will be replaced.

DESTROYED or DAMAGED CHECKS: All remaining parts, regardless of how badly damaged, must be brought in to us. No checks will be replaced until we receive these parts.

LOST CHECKS: There will be a 72 hour waiting period before replacing a check (this does not include weekends or holidays). This is to give us time to put a STOP PAYMENT on the check. We will not replace a check until the stop payment at the bank is in effect and the bank has had time to verify that it has not been paid.

On all checks there will be a \$2.00 replacement charge. If we must issue a stop payment, there will be an additional \$12.00 charge for a total of \$14.00.

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Title: OVERTIME Policy No. 021  
Effective Date: March 19, 2002

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When necessary, employees will be requested or scheduled to work overtime. Refusal to work overtime, failure to work scheduled overtime or working overtime without prior authorization from your supervisor, may result in disciplinary action up to and including termination.

Employees with work in process need to check with supervisor to see if it is necessary to stay to complete the job beyond normal work hours.

Agricultural Non-Exempt employees will be paid time and one-half compensation for all hours in excess of 10 hours in a single workday, or sixty (60) hours in a single work week. Overtime pay is based on actual hours worked.

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Title: ATTENDANCE Policy No. 022  
Effective Date: March 19, 2002

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Each employee is responsible for being prompt in attendance. Dependability is essential for a smooth running operation and is one factor which is considered during performance appraisals. You must report to work in enough time to be ready to start your job at the scheduled beginning of your shift.

Questions concerning any aspect of this policy should be directed to: David Cox

If you are going to be late for any reason, you must let your supervisor or other authorized personnel know as soon as possible of your expected late arrival by calling 732-9146. A message on the answering machine is acceptable. Shipping office phone is not to be used for this purpose.

If an employee is late for work more than 3 times within a 30-day period, he or she will be put on probation. If an employee on probation is late again within 30 days, he or she will be suspended, without pay, for three (3) days. After returning to work from suspension, if the employee is late again within 30 days, he or she may be terminated.

If you are unable to report to work as scheduled, the Company needs your cooperation to properly cover your job; therefore, you must contact your supervisor or other authorized personnel directly or by telephone, before your scheduled working time and tell him or her you will be absent and when you will return to work. If you do not know your return date, you must call your supervisor or other authorized personnel each day, before the beginning of your regularly scheduled shift, unless you are on an approved leave of absence. If your supervisor or other authorized personnel is not available, leave your name, telephone number and reason for your absence with the receptionist or answering machine.

An employee that does not report to work as scheduled and does not report the absence by the starting time will be subject to discipline up to and including termination.

If, for any reason, it becomes necessary for you to leave work before the end of your scheduled shift, you must notify and obtain approval from your supervisor or other authorized personnel before leaving.

If an employee has 3 unexcused absences within a 30 day period, he or she will be suspended for 3 days. After returning to work from suspension, if the employee is absent again within 30 days, he or she may be terminated.

The Company reserves the right to request written certification from an employee's physician for any absence due to illness, prior to employee returning to work. Unverified absences due to illness or unexcused absences will result in discipline up to and including termination.

An employee that does not report to work as scheduled and does not report for three (3) days will be considered absent without leave (AWOL) and presumed to have voluntarily resigned from the Company.

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Title:

HOLIDAYS

Policy No. 023

Effective Date: March 19, 2002

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Holidays. The following shall be paid holidays:

1. Memorial Day
2. Independence Day
3. Labor Day
4. Thanksgiving Day
5. Christmas Day

Holiday Pay. Holiday pay shall be based on the normal workday for the season in question but in no event more than nine (9) hours pay at the worker's hourly rate. Work on any holiday shall be paid at the normal straight time hourly rate for ineligible employees. Eligible employees who work will receive their normal straight time rate in addition to their holiday pay.

Eligibility. To be eligible for holiday pay as provided for in paragraph above an employee must work at least one hundred seventy-five (175) hours in the previous sixty (60) days before the holiday. In addition, the employee must work the next scheduled work day after the holiday to be eligible for the holiday pay. Holidays are not paid while the worker is on an unpaid leave of absence.

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Title:

EMPLOYEE DATA CHANGES

Policy No. 024

Effective Date: March 19, 2002

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It is the responsibility of each employee to promptly notify the Company of any changes in personal data. Personal mailing addresses, telephone numbers, number and names of dependents (for purposes of benefits), individuals to be contacted in the event of an emergency and other such status reports should be accurate and current at all times. If any personal data has changed, notify the Personnel Office, so that our records and your benefits are kept up to date. Failure to maintain personnel data may result in loss of benefits.

The protection of confidential business information and trade secrets is vital to the interests and the success of L.E. Cooke Co. Such confidential information includes, but is not limited to, the following examples:

- Customer lists
- Customer preferences
- Financial information
- Labor relation strategies
- Marketing strategies
- New materials research
- Pending projects and proposals
- Personnel matters
- Plant material and sources
- Proprietary production processes and techniques
- Research and development strategies
- Scientific data
- Scientific formulae
- Scientific prototypes
- Technological data
- Technological prototypes

All employees may be required to sign a non-disclosure agreement as a condition of employment. Any employee who improperly uses or discloses trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and possible legal action, even if he or she does not actually benefit from the disclosed information.

Termination of employment is an inevitable part of personnel activity within any organization and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated:

LAY OFF - due to the seasonal nature of the business, a great number of temporary workers are required. When the season is over, their employment is terminated, initiated by the organization.

RESIGNATION - voluntary employment termination, initiated by an employee.

DISCHARGE - involuntary employment termination, initiated by the organization.

RETIREMENT - voluntary employment termination, initiated by an employee meeting age, length of service and any other criteria for retirement from the organization.

The Company will schedule, when possible, exit interviews at the time of seniority employment termination. The exit interview will afford an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to the Company, or return of Company-owned property. Suggestions, concerns and questions can also be voiced.

Employees will receive their final pay in accordance with applicable state law.

Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable at termination will be paid. Some benefits may be continued at the employee's expense, if the employee so chooses. The employee will be notified in writing of the benefits that may be continued and of the terms, conditions and limitations of such continuance.

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|--------|-------------------|--------------------------------|
| Title: | EMPLOYEE BENEFITS | Policy No. <u>036</u>          |
|        |                   | Effective Date: March 19, 2002 |

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Eligible employees are provided a wide range of benefits. A number of programs (such as Social Security, Worker's Compensation, State Disability and Unemployment Insurance) cover all employees, in the manner prescribed by law.

In addition to Holidays and Vacations mentioned elsewhere in this document, Medical and Life Insurance are offered to regular employees who meet eligibility requirements as set forth in the collective bargaining agreement.

Qualified employees and their dependents have Medical Insurance provided through the Robert F. Kennedy Farm Workers Medical Plan.

Eligible employees will receive life insurance pursuant to the terms of the Robert F. Kennedy Medical Plan.

You are covered by State and Federal Unemployment Insurance paid for by the Company. This does not cover people who quit or are terminated for cause.

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Title:

VACATION

Policy No. 037

Effective Date: March 19, 2002

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**VACATION EARNING SCHEDULE**

| <u>YEARS OF SERVICE</u> | <u>VACATION BENEFIT</u>   |
|-------------------------|---------------------------|
| 1-2 Years               | 1 week (5 days)           |
| 3 Years                 | 1 week and one (1) day    |
| 4 Years                 | 1 week and two (2) days   |
| 5 Years                 | 1 week and three (3) days |
| 6 Years                 | 1 week and four (4) days  |
| 7 Years or More         | 2 weeks (10 days)         |

Vacation credits are accrued for all straight time hours worked and are based on the normal summer workweek but in no event more than (9) hours pay at the employee's hourly rate. Vacation is not accrued when an employee is suspended, or on an unpaid leave of absence. Vacation advances are not permitted.

Employees should take vacation within the calendar year after it is earned. Most vacations fall in August, September and October.

**Maximum Accrual:** Employees may accrue a maximum of two (2) weeks of unused vacation (based on length of service). Once an employee has accrued two (2) weeks they cannot accrue more vacation time until they have used a portion of their accrued unused vacation time. Employees may not receive pay instead of vacation, except when they separate from the Company. If an employee is separated from the Company for any reason prior to obtaining full-time seniority and eligibility to take vacation, he will not be eligible for a pro-rated payout. Scheduling conflicts will be determined by job classification seniority, giving the more senior employee the choice of scheduling. Operational needs of the Company will always dictate scheduling.

LEAVE OF ABSENCE

INTRODUCTION

Sometimes employees may need to take a leave of absence from their employment. Generally speaking, introductory and temporary employees are not eligible for a leave of absence. Should an introductory employee be granted a leave of absence, his or her introductory period is extended by the number of days of the absence.

If you take a leave of absence, you must return to work on the next regular working day after your leave of absence ends. If you do not, you will be considered to have voluntarily quit your job.

If the request is for more than two (2) days off, other than for a scheduled vacation, you must request a leave of absence in writing. This must be done with at least two (2) weeks' notice and is subject to the approval of management. In emergency situations, management may waive the two weeks' notice prior to approving the leave of absence.

Employees on leave of absence for any reason do not accrue vacation or holiday benefits during the period they are on leave of absence, and employees will be required to first use any accrued paid leave time before taking any unpaid leave.

Except as required by law, the Company cannot guarantee that your position will still be open when you return from your leave of absence. If your position has been filled or eliminated, the Company will try to find you a comparable position. If one is not open, you will be invited to apply for the next available position for which you are qualified. If you are offered the position and do not accept that position, you will be considered to have voluntarily quit your job.

Employees on leave of absence for any reason do not accrue vacation, holiday or qualifying time for personal benefits during the period they are on leave of absence.

Each type of leave of absence has its own rules. Not all leaves are described in this policy. Therefore, if you wish to take a leave of absence you must consult with the Personnel Department about the applicable restrictions.

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Title:

PERSONAL LEAVE

Policy No. 042

Effective Date: March 19, 2002

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The Company provides leaves of absence, without pay, to eligible employee who wish to take time off from their work duties to fulfill personal obligations. Employees in the following employment classification(s) are eligible to request personal leave as described in this policy:

Regular full-time employees

Employees may request personal leave only after having completed 90 calendar days of service in an eligible classification. As soon as eligible employees become aware of the need for a personal leave of absence, they should obtain a leave request form from management.

Personal leave may be granted for a period of up to 14 calendar days every one year (starts September 1). An employee must take any available vacation leave before an approved period of leave.

Requests for personal leave will be evaluated based upon a number of factors, including but not limited to anticipated work load requirements and staffing considerations during the proposed period of absence. Most leave of absences are given in September, October and November. Normally, none are allowed in December or January. They are very limited other times of the year.

Subject to the terms, conditions and limitations of the applicable plans, health insurance benefits will be provided by the Company until the end of the month in which the approved personal leave begins. At that time, employees will become responsible for the full costs of these benefits if they wish coverage to continue. When the employee returns from personal leave, benefits will again be provided by the Company according to the applicable plans.

Benefits accruals, such as vacation or holiday benefits, will be suspended during the leave and will resume upon return to active employment.

If an employee fails to report to work promptly at the expiration of the approved leave period, the Company will assume the employee has resigned.

Pursuant to the Family and Medical Leave Act and the California Family Rights Act, L.E. Cooke Co. provides leaves of absence, without pay, to eligible employees who need to take time off from their work duties to fulfill family obligations relating directly to childbirth, adoption, or placement of a foster child; to care for a child, a spouse, or a parent with a serious health condition or for their own serious health condition; or when an employee is disabled due to pregnancy, childbirth or a related medical condition. A serious health condition generally means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.

