

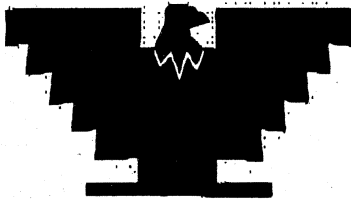
**AGREEMENT**

**between**

**MURANAKA FARMS, INC.**

**and**

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



**Octubre 22, 2004**

**through**

**Septiembre 30, 2008**

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ARTICLE 1

RECOGNITION

A. Parties.

1. This October 22, 2004 Collective Bargaining Agreement ("Agreement") is between MURANAKA FARM, INC. ("Company") and UNITED FARM WORKERS OF AMERICA, AFL-CIO ("Union") for the purpose of establishing wages, hours, and working conditions as herein defined.

2. Pursuant to the certification issued in Agricultural Labor Relations Board ("ALRB") Case No. 82-RC-1-0X, Company hereby recognizes Union as the sole and exclusive bargaining agent with respect to the rates of pay, hours of work, and other conditions of employment for all of its agricultural employees ("employees"). Excluded from the bargaining unit are all other employees of Company, including, but not limited to, office, clerical, sales, maintenance, managerial, and supervisory employees as defined in Section 1140.4(j) of the ALRA.

3. Company recognizes the rights and obligations of Union to negotiate wages, hours, and conditions of employment and to administer this Agreement on behalf of covered employees.

B. Coverage.

1. If the ALRB certifies other employees within the certified unit, not here included, such additional employees shall be included herein.

2. No business device, including joint ventures, partnerships, or other forms of agricultural business operations, shall be used by Company to circumvent the obligations hereunder. This subparagraph does not limit Company's right to conduct operations elsewhere based on legitimate business conditions.

C. Assignability.

1. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Successors and assigns for the purpose of this Article applies to a sale or other transfer of the business and ownership of Company.

2. Effective as of the date of said sale or other transfer, Company shall be relieved of all further responsibility or liability under this Agreement; and to the extent permitted by law, such buyer or transferee shall thereupon be liable thereunder.

3. A sale of assets, either in whole or in part, which does not involve continuation of the employees of Company to operate such sold or transferred business, or assets, shall not be subject to the provisions of paragraph C of this Article.

4. By this Article the parties seek to define contractual rights and do not waive any statutory rights.

## ARTICLE 2

### UNION SECURITY

A. Union Membership. Union membership shall be a condition of employment. Each employee shall be required to become a member of Union immediately following 5 working days either after the beginning of employment, or from the date of the signing of this Agreement, whichever is later, and to remain a member of Union in good standing during employment with Company. For purposes of this Article, "membership in good standing" shall be defined as the tendering to Union by the employee of uniformly required dues, assessments and the initiation fee. Any employee who fails to become or remain a member in good standing of Union shall be discharged within 5 working days from receipt of written notice from Union to Company, unless the employee becomes in good standing within said 5 days, and shall not be eligible for re-employment until receipt of written notice from Union to Company of that employee's good standing status.

B. Notice to Employees. Company shall at the time of hiring each new employee advise that employee (and also each employee upon the effective date of this Agreement) that Union membership is a condition of employment. Union shall furnish Company with membership and checkoff cards, which Company shall have each employee execute upon hire. Company shall be responsible for providing employees with the membership card upon the day of hire, but in any event not later than 5 working days after the beginning of employment, and sending a copy of the executed membership and checkoff card to Union's area office within 5 days of the employee's hire date.

C. Checkoff. Company shall deduct from each employees' pay initiation fees, all periodic dues, and assessments as required by Union, upon presentation by Union of an individual authorization signed by the employee and directing Company to make such deductions. Company shall make such deductions from the employees's pay for the payroll period in which it is submitted, provided that it is submitted in advance of the close of the pay period, and periodically thereafter as specified on the authorization, and remit the money weekly to Union. Company shall provide a weekly summary report containing the names of the employees, Social Security numbers, payroll periods covered, gross wages, total hours worked per employee, total number of employees, and amount of Union dues deducted during such pay

periods from each employee. Union shall notify Company in writing of the amount of dues, assessments, and initiation fees within 5 days of the execution of this Agreement and 14 days before the effective date of any change.

**D. Indemnity by Union.** Union shall indemnify and hold harmless Company from and against any and all claims, demands, suits, or other forms of liability that may arise out of or by reason of action or inaction taken by Company for the purpose of compliance with this Article. With respect to the employees located in the Lamont/Bakersfield area, pursuant to Section Article 2 Section C above, the Company and Union acknowledge that said employees have not yet paid any Union dues, assessments or initiation fees, and that such dues, assessments or initiation fees will not be due from those employees until each worker signs an authorization card. At present, none of the employees in the Lamont/Bakersfield are have signed authorization cards. The Union will obtain and present individual authorization cards signed by the employee, and the Company's obligation to deduct dues for each employee will start upon the Company's receipt of each individual signed authorization card.

### **ARTICLE 3**

#### **HIRING**

**A. Notice to Union of Need.** Whenever Company anticipates the need for new or additional employees it shall notify Union, giving as much notice of need as Company itself has, stating the approximate number needed, type of work to be performed, and estimated starting date of the work. Company shall also advise Union of the dates and times at which Company will be accepting applications. The Company will also make a good faith effort to post additional job notices on the Muranaka Farm bulletin board twenty-four (24) hours before hiring, and to verbally notify a Ranch Worker Board member at least twenty-four (24) hours before hiring or as much notice as reasonably practicable, up to as much as seventy-two (72) hours notice before hiring. The Union will notify the Company in advance of the identity of all members of the Ranch Worker Board.

**B. Sole Discretion of Company.** Company shall have the sole discretion to hire or not hire persons referred by Union or from any other source but shall not discriminate against any applicants for any unlawful reason, including membership in any labor organization.

**C. Authority to Hire.** Company shall designate the person or persons with the exclusive authority to hire new employees and shall so inform Union.

**D. Reasons for Rejection.** Upon written request of Union, setting forth in detail the basis for such request and indicating that a prospective applicant has independently and in writing requested such information, Company shall provide Union with a written explanation as

to the reason for rejecting such a job applicant. Company may request and obtain a copy of the applicant's written request.

**E. Notice to Union of Hire.** Company shall inform Union in writing of every new hire within 7 days of that person's commencement of work.

#### **ARTICLE 4**

#### **SENIORITY**

**A. Definition.** Seniority is defined as the total length of service with Company beginning from the employee's original date of hire and as may be adjusted in accordance with Article 10. Any employee rehired after loss of seniority shall have a new seniority date, except where there is agreement by the parties to extend seniority from the original date of hire.

**B. Training and Probation.**

1. Each employee who has worked in an incentive job classification for at least 45 workdays with Company shall acquire seniority on the 45th day of work, retroactive to that employee's date of hire. Every other employee who has worked at least 45 workdays with the Company shall acquire seniority on the 60<sup>th</sup> day of work, retroactive to that employee's date of hire. Termination of an employee within the 40-day training and probationary period for incentive job classifications, or termination of an employee within the 60-day training and probationary period for all other workers, shall not be subject to the Grievance and Arbitration Procedure, unless the claim is that the employee was discriminated against based upon union affiliation, race, religion, sex, age, handicap, marital status or national origin,

2. The seniority order for employees hired on the same day shall be established on the basis of Social Security numbers, with the one having the lowest last four digits being placed in the highest seniority position. In the event an employee's Social Security number is changed, the seniority position shall remain the same.

**C. Loss of Seniority.** Seniority shall be lost for any of the following reasons:

1. Voluntary quit or abandonment of job.
2. Discharge for just cause.

3. An employee may leave the bargaining unit to accept a supervisory or other position with Company outside the bargaining unit, except that an employee promoted to assistant foreperson is permitted to return to the bargaining unit without loss of seniority when

production so requires and during such time shall be subject to this Agreement, including payment of dues.

4. Upon recall, when a laid-off employee fails to report to work when work is scheduled to commence, unless either eligible for leave under Article 10 or reasons satisfactory to Company are given, which shall not include continuation of other employment. Company may require proof of the basis for such other reasons. It is the employee's burden of proof to establish satisfactory reasons.

5. When an employee fails to report to work at the termination of a leave of absence or vacation without an approved extension, or accepts employment with another company during an unauthorized leave of absence.

6. When an employee is on layoff in excess of 7 consecutive months. An employee who loses seniority by virtue of this Section shall be given first preference, upon request, for rehire to a job for which that person qualifies before a new employee is hired.

**D. Rehire after Loss of Seniority.** Any employee rehired after loss of seniority as provided above shall establish a new seniority date; provided, however, that Company shall have no obligation to hire an employee who has lost seniority pursuant to Section C above, except as otherwise set forth in paragraph 6 thereof.

**E. Seniority List.** The seniority list shall be maintained by Company and include each employee's name, Social Security number and Company seniority date. Company has supplied Union with a seniority list as of a short time before the date of execution of this Agreement and shall submit to Union as updated seniority list for each department and a master Company seniority list each 4 months.

**F. Discrepancies.** If Union presents to Company any discrepancy, it shall be deemed a grievance and subject to the Grievance and Arbitration Procedure (Article 7).

## **ARTICLE 5**

### **LAYOFF AND REHIRING**

**A. Selection of Employees for Layoff.** In the selection of employees for layoff due to lack of work, Company shall first evaluate its work needs for each classification in the affected department. After first laying off probationary employees, Company shall then evaluate the length of experience and demonstrated abilities and skill of the remaining employees. Employees with slight differences in job ability shall be considered to be relatively equal. If those factors are relatively equal, Company shall then lay off the employee with the least

Company seniority in the affected classification. Company shall not make this decision arbitrarily. It is not the intent of the parties that layoffs be used to reduce individual or overall work force seniority, but rather that the best qualified and most efficient work force is retained under those circumstances.

**B. Notice of Layoff.** Company shall notify Union and the affected employees prior to any layoff as much in advance as it has of the need for such a layoff. Company shall notify Union in writing of the exact dates and names of employees who are laid off within 3 workdays following the layoff.

**C. Order and Notice of Recall after Layoff.**

1. Company shall notify the employees as soon as Company knows prior to the estimated starting date of work by posting the estimated starting date and the names of employees to be recalled and sending a copy to Union. In accordance with past practice, recalled employees are required to call in before the estimated starting date for the exact date, except that for an employee who is out of the state at the time of recall, additional time will be allowed, but not to exceed an additional 5 days.

2. Employees shall be recalled to work by classification in the reverse order of layoff from the classification, provided they possess the necessary skills and abilities to perform the available work.

3. Company shall provide Union with the latest address and telephone, if any, when providing Union with notice of recall.

**D. Displacement.** Any employee to be laid off in accordance with Article 5A shall be notified of the reasons for the layoff upon request and have the right, if fully qualified for the job, to displace the employee with the least Company seniority in a classification previously occupied by such employee.

**ARTICLE 6**

**PROMOTIONS AND TRANSFERS**

**A. Posting and Bidding**

1. \_\_\_\_\_ Promotions to a department with a higher guaranteed hourly rate shall be on the basis of experience, demonstrated skill, ability to learn new tasks, and Company seniority. Whatever such vacancy occurs, it shall be posted on Company's bulletin board and a copy sent immediately to Union. The posting shall be made at least 5 working days before the vacancy is

filled; provided, however, that the vacancy may be filled on a temporary basis by Company during this posting period.

2. Non-probationary employee desiring consideration for the job shall so indicate by signing the posting.

3. The employee with the most Company seniority who can reasonably be expected to be able to perform the job, based upon demonstrated skills and abilities, shall be given the first opportunity to fill the vacancy. For purposes of this Section, demonstrated skills and abilities shall not necessarily require that the employee have previously performed the job being applied for although Company may consider the extent to which each may be capable. Company shall not make this decision arbitrarily.

**B. Selection.**

1. The employee selected for the vacancy, in accordance with subparagraph 3 above, shall be provided with a reasonable opportunity to demonstrate that employee's ability to perform the job duties, which may be less but not more than 30 calendar days unless extended by Company. The supervisor shall fully explain the job duties and requirements.

2. A selected employee who does not perform the job satisfactorily shall return to that employee's former classification without loss of seniority, and the next most senior employee, if qualified, shall be offered the vacancy in accordance with the standards set forth above. Such selection procedure shall be repeated until either the vacancy is filled, or the list is exhausted.