To be eligible for family and medical leave, employees must have worked a total of 12 months for L.E. Cooke Co. and a total of 1250 hours during the 12 months preceding the need for leave. Any employee disabled by pregnancy is eligible for pregnancy disability leave. Eligible employees should make requests for leave to management at least 30 days in advance of foreseeable events and as soon as possible for unforeseeable events. Failure to comply with the notice requirements is grounds for and may result in a deferral of leave until proper notice is given.

Employees requesting family leave related to the serious health condition of a child, spouse, parent or self may be required to submit a health care provider's statement on Company form. In addition, if the leave is for the employee's own health problem, the health care provider must also certify that the employee is unable to perform the essential functions of his or her job.

Eligible employees may request up to a maximum of 12 weeks of family and medical leave within any applicable 12 month period. Any combination of family leave and medical leave may not exceed this maximum limit (with the exception of a pregnancy disability leave). Employees will be required to first use any accrued paid leave time before taking unpaid family leave. Married employees will be restricted to a combined total of 12 weeks leave within any 12 month period for childbirth, adoption, or placement of a foster child; or to care for a parent with a serious health condition. In the case of a child with a serious health condition, 12 work weeks of leave will be provided to each spouse of a married employee couple.

If you are taking a leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks and you must conclude the leave within one year of the birth or placement for adoption or foster care.

Eligible employees may request pregnancy disability leave of up to 4 months, or for the length of the disability, whichever is shorter. Pregnancy disability leave will be granted when the employee's doctor or other licensed health care practitioner states that the employee cannot perform the essential functions of her job without undue risk to herself or to other persons, due to pregnancy, childbirth or a related medical condition.

Employees who sustain work related injuries are eligible for medical leave in accordance with applicable laws concerning occupational disabilities.

L.E. Cooke Co. will continue to provide health insurance benefits for the full period of the approved leave. Other benefit accruals, however, such as vacation, sick leave, or holiday benefits, will be suspended during the leave and will resume upon return to regular employment.

So that an employee's return to work can be properly scheduled, an employee is requested to provide at least two weeks' advance notice of the date the employee intends to return to work. When the leave ends, the employee will be reinstated in accordance with applicable law.

If an employee fails to report to work promptly at the end of the approved leave period, L.E. Cooke Co. will assume that the employee has resigned.

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Title:

SAFETY POLICY

Policy No. 054

Effective Date: March 19, 2002

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To assist in providing a safe and healthful work environment for employees, customers and visitors, the Company has established a *Worksite Injury Prevention Program*. You have been handed this program under separate cover. This program is a top priority. Its success depends on the alertness and personal commitment of all.

Employees and management receive periodic workplace safety training. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards

Some of the best safety improvement ideas come from employees. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor, or with another manager, or bring them to the attention of a member of upper management. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of reprisal.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate manager. Employees who violate safety standards, who cause hazardous or dangerous situations, or who fail to report or, where appropriate, remedy such situation, may be subject to disciplinary action up to and including termination of employment.

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees should immediately notify their supervisor. Such reports are necessary to comply with various laws and initiate insurance and workers' compensation benefits procedures.

If a fellow employee is injured, DO NOT attempt to administer any first aid unless you are properly trained. Notify your supervisor or other authorized personnel immediately. If an employee appears to be seriously injured, i.e., the employee is unconscious or fallen from a ladder, etc., DO NOT ATTEMPT TO MOVE HIM OR HER AS PERMANENT INJURY MAY RESULT. Notify your supervisor or other authorized personnel IMMEDIATELY and call 911 to request that paramedics be dispatched. Give the dispatcher the location of the injured employee, and the type of injury he or she has received. Send someone to the entrance to direct the emergency crews to the location of the injured employee.

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Title:

WORKER'S COMPENSATION INSURANCE

Policy No. 056

Effective Date: March 19, 2002

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Worker's compensation is an insurance paid by the Company to compensate employees for hospital, doctor and other medical expenses incurred for an illness or injury sustained on the job.

The Company provides a comprehensive worker's compensation insurance program through State Compensation Insurance Fund (P.O. Box 40000, Fresno, CA 93755, phone 559-433-2737 at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, workers' compensation insurance provides benefits after a short waiting period or, if the employee is hospitalized, immediately. The company has assigned Valley Industrial and Family Group Inc., 225 S. Chinowith, Visalia, CA 93291, phone 627-3222, as the authorized physician for Workers Compensation insurance. Proper authorization from the company must be obtained prior to seeking care for on the job injuries.

Employees who sustain work-related injuries or illnesses must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. Failure to report an injury may jeopardize your coverage.

This insurance covers only job-related accidents or illness.

Neither the Company, nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social, or athletic activity sponsored by L.E. Cooke Co.

#### PENALTIES FOR WORKER'S COMPENSATION FRAUD!

The following statements represent the basis of a fraudulent worker's compensation claim:

1. Making any knowingly false or fraudulent statement or material representation for the purpose of obtaining, or denying worker's compensation benefits as defined in Sec. 3207 of the Labor Code.
2. Presenting any knowingly false or fraudulent written or oral statement in support of, or in opposition to any claim for worker's compensation benefits.
3. Knowingly assisting, abetting, soliciting, or conspiring with any persons who engage in unlawful conduct prescribed under this section,
4. Making knowingly false statements regarding entitlement to benefits with the intent to discourage an injured worker from pursuing a claim ("statement" includes notices, proof of injury bills and payments for services, test results and medical or legal expenses for the purpose of

obtaining or denying any compensation as defined in Section 3207 of the Labor Code.

**ANY EMPLOYEE FOUND TO HAVE MADE SUCH A FRAUDULENT CLAIM WILL BE GIVEN 5 YEARS IMPRISONMENT, \$50,000.00 FINE, OR DOUBLE THE VALUE OF FRAUD, WHICHEVER IS GREATER.**

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Title: EQUIPMENT PURCHASES Policy No. 060  
Effective Date: March 19, 2002

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For your comfort and convenience, certain items are available for purchase from the Company. Items available include gloves, rain coats and back support belts. Prices for these items are posted in the Yard Office. There are no returns allowed on these purchases.

Purchases may be made by payroll deduction when the employee signs the payroll deduction authorization.

The Company will provide any special equipment, tools or clothing required for the job. Items supplied by the Company are posted in the Yard Office.

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Title: RETURN OF PROPERTY Policy No. 061  
Effective Date: March 19, 2002

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Employees are responsible for all Company property, materials, or written information issued to them or in their possession or control. Employees must return all Company property immediately upon request or upon termination of employment. Where permitted by applicable laws, the Company may withhold from the employee's check, or final paycheck, the cost of any items that are not returned when required. The Company may also take all action deemed appropriate to recover or protect its property.

A list of equipment supplied by the Company is posted in the Yard Office. Replacement costs for most common equipment is included on the list.

One budding knife is issued at no cost each year to each budder in early March and should last the budding season. Replacement knives are to be purchased by the employee.

Grafting knives are given out near January 15th and returned near March 15th.

A. **Purpose:**

The purpose for setting forth work rules and regulations is to clearly define certain requirements and conditions of employment so that employees may fully understand what is expected.

The Company expects high quality work from its employees and expects you to conduct yourself in a businesslike manner. All employees are governed by the rules of conduct set forth in this handbook.

Violations of the rules and regulations can result in disciplinary action ranging from a written warning ("C"), suspension ("B") to termination ("A"), at management's sole discretion. There is no standard series of disciplinary steps the Company must follow. In other words, the Company does not follow progressive discipline. In certain circumstances, your conduct may lead to immediate termination. The Company's discipline procedures do not imply any other policy. As a guide you can expect minimum disciplinary actions for first time infractions based upon the code in parenthesis ( ) behind each statement below.

- (A) Immediate termination
- (B) Suspension without pay, length to be determined by management.
- (C) Written Warning

The following will be considered for disciplinary action. This list is not exclusive and other grounds for discipline may arise.

B. **Attendance and Punctuality**

1. Excessive tardiness (more than 3 times in a 1 month period). See attendance policy #22. (C)(B)
2. Failure to be in your assigned work area to begin work at the scheduled starting time. (C)
3. Failure to report daily to your supervisor, or other authorized personnel, an absence and reason before the scheduled work time, unless you are on an approved leave of absence. (C)
4. Failure to report as soon as possible if you are going to be late. (C)
5. Leaving the premises for non-work purposes during work hours without permission of supervisor or without clocking out before leaving. (C)
6. Leaving the work station, department, or Company premises without permission of authorized personnel during working time, except where the nature of the work requires interdepartmental movements. (C)

C. **Time Keeping and Unexcused and Excessive Absenteeism.**

1. Clocking in prematurely or clocking out beyond the end of your shift if not authorized by supervisor or other authorized personnel. (C)
2. Failure to clock out for leaving the work area. (C)
3. Abuse of established break privileges. (C)
4. Failure to obtain pre-approval from a supervisor or other authorized personnel to work overtime. (C)
5. Clocking in or out for another employee, allowing someone to clock in or out for you, or repeated failure to record your own time on the time keeping device. (A)
6. Failure to report to work as scheduled and not report the absence by the starting time. (C)
7. Excessive absences (see attendance policy #22) (B)

D. **Work Standards**

1. Failure to perform to acceptable standards of productivity or quality. (C)
2. Restricting output of work or engaging in an intentional slowdown. (A)
3. Causing spoilage or rework through inattention, carelessness or the disregarding of work processes or instructions. (C)
4. Abandoning work-in-progress at end of shift without supervisor approval during critical times of season. (C)
5. Neglecting, exposing or abandoning live plant products so as to damage viability or merchantability. (C)

E. **Unauthorized and/or Illegal Acts**

1. Falsifying information on timekeeping records, your employment application, production records or any other Company records. (A)
2. Falsifying insurance records or documentation. (A)
3. Unauthorized taking, receiving or possessing of any Company property or personal property of others. This includes products from trash piles or trash containers. (A)
4. The use, possession, distribution, selling or receiving of controlled substances ("drugs") or alcohol, being under the influence of drugs or alcohol while on duty, while on Company premises or while operating a Company vehicle (except when usage is under the supervision of a physician.) (A)

5. Unauthorized possession of weapons (including illegal knife blades), incendiary devices or explosives on Company premises. (A)
6. Fighting, assault or other disorderly, immoral, or indecent conduct on Company premises, or any action which might bring discredit to the Company. (A)
7. Gambling or engaging in a lottery on Company premises. (B)
8. Unauthorized use of Company telephones. (C)
9. Failure to report an accident or injury to your supervisor, or to be treated by Company physician. (C)
10. Unauthorized operation or use of vehicles, machines, supplies, tools, or equipment. (C)
11. Selling, soliciting, canvassing or distribution of articles or literature on Company premises without management approval. (C)
12. Intentional abuse, misuse or damage of any Company property, tools, equipment, or the property of fellow employees, contractors or service suppliers. (B)
13. Careless or unintentional abuse, misuse, or damage of any Company property, tools, equipment, or the property of fellow employees, contractors or service suppliers. (C)
14. Accepting COD orders, or allowing repairs and outside services, without the prior permission of authorized personnel. Disciplinary action will depend on the intent of the individual and severity of costs. (A-C)
15. Breach of confidentiality of Company or customer affairs. (B)
16. Improper use and disposal of hazardous waste. Disciplinary action will depend on seriousness of event. (A-C)
17. Conducting personal business during working hours. (C)
18. Accepting gratuities, tips or gifts of value from suppliers or others. Disciplinary action will depend on seriousness of event and intent of individual. (A-C)

F. **Conduct**

1. Threatening, intimidating, coercing, sexual or racial harassment, using abusive or defamatory language, or any action which creates a hostile work environment or endangers the health or safety of any fellow employee or supervisor. (A)
2. Insubordinate conduct, refusal or failure to follow a reasonable direction, instruction or assignment of authorized personnel. (A)
3. Sleeping during working time. (B)