**C. Transfers.** Company shall have the right to transfer qualified employees to different jobs in other classification based upon legitimate business requirements. Whenever feasible and practicable, Company shall temporarily transfer qualified employees under this paragraph who either have the least Company seniority or would otherwise be laid off from their classification at the time of the need for such a temporary transfer.

**ARTICLE 7**

**GRIEVANCE AND ARBITRATION PROCEDURE**

**A. Definition of Grievance.** The term "grievance" is defined as any dispute between Company and Union concerning the interpretation, application, or enforcement of this Agreement. This grievance procedure shall be the sole and exclusive remedy with respect to any dispute arising under this Agreement, except as indicated in Article 8.

**B. Grievance Committee.** A Grievance Committee of not more than 3 employees may be established by Union, one or more of whom may participate in the processing of a given grievance and no more than 2 of whom may participate in the processing of a given grievance. Unless otherwise agreed, all processing of grievances shall be during non-working time. In making this determination, due consideration shall be given to the nature of the grievance and whether operations would be unduly interrupted on that given day by the processing of the grievance during working time. In the event the grievance meeting is not conducted during working time, it shall be held either immediately before or after a work day or during an authorized break period. Aggrieved employees shall have the right to be present at each step of the grievance procedure. In grievances involving more than 1 employee, 2 employees may be present at the grievance meetings.

**C. Presence of Supervisor.** At the request of Union, Company shall, where practicable, have the involved supervisor present at each step of the grievance procedure where such attendance is necessary and relevant to the specified grievance.

**D. First Step.** A grievance shall be immediately taken up between Company representative and Union Steward. They shall use their best efforts to resolve the grievance. Company shall provide an oral response to the grievance within 3 working days after the First Step meeting. If the grievance is not resolved in the First Step, it may be referred to the Second Step if the specific nature of the grievance is first reduced to writing. Failure to file and serve a grievance in writing within 15 calendar days from the event giving rise to the grievance or the reasonable discovery thereof by the grieving party shall constitute a waiver of such grievance. A grievance over a discharge which is not filed and served in writing within 5 work-days from the date of discharge shall similarly be deemed waived.

**E. Second Step.** Within 5 workdays of receipt of the written Second Step grievance, the Grievance Committee and Company representative shall meet to resolve such matters. A representative of Union may also participate in such meetings. The party receiving the grievance shall mail a written response to the other regarding its position and reasons therefor within 5 workdays after the conclusion of the Second Step meeting. If Union gives notice of a Third Step, Company is required to respond in writing within 10 days of receipt of the grievance of its reasons for denial thereof. Failure to do so shall be admissible as presumptive evidence of the merits of the grievance.

**F. Third Step.** Within 20 calendar days of receipt of the Second Step written response, the grieving party must provide written notice to the other party of intent to arbitrate. Failure to do so within said time limit shall waive the grievance. The parties shall make a good faith effort to agree on an arbitrator, whose duty it shall be to decide upon any grievance as described above. If the parties are unable to agree upon an arbitrator, they shall select one from a list of 7 persons submitted to the parties by the California State Mediation and Conciliation Service, according to standard procedure, by alternatively striking names.

1. The arbitrator shall consider and decide only the grievances referred to the arbitrator, and the decision shall be final and binding on Company, Union, and the employee(s). The arbitrator shall have no authority to modify, amend, or waive any provision of this Agreement. The arbitrator shall have access to Company or Union property as necessary and relevant to the resolution of specific grievances, so long as there is no interference with the business of either party. The arbitrator shall have authority to revoke or modify any form of discipline and to make whole the employee for lost earnings.

2. Unless otherwise mutually agreed, all testimony taken at arbitration hearings shall be under oath. Reporting and transcription shall be at the option of the parties and paid for by the party(ies) so requesting a transcript. The arbitrator's expenses and fees and the fees of a hearing room shall be paid by the losing party. If a question arises as to the identity of the losing party, this shall be decided by the arbitrator hearing the grievance then in dispute. All other expenses incident to the arbitration shall be borne by the party incurring them.

3. If the grievance remains unresolved following the Second Step answer, the parties may by mutual agreement refer the matter to a conciliator or mediator who, with the parties, shall use best efforts to resolve the dispute as an alternative to arbitration. Where this method is used the time limit for agreement on referral to conciliation shall be 15 calendar days from receipt of the Second Step written response. The time limit for subsequent referral to arbitration shall be 5 days from the conclusion of the grievance conciliation. Settlement offers including those at grievance conciliation shall not be admissible during any subsequent arbitration. Costs, if any, of grievance conciliation shall be borne equally by the parties.

G. **Withdrawal of Grievance.** A grievance dropped by either party prior to an arbitration hearing shall be considered as withdrawn without prejudice to either party's position on a similar matter in the future.

## **ARTICLE 8**

### **NO STRIKE OR LOCKOUT**

A. **No Strike.** During the term of this Agreement, no employee shall engage in a strike, slowdown, sit down, work stoppage, boycott, or picketing against Company, and neither the employees, Union, nor any officers, agents, or representatives of Union shall authorize, assist, encourage, condone, ratify, or lend support to, or in any way participate in, any such activities. If any allegation of a violation of this paragraph is made, the aggrieved party may immediately seek court relief to enjoin such violation, notwithstanding the existence of the Grievance and Arbitration Procedure. Such court relief shall be limited to an order to return to work or to end a lockout and shall not be used as a basis, in that or any other proceeding, for seeking damages.

B. **No Lockout.** Company shall not engage in any lockout during the term of this Agreement.

C. **Union's Best Efforts.** Union shall be responsible for using its best efforts to stop any conduct by its members which is in violation of this Article.

D. **Company's Right to Discipline.** Company shall have the right to discipline including discharge, any employee who violates the provisions of this Article, subject to the Grievance and Arbitration Procedure.

E. **Picket Line Protection.** Any employee may refuse to pass through any lawful and bona fide picket line at another company established and supported by Union or officially sanctioned by Union, provided that Company has already received written notice from Union of its official sanction of such picket line established or supported by Union or by another union.

F. **No Work for a Struck Employer.** No employee shall be required to perform work that normally would have been done by employees of another employer who are engaged in a strike, as defined in Section E above.

## **ARTICLE 9**

### **DISCIPLINE AND DISCHARGE**

A. **Company's Right to Discipline.** Company shall have the sole right to discipline, including discharge, any employee, provided that in the exercise of this right, it does not act in violation of the Agreement and provided that no non-probationary employee shall be disciplined, including discharged, except for just cause.