4. Reading books, newspapers, magazines or any printed material during working time, except as required by the job. (C)
5. Failure to perform overtime work, without a reasonable excuse. (C)
6. Unauthorized visitors on company premises. See policy 072. (C)
7. Unlawful discrimination or harassment of any type. See policy 006. Disciplinary action will depend on severity and history of situation. (A-C)
8. The playing of pranks or horseplay. Horseplay causing injury to others may result in termination. (C)(A)
9. Reporting to work under the influence of drugs or alcohol. (B)
10. Filing or causing to be investigated frivolous complaints. (B)

G. **Security**

1. Loitering on Company premises including the parking lot. (C)

H. **Miscellaneous**

1. Posting, removal or altering of any matter, in any form, on the bulletin boards or Company property, unless specifically authorized by the Personnel Department. (C)
2. Failure to maintain healthful standards of personal hygiene, so as not to interfere with the ability of others to perform their jobs properly. (C)
3. Failure to timely notify the Personnel Department and your supervisor of any change in your name, address, or telephone number. (C)
4. Excessive wage garnishments and/or failure to settle them. See policy 019. (A)
5. Inappropriate dress for your safety for the work you are doing. (C)
6. Eating in unapproved areas after notification by management. (C)
7. Picking fruit from orchards without authorization from upper management. (B)
8. Driving unsafe or too fast, stirring up dust on company owned or leased properties. (C)

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Title:

DISCIPLINARY ACTIONS

Policy No. 063  
Effective Date: March 19, 2002

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Although your employment is not for a fixed term or definite period and may therefore be terminated by either the Company or you, at any time, for any reason, with or without notice; the Company has established procedures for dealing with disciplinary matters.

Violations of the Work Rules and Regulations can result in disciplinary action ranging from a verbal warning to termination, at management's sole discretion. There is no standard series of disciplinary steps that the Company must follow. In certain circumstances, your conduct may lead to immediate termination.

When disciplinary action is used, the severity of discipline will be determined in light of the facts and circumstances of each individual case. Each incident shall be considered in light of a variety of factors, including:

- \* The seriousness of the incident and the circumstances;
- \* The employee's past conduct;
- \* The employee's work record;
- \* The nature of any previous incidents; and
- \* The general practice as it relates to the incident;

Discipline may, but will not necessarily, follow these steps:

(C) **WRITTEN WARNING** - Written warnings are given for first time offenses, repeat violations after verbal counseling, or additional written warnings. This will be presented to the employee by the supervisor. The reasons for the action will be discussed with the employee. The employee will be asked to sign and is required to sign, the written warning, not admitting guilt, but acknowledging receipt of the warning. This will be placed in the employee's personnel file.

(B) **SUSPENSION** - Suspensions are generally given for more serious first time offenses, repeat violations after verbal counseling or written warnings, or additional violations. The Company may impose a suspension at any time it is warranted. It is not necessary for the Company to give a prior verbal or written warning prior to a suspension. This action will be written and placed in the employee's file. The written document will include the reason(s) for such action, the days which the employee is to be off work and the return date. The employee is required to sign the suspension notice, not admitting guilt, but acknowledging receipt of the notice. The Company retains the right to determine the number of days off and the specific days to be taken. This will be placed in the employee's personnel file.

(A) **TERMINATION** - Termination will generally be imposed for repeated violations, but can be imposed for first time offenses. A written termination notice will be given to the employee, giving the reason for such action and will be placed in the employee's personnel file. The employee will be asked to sign and is required to sign the termination notice, not admitting guilt, but acknowledging receipt of the notice.

The Company retains the right to vary from the preceding steps at any time, in any disciplinary action.

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Title: Policy No. 064  
Effective Date: March 19, 2002  
DRUG AND ALCOHOL SUBSTANCE ABUSE

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### SUBSTANCE ABUSE

**Intent of the Parties:** The Company and the Union both agree that the use, possession, distribution, or being under the influence of intoxicants and/or intoxicating substances at the workplace affects the safety of everyone and is strictly prohibited.

**Drug and Alcohol Testing:** The Company has always been strongly committed to providing its employees with a safe, efficient and productive work environment. The Company desires to ensure that employees will perform their duties safely and efficiently and in a manner that protects their interests and those of their co-workers. The Company also desires to promote efficiency in the workplace and to provide the highest quality products and services. The Company recognizes that being under the influence of any controlled substance and/or alcoholic beverage while on the job poses serious risks to the health and safety of employees and customers. The safety of the public, as well as the safety of fellow employees, dictates that employees not be permitted to perform their duties while impaired by the influence of drugs and/or alcohol.

Considering the addictive nature of drugs/alcohol abuse, the accomplishment of this commitment will require the full support of all levels of management and supervision, as well as that of each employee.

**Application:** This policy applies to all employees and to all applicants for positions with the Company. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to perform the functions of his or her job effectively and safely.

#### **Policy Rules/Prohibited Activity:**

- A. An employee shall not work under the influence of any drug or medication which impairs his or her ability to safely and efficiently perform the required duties of the position.

- B. The use, possession, distribution, selling or receiving of a controlled substance ("drugs") or alcohol, or being under the influence of drugs or alcohol are strictly prohibited while on duty, while on Company property, or while operating a Company vehicle.
- C. No employee shall purchase, possess, use, sell, or furnish alcoholic beverages during the course or performance of his or her assigned duties. Under no circumstances shall an employee report to the work site under the influence of an alcoholic beverage.
- D. No employee shall purchase, possess, use, sell, furnish or be under the influence of any illegal drug or controlled substance during the course of performance of his or her assigned duties.
- E. No employee shall purchase, possess, use, be under the influence of, sell, or furnish any prescription drug during assigned work hours, or while on duty or while using Company vehicles/equipment unless:
  - (1) the prescription was issued by authorized medical personnel and the employee follows the prescription instructions; and
  - (2) the employee shall have advised his or her supervisor of this fact before reporting to work. Violation of this policy will result in disciplinary action, which may include termination.
- F. An employee who reports to the job site and advises his or her supervisor of limitations or restrictions resulting from a prescription or over-the-counter drug, may be assigned less than the full range of duties, at the sole discretion of the supervisor. Employees will not be subject to disciplinary action through compliance with this procedure.
- G. Entry onto Company property is deemed consent to the inspection of your person, vehicle and/or personal property, including lockers. Such inspections will be conducted only for reasonable suspicion and all such inspections will be conducted by the Company, an independent security service or an applicable law enforcement agency.
- H. The Company's management may lay out additional rules in accord with this policy and appropriate to the work requirements, as well as the responsibilities of the employees. Such additional rules shall comply with state and federal drug testing laws.

**Terms/Definitions:**

- A. "Dosage": The appropriate amount of medication recommended by a physician for an over-the-counter or prescription drug.
- B. "Drug": An illegal drug, an over-the-counter drug, or a prescription drug.
- C. "Industrial or Vehicle Accident":
  - (1) "Industrial Accident" is an accident which arises out of and during the course of individual's employment with the Company.

- (2) "Vehicle Accident" is an occurrence associated with the operation of equipment and/or a motor vehicle which is owned by or leased to the Company, including an employee's personal vehicle used for Company business.
- D. "Illegal Drug": A controlled substance as defined by state or federal law that has not been obtained in accordance with the regulations promulgated to administer its distribution, or a drug that has not been assigned an FDA number.
- E. "Over-the-Counter Drug": A drug lawfully available for retail purchase without a prescription.
- F. "Prescription Drug": A drug lawfully available for retail purchase only with a prescription.
- G. "Reasonable Suspicion": Reasonable suspicion shall exist when a supervisor can articulate and can substantiate, in writing, specific behavioral, performance or contemporaneous physical indicators of being under the influence of drugs or alcohol on the job. The objective indicators shall be recognized and accepted symptoms of intoxication or impairment caused by drugs or alcohol. Suspicion is not reasonable and thus not a basis for testing, if it is based solely on the observations and reports of third parties. The grounds for reasonable suspicion must be documented by the use of an incident report form.

The following objective factors are examples of reasonable suspicion:

1. Incoherent or slurred speech, disorientation or inattention;
  2. Odor of drugs or alcohol on breath or clothing;
  3. Staggering gait or balance problem;
  4. Red, watery eyes with dilated or constricted pupils;
  5. Hand tremors;
  6. High energy, agitated, talkative, paranoid or bizarre behavior.
- H. "Using Company Equipment": Operating or assisting in operating equipment or a motor vehicle which is owned by or leased to the Company, including an employee's personal vehicle used for Company business.

### Testing:

- A. Conditional Offer: The Company reserves the right to test any and all successful job applicants for the use of illegal drugs during the conditional offer screening process. If tested, employment will be conditioned on passing a standard drug screening test administered and evaluated by an independent medical professional. All results will be kept confidential. If an applicant is put to work before the test results are received, hiring will be conditional on such results. Applicants who test positive for illegal drugs will be ineligible for employment. The cost of such testing will be paid by the Company.
- B. Reasonable Suspicion Testing: In cases where an employee, supervisor, or other member of management has reasonable suspicion to believe that an employee possesses or is under the influence of drugs and/or alcohol and such use or influence may adversely

effect the employee's job or the safety of the employee, co-workers, or customers of the Company, drug and/or alcohol screening may be ordered. "Reasonable suspicion" means objective symptoms such as factors related to the employee's appearance, behavior and/or speech as defined in Section 7 above. Refusal to submit to screening as ordered may result in immediate termination.

- C. Post Accident Testing: Drug and/or alcohol screening will be required following a work related accident, industrial accident or vehicle accident (as defined above); or any violation of the safety precautions or standards, if there is reasonable suspicion (as defined above) of a drug and/or alcohol causal connection, whether or not any injury resulted from such accident or violation. Refusal to submit to screening may result in immediate termination.
- D. Random Testing: Due to the safety sensitive nature of the Company's business, drug and/or alcohol screening will be required upon random selection by a Company designated laboratory. The method by which covered employees are selected for random testing shall be completely neutral, so that all covered employees subject to testing will have an equal chance of being selected in each test cycle. Employees out on medical leave for any reason shall not be included in the regular test cycle for random testing. Failure to take the test at the designated time may result in immediate termination. Refusal to submit to such screening at the designated time may result in immediate termination.

#### **Violations of Policy:**

- A. On receipt of a positive drug test or alcohol impairment test result that indicates a violation of this written policy, on the refusal of an employee or prospective employee to provide a drug testing sample, or on the refusal of an employee to provide an alcohol impairment testing sample, the Company may use that test result or test refusal as a basis for disciplinary actions that may include any of the following:
  - (1) Termination of employment;
  - (2) Suspension of the employee without pay for a designated period;
  - (3) In the case of conditional offer testing; refusal to hire a prospective employee.
- B. Any employee who admits illegal drug use when questioned by the Company, or who approaches the Company seeking assistance with a substance abuse problem and who has not been engaged in misconduct, unsafe conduct or poor job performance may be placed in a non-paid personal leave of absence, in lieu of termination for a maximum for one (1) month for the purpose of rehabilitation, which may include successful completion of a Company designated substance abuse rehabilitation program. However, prior to reinstatement, to the next job vacancy for which he is qualified, the employee must present reliable medical evidence that he or she has overcome the substance abuse problem and must consent in writing to random testing "on request" over the next twelve months, to be certain that there has not been any resumption of usage of drugs or alcohol in violation of this policy ("Back to Work/Consent to Random Testing Agreement"). Failure to take and pass any such requested test will result in immediate termination.
- C. Tampering: Any tampering with or diluting of samples will result in immediate termination.

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Title:

INSPECTIONS AND SEARCHES ON  
COMPANY PREMISES

Policy No. 065  
Effective Date: March 19, 2002

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1. Purpose of the Policy

The Company believes that maintenance of a workplace that is free of drugs, alcohol and other harmful materials is vital to the health and safety of its employees and to the success of the our business. The Company also intends to protect against the unauthorized removal of Company property and assure its access at all times to Company property, records, documents and files. Accordingly, the Company has established this policy concerning inspections and searches for prohibited materials and for Company property on Company premises. This policy applies to all employees.