B. **Procedure before Discipline.** Prior to any discharge or suspension, Company shall notify the designed Steward or other Union official, who shall have the right to be present when formal charges are made, except in a situation wherein Company deems it necessary to take immediate action. Prior to discharge, Company shall first suspend the employee pending investigation and a Grievance and Arbitration Procedure Second-Step meeting. No decision to discharge an employee shall become final after the grievance is processed, except in an aggravated situation wherein Company deems it necessary to take immediate action, such as in cases involving potential liability to Company, threats of physical or verbal violence, or threats or actual destruction of property. If no Steward or Union representative is available, Company may take such action and must thereafter give written notice to Union within the time limit set forth in paragraph C below.

C. **Steward's Right to Interview Dischargee.** The designated Steward or other Union official may interview a discharged employee in private so long as such interview does not

interfere with work requirements. Within 2 working days following any discharge for just cause, Union shall be notified in writing of the reasons for such discharge. With respect to disciplinary action resulting in a suspension, Company shall notify Union representative of the suspension within a reasonable period of time following its issuance.

**D. 12-Month Limit on Warning Notices.** Written warning notices over 12 months old shall not be considered in assessing future disciplinary action.

## ARTICLE 10

### LEAVE OF ABSENCE

#### **A. Union Business.**

1. Any employee elected or appointed to an office or position in Union shall be granted a leave of absence upon written request of Union. Not more than 1 such employee shall be eligible for such leave of absence at any one time, and 2 weeks' written notice must be given Company before the employee takes leave to accept such office or position or chooses to return to work, assuming a position for which the employee is qualified is then open. Unless otherwise agreed between the parties, such leave of absence shall not exceed 1 year and shall be without pay or benefits. Such an employee's seniority date shall be adjusted as provided in Section B of this Article; provided, however, that the maximum loss of seniority shall be 1 year if such employee applies to return to work within one year from the commencement of such leave.

2. A leave of absence without pay not to exceed 3 days per calendar year (unless otherwise agreed by Union and Company) for union business shall be granted under the following conditions.

a. Written notice shall be given by Union to Company at least 5 workdays prior to the commencement of such leave.

b. No more than 2 employees shall be granted such leave at any one time.

c. This subparagraph shall not apply to an employee whose job skills are vital to Company's ability to operate during the period for which such leave is requested; provided, however, that Company shall make a reasonable effort to accommodate such leave requests for the purpose of attending Union's convention.

**B. Eligibility.** A leave of absence without pay shall be granted a regular year-round employee who has completed 1 year of employment with Company for any of the following reasons, without loss of seniority; provided, however, that an employee's Company seniority

shall be adjusted pursuant to Article 4 by the amount of time that employee is on unpaid absence over 30 scheduled working days in a calendar year (unless extended under paragraph B4 calculated to the nearest ½ day). Such absences over 2, and not more than 6, hours in a day shall equal ½ day, and over 6 hours in a day shall equal 1 day. This 30-day clause does not apply to subparagraphs 2 and 5 below.

1. For witness duty, in the United States, when subpoenaed.

2. Up to 8 calendar months (without seniority adjustment) for verified personal illnesses, injury, pregnancy, or other non-work related physical incapacity requiring absence from the job. Company may require substantiation by either a licensed California physician or other adequate proof, and the employee shall notify Company of the anticipated return date. If the employee provides verification by a physician outside California, Company may require the employee to be examined at Company's expense by a California licensed physician before the employee returns to work to verify the required absence and the length thereof.

3. A personal emergency leave not to exceed 12 workdays for legitimate and valid emergency situations. Company may require appropriate verification of the basis for any such request. Upon written request prior to the end of such emergency leave or the employee (and no one else) either in person, by telephone, or by letter, and based upon proof satisfactory to Company, such leave may be extended for not to exceed an additional 10 workdays; provided, however, that an employee may request an extension at the time the original request is made based upon good cause.

4. A personal non-emergency leave of absence, not to exceed 30 calendar days, or 42 days if the employee has not taken a non-emergency leave within 48 months prior to the requested leave date, may be granted to an employee at the sole discretion of Company upon written request 30 calendar days in advance thereof. The decision of Company shall not be subject to the Grievance Procedure.

5. For an employee who serves in the United States military as required by and in accordance with applicable law without seniority adjustment.

**C. Fraudulent Leave.** If a leave of absence is found to have been obtained by fraud or misrepresentation, the employee shall be subject to disciplinary action under Article 9. Company may request reasonable proof of the basis for an employee's request for a leave of absence under this Article.

**D. Leaves Related To Immigration.** The parties hereto acknowledge and agree that they have a joint interest in preserving the employment relationship as to workers whose performance is or was positive, despite the immigration problems that sometimes require that the

Company terminate a particular employee. To the extent that an employee is terminated due to immigration problems, including but not limited to terminations caused by the employee's work authorization expiration, a change of name, or Social Security number, or other issues involving genuine problems with an employee's I-9 paperwork or green card, the Company agrees that the worker at issue may apply for reinstatement up to twelve months after the termination, after resolving all of said problems, and if that employee's performance was otherwise positive in that circumstance the Company will rehire the former employee into the next available position at the same job classification level, or at the option of the former employee, into the first opening for a lower job classification level, and in either event, with no loss of seniority. The Company will decide at its sole discretion whether the worker's performance was "positive" for purposes of this Article 10. The parties hereto agree to work together in good faith in order to help solve problems associated with the changing of names and Social Security numbers of employees, prior to any definitive decision to terminate such employee(s) by the Company. If an employee's work authorization is going to expire and the employee or the Union believe that said expiration may potentially require termination of employment, the Union will attempt to resolve the problem for the employee (through the Union's pre-paid legal services plan) before the expiration of the work authorization. The Company agrees to provide to any employee terminated because he or she is not authorized to work in the United States a personalized letter stating the employee's rights and obligations under this section.

## ARTICLE 11

### WORKING CONDITIONS AND SAFETY

A. **General and Chemicals.** Company shall continue to comply with all applicable laws relating to health and safety and not use any banned chemicals. Company shall continue to comply with applicable laws pertaining to the manner and timing of applications of chemicals and the re-entry time and shall not permit or order employees to re-enter any area where an agricultural chemical has been applied until the legally safe re-entry time has passed.