2. Definitions

For purposes of this Guideline:

- (a) "Prohibited materials" means firearms, illegal knife blades or other weapons, explosives and/or hazardous materials or articles, illegal drugs or other controlled substances, drug-related paraphernalia, alcoholic beverages, or Company property that you are not authorized to have in your possession.
- (b) "Company premises" includes all premises and locations owned or leased by the Company, or under the control of the Company, including parking lots, lockers and storage areas.
- (c) "Reasonable suspicion" includes a suspicion that is based on specific personal observations such as an employee's manner, disposition, muscular movement, appearance, behavior, speech, breath or odor, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable or a suspicion that is based on other surrounding circumstances.
- (d) "Possession" means having the substance or property on one's person or otherwise under one's control.

3. Inspections and Searches

(a) Access to Company Property

(1) In order to assure access at all times to Company property and because you may not always be available to produce various documents, records, files or other items of Company property that are properly in your possession when they are needed in the ordinary conduct of the Company's business, the Company reserves the right to conduct a routine inspection or search, at any time, for Company property.

(b) Prohibited Materials

(1) Inspections or searches for prohibited materials on Company premises will be conducted whenever the Company has reasonable suspicion to believe that you may be in possession of such materials, in violation of this policy.

**NOTE:** Inspections or searches for Company property and/or prohibited materials may include your office, desk, file cabinet, closet or similar places where you may place personal possessions, whether or not such places are locked. Inspections or searches for prohibited materials may also include your locker; your vehicle (when on Company premises), or your pockets, purse, briefcase, lunch box, or other item of personal property that you are wearing or carrying while on Company premises.

4. Disciplinary Action

- (a) If you are found to be in possession of prohibited materials in violation of this policy and/or in violation of other related guidelines, you will be subject to discipline, up to and including discharge, regardless of the reason for conducting the search or inspection.
- (b) If you refuse to cooperate with a search or inspection that is based on reasonable suspicion that you are in possession of prohibited materials, the Company may take that refusal into consideration in determining appropriate disciplinary action. Discipline will be based on all available information, including the information giving rise to the reasonable suspicion. It is therefore to your advantage to cooperate with the search or inspection, whenever prohibited materials are present.

All non-management employees are graded periodically. The purpose of this grading is to help the company in evaluating the performance of all non-management employees. Other factors, such as operational needs, special skills, previous work performance record and disciplinary record may also be taken into account in the evaluative process and used as factors in the layoff and recall process of introductory employees and "specialists" in evaluating special skills and abilities.

Employees shall receive a combined score based upon the categories set forth below. There will be at least three (3) grading cycles per year which will be added up and result in an overall cumulative average score.

1. Points can range from one(1) to five(5) or up to 15 total points: on each of the following categories:

- CATEGORY 1: QUANTITY OF WORK
- CATEGORY 2: QUALITY OF WORK
- CATEGORY 3: COOPERATION AND RELATIONSHIPS.

QUANTITY OF WORK refers to the volume of work produced under normal conditions. Higher scores for big producers who continue to look for what to do next.

QUALITY OF WORK refers to the neatness, accuracy and dependability of the results of the work. Higher scores for those who recognize and solve problems and can lead or train others in quality work.

COOPERATION AND RELATIONSHIPS refers to how well one takes and follows directions of the supervisor. Higher scores for those who are dependable without supervision, make decisions and take the initiative to lead others constructively.

2. Throughout the year, the remaining grading cycles and point system is as follows:

- CATEGORY 4: SPECIAL VALUE (0 TO 5 POINTS) (Graded once/year)
  - CATEGORY 5: LONGEVITY (0 TO 2.5 POINTS) (Graded once/year)
  - CATEGORY 6: ATTENDANCE (0 TO -3 POINTS) (Graded monthly)
- Maximum points = 22.5

SPECIAL VALUE refers to the talents the worker has that are of benefit to the nursery. This grade is set by the skills of the individual as determined by top management. Maximum of 5 points.

LONGEVITY is measured by how many years the employee has worked as a seniority employee. Each year of work is worth .25 of a point up to a maximum of 2.5 points.

ATTENDANCE is measured by how many times an employee is late more than 15 minutes (1/8 point) or absent (1/4 per day, no more than 1 point per illness). This is the only grade that deducts. Maximum of 3 points

To provide for the safety and security of the visitors, employees and the facilities at L.E. Cooke Co., only authorized visitors are allowed in the workplace. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare and avoids potential distractions and disturbances.

Because of safety and security reasons, family and friends of employees are discouraged from visiting. In cases of emergency, employees will be called to meet any visitor outside their work area.

All visitors should enter at the main office. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors.

If an unauthorized individual is observed on Company property, employees should immediately notify management or, if necessary, direct the individual to the main office.

Visitations which detract from productive time may have time deducted from hours worked.

It is L.E. Cooke Co.'s policy that the work of all employees is to be assigned, directed and reviewed by supervisory personnel. Employees ordinarily are to have only one supervisor to whom they report.

1. A primary role of each supervisor is to provide an effective link between management and non-management employees. As such, supervisors are expected to communicate the goals and policies of management to the employees under them. At the same time, they are expected to communicate back to upper management the attitudes, suggestions and complaints of their employees.

2. Supervisors must, in addition to mastering the technical skills needed for their work area, be able to lead and motivate their employees to do their jobs effectively and efficiently. To this end, supervisors should be prepared to:

- (a) Treat employees as individuals;
- (b) Give recognition for good performance, as well as guidance for correcting mistakes;

- (c) Explain in advance when and why changes are necessary;
- (d) Recommend employees with growth potential for promotion, even if it means losing them to other work areas;
- (e) Show integrity by admitting mistakes, instead of shifting the blame to others;
- (f) Be impartial and let employees know the reasons for any decisions that might be interpreted as unfair;
- (g) Demonstrate a desire for good performance by setting work goals and standards for employees;
- (h) Create a feeling of teamwork and belonging among employees;
- (i) Set good examples by holding themselves to the standards of conduct and performance that they demand of their employees; and
- (j) Promptly investigate all claims of discrimination and harassment, in compliance with applicable laws.