B. **No Endangerment of Health.** No employee shall be required to work in any work situation which would immediately endanger that employee's health or safety. All employees shall be required to use or wear all protective equipment or clothing as required by applicable laws and Company rules and regulations.

C. **Toilet Facilities.** In accordance with law, there shall be adequate toilet facilities readily accessible to employees that will be maintained by Company in a clean and sanitary manner. Every employee who utilizes such facilities shall ensure that they are left in the same clean and sanitary condition as they were upon entry by the employee.

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D. **Drinking Water.** Each work place shall be provided with suitable, cool, potable drinking water convenient to employees. Individual paper drinking cups or a drinking fountain shall be provided, as required by law.

E. **Tools and Equipment.** Tools and equipment historically provided and necessary to perform the work, and protective garments as required by law to safeguard the health of or to prevent injury to an employee's person, shall be provided, maintained, and paid for by Company. Every employee shall be responsible for returning all such equipment which was checked out to that employee, but shall not be responsible for normal breakage, wear, and tear. An employee shall be charged actual cost for equipment that is not returned or is damaged by gross negligence. Receipts for returned equipment shall be given to the employee by Company. Employees shall be trained in the proper use of said equipment, tools, and clothing.

F. **First Aid.** Adequate first aid supplies shall be provided and kept in clean and sanitary dust proof containers in centrally located areas.

G. **Tests for Employees Using Chemicals.** When an employee who applies agricultural chemicals is on Company payroll, one baseline cholinesterase test and other additional tests shall be given at least annually to those employees so employed, at Company's expense, when organo-phosphates are used. If requested, results of said tests shall be given to the employee and an authorized representative of Union.

H. **No Discrimination.** Subject to applicable California and Federal laws, there shall be no discrimination against any employee because of race, age, creed, color, religion, sex, political belief, physical handicap, marital status, or national origin. The parties further agree to the continuation of Company's policy of hiring only those employees who are lawfully entitled to work in the United States.

I. **Crop by Crop Approach To Pre-Harvest Irrigation.** Green onions and radishes are easier to harvest if irrigated shortly prior to harvest. The Company and the Union will work together in good faith to determine which crops, if any, and in which season, if any, shall be irrigated immediately prior to harvest, as well as the amount of any such pre-harvest irrigation. The Union acknowledges and agrees that not all crops are suitable for pre-harvest irrigation, and that the parties must work together in good faith to develop quality standards as to the cleanliness and bunch size of harvested product.

## ARTICLE 12

### MANAGEMENT AND UNION RIGHTS

A. **Management Rights.** Company has and retains all inherent rights of

management and the commensurate obligations and responsibilities except as expressly and specifically limited or modified by another provision of this Agreement or by law or government regulation. These management rights and integral operations and responsibilities include, but are not limited to, the following: deciding the nature, scope, and location of the business; determining the products, quantities, and quality of items to be produced; developing and implementing design, operating, and production techniques and methods, including introduction of new equipment machinery that is safe, efficient, and productive; planning for, assigning, training, and supervising all of the employees; implementing and enforcing reasonable work rules and rules of conduct; planning, determining, establishing, and managing production and work schedules; and deciding whether, where, when, and by whom overtime is to be worked.

**B. Bargaining Unit Work; Supervisors and Others.** Except as otherwise provided herein, supervisors, management trainees, and others not included in the bargaining unit shall not perform any work covered by this Agreement, except for instruction, training, testing equipment, experimental and developmental work, emergencies, or as established by past practice prior to the execution of this Agreement. Company shall not utilize supervisors or management trainees either for the purpose of avoiding the recall or bargaining unit employees from layoff, or where such would cause the layoff of bargaining unit employees.

**C. Mechanization.** If Company decides to mechanize any of its operations in any way that will result in the permanent displacement of bargaining unit employees, Company, at least 3 weeks before commencing such mechanical operations, shall meet with Union to discuss the training of displaced employees to operate and maintain the new mechanical equipment, the placing of displaced employees in other jobs with Company, the training of employees for other jobs with Company or the placing of such employees on a preferential recall list which Company and Union will use in conjunction with Articles 3 and 4, HIRING and SENIORITY. Company and Union shall in good faith attempt to negotiate appropriate severance pay for employees who will be permanently displaced, but failure to agree shall not be subject to the arbitration procedure, nor shall Article 8 be waived.

**D. Subcontracting.** It is the intent of this paragraph that all work which can be properly, safely, effectively, and economically performed by employees shall be assigned to and performed by them. Company, however, reserves the right to subcontract any part, or all, of the type of work presently being subcontracted (but in no event including harvesting work unless such work is mechanized as defined in paragraph C or in the event Company is unable to hire additional employees after a good faith effort to do so), or any work which may require special skills, knowledge, experience, or equipment not possessed by Company or employees. If Company decides to subcontract any work, it shall, in advance of such subcontracting, give Union a complete explanation of the work to be subcontracted and the reasons for doing so. Every employee of the subcontractor who actually operates or maintains the equipment or performs the specialized skills shall not be covered by this Agreement. Any supporting work in connection with such subcontracting, which does not involve the operation or maintenance of specialized equipment or the utilization of specialized skills, and which current employees are

qualified to perform, shall be performed by bargaining unit employees.

**E. Right of Access to Company Property.**

1. Two duly authorized and designated representatives of Union shall have the right of access to Company premises covered by this Agreement in connection with the conduct of normal Union affairs in the administration of this Agreement. No such representatives shall actually proceed with such visit without obtaining prior consent of Company, which consent Company agrees not unreasonably to withhold. Reasonable withholding of consent shall include interference with work. Such representatives shall confer with employees during non-working periods, such as break periods, lunch periods, and before or after the workday, unless otherwise mutually agreed between the parties. No more than those two representatives shall be on Company property at any one time except in the event of an ALRB election, in which case this issue shall be governed by applicable law.

2. Before a Union representative visits any employee pursuant to subparagraph 1 above such representative shall, whenever possible, notify the designated representative of Company normally at least 1 day in advance of the visit of the time and duration of the proposed visits with employees and specify the location of the proposed visits as well as the number of proposed visits intended to be made. For safety considerations, Company may elect to accompany the Union representative to the general work area to be visited, but such accompaniment shall not be used to infringe upon the Union representative's right to interview privately any employee. The 1-day advance notice shall not be required in a case where immediate action is necessary, and it is not reasonable to expect Union to wait 1 day. In such cases Union shall first notify the manager. If the manager is not available, Union shall leave a message with the manager's secretary or the manager's voice mail. If there is no response within 15 minutes, Union shall then be required to notify the foreperson of the area where the Union seeks to confer with the employee.

3. Union shall notify Company of the names of its duly authorized and designated representatives in writing, which shall be effective upon receipt by Company. Union shall promptly notify Company in writing of any change of such representatives, Stewards, or Grievance Committee persons.

**F. Bulletin Board.** Company shall provide a bulletin board upon which Union may post notices of Union business only if signed by Union representative; provided, however, that no notice shall be posted if in violation of any provision of this Agreement.

**G. Exchange of Information.**

1. Company shall furnish Union, in writing, within 1 week after the execution of this Agreement, a list of its employees covered by this Agreement, giving their names, addresses, Social Security numbers, and job classifications.

2. Company shall provide Union, upon request, with the exact locations of the Company's agricultural operations covered by this Agreement for use by Union representatives pursuant paragraph E above.

3. Union shall have the right, upon reasonable notice given to Company, to examine timesheets or other payroll records that pertain to the employees' compensation in case of a dispute pertaining to such matters. Company reserves the right to have its representatives present during such inspection. No original record shall be removed by Union or its representative.

4. Company shall keep full and accurate payroll records, including total wages and total deductions. Employees shall be furnished a copy of the itemized deductions, hourly rates, hours worked and total wages each pay day, which shall include the piece rate production records. All such copies furnished to the employee shall also contain total hours and gross wages to date accumulated from the first pay period of that year, the employee's name, social security number, and Company's name, address and phone number.

**H. Pledges of Cooperation.** Neither Company nor its representatives shall interfere with the right of any employee to join and assist Union. Company shall not grant any advantage, more favorable consideration, or any form of special privilege to any employee because of non-participation in Union activities.

**I. Cooperative Labor Management Production Improvement Program**

1. It is mutually understood by management, Union and employees that it is in the best interests of Company and employees that there is a good faith cooperative effort by management, Union and employees to foster and improve a working relationship, mutual respect, open communication, shared success, and responsibility.

2. The goals and objective of this Program will be achieved by setting meetings that shall be held no less than every 6 weeks. There will be a 6-member team hereafter referred to as the Labor Management Production Team, or LMPT. The LMPT will be made up of 3 employee representatives appointed by Union and 3 management representatives appointed by Company. In order to ensure the success of the LMPT, 1 Company representative from the Granada Hills office of Muranaka Farm, Inc. ("Company representative") and 1 Union representative shall also be present for the first 3 meetings of the LMPT. Thereafter if either a Company or Union representative intends to attend the LMPT meeting, said representative shall notify the other in writing at least 2 weeks before the meeting that such representative will be present. The purpose of the LMPT is to review production of the previous month where all team members have an opportunity to discuss Company's status regarding production and costs, including the desired reduction of workers' compensation costs. Team members have the right and obligation to be frank, honest and open to all suggestions. No employee representative shall be subject to discrimination or penalty for the employee's statements at such meetings.

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3. The LMPT does not circumvent Company's or supervisors' rights to make day-to-day decisions. The LMPT discusses the monthly production and costs, and suggestions are made on how to improve productivity, costs, and Company status. The LMPT does not circumvent the Grievance and Arbitration procedure nor any individual member's right to grieve.

4. The LMPT meetings shall have certain ground rules which shall be agreed upon in good faith at the first LMPT meeting. Company shall compensate employee representatives for lost work time in LMPT meetings, but not to exceed 1 hour per meeting. The LMPT has no power to alter, delete from or add to this Agreement, although it may make non-binding recommendations.

### ARTICLE 13

#### HOURS OF WORK AND OVERTIME

A. **Normal Workweek.** The normal workweek shall be Monday through Sunday. The Company will endeavor to have Saturday be a regular day "off" for harvest employees at the Moorpark location. The Company will endeavor to have Sunday be a regular day "off" for harvest employees at the Lamont location. Company shall normally provide each employee with at least 1 day of rest per workweek. However, emergent conditions may arise from time to time that necessitate 1 or more employees working 7 days in a workweek. While Company will act reasonably in trying to avoid such situations, it will not always be practical or feasible. However, if an employee informs the foreperson that the employee will need what is normally considered by Company as the normal day off 3 days in advance, and Company because of market conditions decides that said day is a day of work, Company shall permit the employee to have that pre-requested day off without any penalty to said employee; provided, however, that this permission will be limited to 1 person per crew unless otherwise determined by Company.

B. **Daily and Weekly Overtime.** Company shall comply with the laws of the State of California and the wage order regulations of the Industrial Welfare Commission applicable to Company's business concerning daily and weekly overtime.

C. **Overtime Distribution.** Overtime shall be rotated, to the extent feasible, based upon seniority within the classification in which overtime is being worked. First choice for overtime shall be given to the employee within the classification in which overtime is going to be worked who has the greatest Company seniority. When overtime is required, the employee highest on that seniority list in the classification shall have the first right to such overtime. If that employee accepts the overtime or rejects it, that employee shall then go to the bottom of the list. Then on the next occasion when overtime is required, the person then first on the seniority list shall have the right to work overtime. Thus, overtime shall be equitably distributed by this rotation method. Notwithstanding the above, on any occasion when a particular employee or

group of employees is performing a special task at the time overtime is required, that employee or group of employees shall be selected for the overtime regardless of seniority. Employees may be required to work a reasonable amount of overtime. Failure to do so may result in appropriate discipline.

D. **Rest and Lunch Periods.** Company shall comply with the laws of the State of California and the wage order regulations of the Industrial Welfare Commission applicable to Company's business concerning rest and lunch periods.

E. **Pay While On the Job.** Every employee shall be paid that employee's regular hourly rate of pay for all time required to remain on the job at the place of work.

## **ARTICLE 14**

### **WAGES**

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A. **Rates of Pay.** All base guaranteed hourly and incentive rates and overtime rates shall be no less than as set forth in Appendix A, attached hereto.