3. Supervisors are responsible to ensure that the goals regarding employee conduct and performance established by management are achieved and that the personnel policies are implemented.

Therefore, they are expected to be involved in:

- (a) Recommending the hiring of personnel and overseeing special job training;
- (b) Keeping employees informed on factors relating to their work assignments, work progress and opportunities for advancement;
- (c) Evaluating, as deemed necessary by the Company, the performance of introductory employees, regular employees and employees who are being terminated;
- (d) Recommending salary adjustments, promotions, transfers and termination of employees;
- (e) Scheduling vacations and meal and rest breaks;
- (f) Controlling absenteeism and tardiness and approving or making recommendations concerning requests for time off;
- (g) Verifying employee time sheets and requesting overtime when necessary;
- (h) Recommending job elimination when appropriate;
- (i) Complying with applicable federal and state laws and regulations concerning employee safety;

- (j) Maintaining neat and orderly work areas;
- (k) Implementing suggestion, disciplinary and problem review procedures;
- (l) Ensuring that all rules and regulations are observed by employees;

4. Nothing in this policy should be considered as a contract or promise, express or implied, to employees that supervisors will in each case perform any or all of the activities described above, or that such activities will be performed uniformly in each case.

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Title: Policy No. 076  
Effective Date: March 19, 2002  
SMOKING

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In keeping with our intent to provide a safe and healthful work environment, smoking is prohibited indoors throughout the work place. This includes the office, lab, all rest rooms, all vehicles, supply division building, shipping office, upstairs loft, shop, shop office, greenhouse, propagation cutting room and any other enclosed buildings that are not specifically mentioned. Smoking is limited to outdoor areas during rest periods and lunch.

This policy applies equally to all employees, customers and visitors.

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Title: Policy No. 079  
Effective Date: March 19, 2002  
BULLETIN BOARD

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The official Company bulletin board for production is located at the yard shipping office. It is used to keep all employees informed of valuable information regarding personnel and policy changes in the Company and other matters of importance, such as job openings and benefit information. Posting anything on the bulletin board and/or anywhere else on the Company premises, must first be approved by L.E. Cooke Co. management.

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Title: Policy No. 080  
Effective Date: March 19, 2002  
PARKING

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Every effort has been made to provide adequate and convenient parking for all employees. Do not park your car in roadways, in front of loading dock December through January or where marked "NO PARKING". Check with your supervisor on where to park.

The Company does not assume financial responsibility for contents, loss or damage incurred to vehicles parked on the Company premises.

It is L.E. Cooke Co.'s policy that all work areas are to be kept clean and orderly at all times.

1. All employees are responsible for maintaining their work areas in a clean and orderly fashion at all times. To fulfill this responsibility, each employee should, at a minimum, do the following:

- (a) Prior to the end of the workday, clean and store all tools and equipment and properly secure any items, papers, or information of value;
- (b) Clean up areas after eating, keep work areas free of litter;
- (c) Dispose properly of toilet paper down toilet and waste paper in trash cans in bathrooms;
- (d) Report any existing or potential work place hazards and equipment or vehicles needing repairs to supervisor;
- (e) Clean up any litter from neighbor's fields in areas workers take meal or rest breaks.

2. Supervisors are responsible for making sure that their employees maintain their work areas in accordance with the requirements of this policy. Each supervisor should:

- (a) Make sure that aisles, floors and walls are free of debris and other unnecessary items and that all end-of-the-shift tasks have been performed;
- (b) Monitor the facilities and equipment and issue maintenance requests and/or work orders where appropriate;
- (c) Arrange for the removal of any items from the work place that are not needed for the flow of business or the comfort and enhancement of employees;
- (d) Report any existing or potential work place hazards and equipment or vehicles needing repairs to shop supervisor.
- (e) Ensure that all trash, waste and scrap are properly discarded. Keep waste disposal bin in truck available for field use.
- (f) Keep litter out of neighbor's fields.

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Title: PURCHASING OF SURPLUS MERCHANDISE

Policy No. 090  
Effective Date: March 19, 2002

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The Company encourages its employees to enjoy the products we grow and sell. Any purchases will follow prices and policies as we would sell a retail nursery. This is for personal use, not re-selling.

In either case, splitting charges will apply. Quantities are not available for resale unless approved by the President of the Company.

No merchandise is to be taken, even from the trash pile, without permission from a member of the L.E. Cooke Board of Directors.

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Title: FRUIT PICKING

Policy No. 091  
Effective Date: March 19, 2002

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One of the benefits enjoyed by the employees of the L.E. Cooke Co. is the opportunity to pick and enjoy the various tree fruits, grapes and berries from our budwood orchards. In fact we want you to be able to enjoy the great tasting products we grow for our customers.

Because of past abuse and health issues, any fruit picking must be by management permission. It has become increasingly impossible to find any ripe fruit to share with customers, sales staff or take to trade shows to help sell our products and make all of our jobs more secure. The orchards are being stripped of good fruit.

1) When permission is given, fruit may be picked for personal use of our employees and immediate family. This means only a few per person for immediate consumption, not boxes full for storage or roadside fruit stands. Fruit can be picked during non-working hours. Fruit picking is limited to approved areas. Fruit must NOT be picked from flagged trees. It is vital that fruit in these orchards be verified and monitored for the information needed for our customers.

2) No one else is allowed on L.E. Cooke property at any time without permission from L.E. Cooke management. Non-employees found picking fruit will be prosecuted by law. Disciplinary action will be taken on employees found abusing the privilege. This could include termination of employment.

Continued abuse to where there is no fruit available for customer and sales use will cause us to make all budwood orchards off limits to all but specified employees.

Please help us keep this pleasant part of summer available for each of our employees.