B. **New or Changed Operations.** If a new or changed operation within the bargaining unit is instituted by Company, which operation does not fit within any of the existing job classifications, Company shall set the wage in relation to classifications and rates of pay contained herein and shall give Union written notice before such rate is placed into effect. Whether or not Union agrees to the proposed rate, Company may place the rate into effect after such notice. However, after the rate has been placed into effect, Company and Union shall in good faith attempt to negotiate a rate if Union continues to object to the established rate. If no agreement is reached within 120 days, Company shall then have the option to discontinue the new or changed operation for the duration of this Agreement, but the employees shall complete the harvest and other work at Company's established rate.

C. **Reporting Pay.** An employee who is required to report for work and does report shall be guaranteed a minimum of 2 hours' pay at the employee's applicable hourly rate if scheduled for ½ day, and a minimum of 4 hours' pay at the employee's applicable hourly rate if scheduled for a full day. Nothing in this paragraph shall apply when work cannot be started or is interrupted due to acts of God or other causes not within Company's control or when an employee leaves work early by that employee's own choice.

D. **Temporary Job Transfer.** An employee who is required to work temporarily at an hourly rate in a higher-rated job, in other than a training capacity, shall be paid at the higher rate for all time so worked. An employee required to work temporarily at an hourly rate in a lower-rated job shall be paid at the rate of that employee's regular classification. This paragraph

shall not apply in the event of a layoff as provided in Article 5A.

**E. Credit Union Withholding.** Upon proper written authorization from an employee to Company, deductions as provided in such authorization shall be made by Company for the Farm Workers Credit Union, and such money and report shall be forwarded on a monthly basis to that organization at P.O. Box 62, Keene, CA 93531, or at such other address as may be designated by the Administrator of the Fund.

**F. Bonus For Productive Employees.** Employees who have worked over 500 hours in the calendar year who are still employed as of December 15 in that same calendar year will be eligible for a bonus of between \$100.00 and \$200.00 each such year, payable between December 15 and December 31 each year of the contract, the amount within that range being at the discretion of the Company. The Company agrees not to discipline any employees solely for the purpose of reducing a discretionary bonus.

## ARTICLE 15

### HOLIDAYS

**A. Paid Holidays.** Each eligible employee shall receive six (6) paid holidays: July 4<sup>th</sup>, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day and Cesar Chavez' Birthday (March 31<sup>st</sup>).

**B. Rate of Pay.** Holiday pay shall be equal to 8 hours at the employee's regular hourly rate or the average piece rate earnings for that employee during the immediately preceding quarterly period. An eligible employee is required to work on a paid holiday shall receive that employee's regular pay for the day worked plus the 8 hours' holiday pay.

**C. Eligibility.** To be eligible for holiday pay, an employee must have worked the full scheduled workday immediately before and after the holiday or be on paid vacation. An employee who has less than 6 months' seniority or is on leave of absence beyond 1 month shall not be eligible for holiday pay.

## ARTICLE 16

### VACATIONS

**A. Eligibility and Amount.** Each employee who has completed continuous service shall be entitled to a paid vacation as follows:

<u>Years of Service</u>	<u>Amount of Vacation</u>
4 Years	2 Days
6 Years	4 Days
8 Years	6 Days
10 Years	8 Days
13 Years	10 Days
15 Years or more	12 Days

**B. Prorated Vacation Pay.** An eligible employee whose employment is terminated shall receive prorated vacation pay from the last anniversary date to the date of termination, but such pay shall be reduced by a sum equal to .77 hours for each week when that employee was absent since the last anniversary on an unpaid leave of absence. If such absence is for less than a particular week, the reduction shall be prorated.

**C. Time and Method of Payment.** An employee shall receive vacation pay prior to taking the vacation time. Vacation pay shall be based upon that employee's hourly rate immediately preceding the time of taking the vacation or if on an incentive rate the average hourly rate earned during the quarterly period for workers compensation insurance reporting ending immediately preceding the date when the vacation commences.

**D. Scheduling.** An eligible employee shall notify Company at least 45 days prior to the date when the vacation is requested. Company shall then determine with the employee the exact time of the vacation based on work assignments and scheduling. The higher seniority employee will be given an initial first year preference on scheduling vacation, but scheduled vacations in subsequent years are to be rotated without regard to seniority. Employees may have the option, upon thirty (30) days' notice to Company, to work through any vacation period and receive vacation pay for the pertinent vacation period.

**E. Holiday.** If one of the paid holidays falls during the eligible employee's vacation period, the vacation shall be extended for an additional day with pay.

**F. No Loss Of Pre-Contract Accrued Vacation Pay.** The effective date of this Agreement is the date upon which it is fully executed by all parties. In the event that as of the effective date of the Contract, one or more employees, if any, have more accrued vacation time than allowed under Articles 16A or 16B, then that vacation may be taken, and thereafter, the provisions of Articles 16A and 16B will be binding in all respects.

ARTICLE 17

AMENDMENT AND DURATION

22  
A. Term of Agreement. This Agreement shall be in full force and effect from October 1, 2004 through September 30, 2008 and shall automatically renew from year to year upon expiration unless either of the parties shall have given notice in writing to the other party not more than 120, nor less than 60, days prior to the expiration, requesting negotiations for a new Agreement, together with other notices as may be required by law. During this 60-day period all terms and conditions of this Agreement is not executed within such 60-day period, this Agreement shall expire at the end thereof.

B. Provisions. No provision of this Agreement may be amended, modified, or waived except by a written document executed by the parties hereto.

C. Savings Clause. If any portion of this Agreement shall become ineffective as a result of any applicable local, state, or federal law, only that portion of this Agreement so affected shall be ineffective. In no event shall the fact that a portion of this Agreement is inapplicable or illegal render the remainder of this Agreement ineffective or effect a termination.

D. Waivers. This Agreement and other documents executed contemporaneously herewith constitute the entire Agreement governing wages, hours, and conditions of employment of employees during the term hereof, and settle all demands and issues on all matters subject to collective bargaining. Accordingly, Union and Company expressly waive the right, during the term of this Agreement, to demand negotiations upon any subject matter, whether or not such subject matter has or has not been raised or discussed by either party during the negotiations leading up to this Agreement.

E. No Elimination of Benefits. No present benefit enjoyed by any employee shall be adversely affected by reason of the execution of this Agreement.

LBE.2  
J.M.N. P2A  
S.S.H.

APPENDIX "A"

1. Hourly-Paid Employees Classifications - Minimum Rates

<u>Dock Employees</u>	<sup>22</sup> <u>10/1/04 to</u> <u>9/30/05</u>	<u>10/1/05 to</u> <u>9/30/06</u>	<u>10/1/06 to</u> <u>9/30/07</u>	<u>10/1/07 to</u> <u>10/1/08</u>
Level 1 Yard Forklift Driver	7.90	8.15	8.30	8.45
Level 2 Radish and Leek Packers/Dumpers	7.50	7.65	7.80	7.95
Level 3 Ice/Stacker	7.50	7.65	7.80	7.95
Level 4 Dock-Line Employees (may rotate between parsley and cilantro feeder, liner, stapler and closer, holds the garden hose, PAU's, etc.)	7.30	7.45	7.60	7.85
Level 5 Probationary	6.90	6.95	7.00	7.05
<u>Warehouse Employees</u>				
Level 1 Inventory, Truck Driver, Forklift Driver, Multi-functional	8.10	8.35	8.60	8.80
Level 2 Warehouse Forklift Driver and Forklift Maintenance	8.00	8.20	8.40	8.60
Level 3 Warehouse Forklift Driver	7.75	7.95	8.15	8.35
Level 4 Probationary	6.90	6.95	7.00	7.05
<u>Field Employees</u>				
Level 1 Insured Field Truck driver And Truck Maintenance	8.13	8.46	8.80	9.20
Level 2 Insured Field Truck driver	8.05	8.37	8.70	9.00
Level 3 Field Loader/Uninsured Field Tractor driver	7.61	7.91	8.22	8.35
Level 4 Probationary	6.90	6.95	7.00	7.05
<u>Irrigators</u>				
Level 1 Lead Irrigation and Trainer	8.74	9.09	9.40	9.60
Level 2 Lead Irrigation	8.21	8.53	8.88	9.10
Level 3 Irrigators	7.75	7.95	8.15	8.35
Level 4 Probationary	6.90	6.95	7.00	7.05

*LB E.Z*  
*J.M.M*  
*S.S.M P.Z.A*

<u>10/1/04 to</u> <u>9/30/05</u>	<u>10/1/05 to</u> <u>9/30/06</u>	<u>10/1/06 to</u> <u>9/30/07</u>	<u>10/1/07 to</u> <u>10/1/08</u>
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Weeders

Level 1	Weeders and Water Truck Drivers	7.35	7.40	7.45	7.55
Level 2	Weeders	7.15	7.25	7.40	7.50
Level 3	Probationary	6.90	6.95	7.00	7.05

Tractor Drivers

Level 1	Fully Skilled Operator and Trainer	11.85	11.95	12.05	12.15
Level 2	Fully Skilled Operator	11.35	11.45	11.55	11.65
Level 3	High-skilled Big Tractor Operator	10.95	11.05	11.15	11.25
Level 4	Semi-skilled Big Tractor Operator	10.25	10.35	10.45	10.55
Level 5	Highly-skilled Medium Tractor Operator/Big Tractor Trainee	9.60	9.70	9.80	9.90
Level 6	Highly-skilled Small Tractor Operator	8.80	8.90	9.00	9.10
Level 7	Semi-skilled Small Tractor	8.20	8.30	8.40	8.50
Level 8	Small Tractor -- Proficient	7.70	7.80	7.90	8.00
Level 9	Small Tractor Trainee	7.41	7.57	7.67	7.77
Level 10	Probationary	6.90	6.95	7.00	7.25

Mechanics

Level 1	Refrigeration, Dock and Warehouse Mechanic	13.00	13.20	13.40	13.60
Level 2	Maintenance mechanic	8.45	8.60	8.75	8.90
Level 3	Semi-skilled mechanic and light welding	7.65	7.75	7.85	7.95
Level 4	Mechanic -- Proficient	7.25	7.40	7.55	7.70
Level 5	Mechanic trainee	7.20	7.35	7.50	7.65
Level 6	Probationary	6.95	7.10	7.25	7.40

LB EZ  
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S.S.A

HARVESTING PIECE RATES PER UNIT/BUNCH <sup>1</sup>

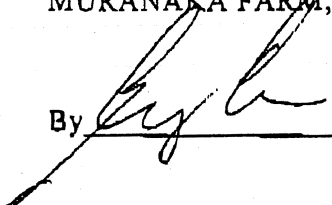
	<sup>22</sup> <u>10/1/04 to</u> <u>9/30/05</u>	<u>10/1/05 to</u> <u>9/30/06</u>	<u>10/1/06 to</u> <u>9/30/07</u>	<u>10/1/07 to</u> <u>10/1/08</u>
Onion	5.35	5.40	5.43	5.45
Radish	1.14	1.15	1.15	1.16
Cello-Radish	4.17	4.18	4.19	4.20
Parsley - Rubber band tie (place packed)	1.36	1.37	1.38	1.39
Parsley -- Wire tie	1.49	1.50	1.51	1.52
Cilantro -- Rubber band tie	1.18	1.19	1.19	1.20
Cilantro -- Wire tie	1.31	1.32	1.33	1.34
Leek	2.42	2.42	2.43	2.43
Leek (bunch of 3)	3.01	3.02	3.03	3.04
Spinach	.87	.87	.88	.88
Kale	.67	.68	.68	.69
Radish (sticker)	1.81	1.82	1.82	1.83
Dill	1.18	1.19	1.20	1.21
Beet	1.00	1.01	1.02	1.03

<sup>1</sup> Wage And Piece Rates In Kern County. The parties acknowledge that Kern County operations ceased years ago, and further agree that the Company can, at its sole discretion, restart operations in Kern County and can, at its sole discretion, set wages and piece rates for all job classifications and all harvest positions at 11% to 20% below the wage rates and piece rates set forth above in this Agreement.

Executed this 22 day of October, 2004.

MURANAKA FARM, INC.

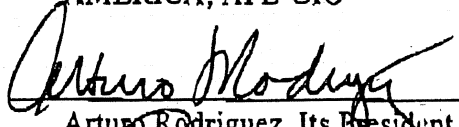
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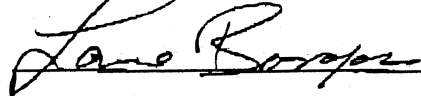
Its

President  
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UNITED FARM WORKERS OF AMERICA, AFL-CIO

  
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Arturo Rodriguez, Its President

  
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Epigmenio Zapien  
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Juan Manuel Nuñez  
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Santiago Soto  
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