

**RETAIL DRUG AGREEMENT**

**JULY 13, 2008 - JULY 15, 2012**

**between**

**THRIFTY PAYLESS INC. D/B/A RITE AID**

**and**

**UFCW LOCALS 135, 324, 770, 1036, 1167, 1428, and 1442**

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## RETAIL DRUG AGREEMENT

July 13, 2008 - July 15, 2012

This Agreement is entered into and effective July 13, 2008 and is between Thrifty PayLess Inc. d/b/a Rite Aid hereinafter referred to as "Employer," and UFCW UNION LOCALS 135, 324, 770, 1036, 1167, 1428, and 1442, chartered by United Food and Commercial Workers International Union, hereinafter referred to as "Union" and the parties agree as follows:

### ARTICLE 1 - MANAGEMENT RIGHTS

1.1 The Employer retains the exclusive right to manage the business, to direct and control the business and workforce, and to make any and all decisions affecting the business, including, but not limited to the following: the exclusive right to plan, determine, direct and control the nature and extent of all its operations and commitments; to determine, install, introduce, remove, discontinue or modify the methods, procedures, materials and operations to be used or to discontinue their use by employees of the Employer; to maintain efficient operations; to hire, train, promote employees; to set standards and methods of performance; to create, modify, and abolish work shifts, the starting and ending times of the work shifts and work schedules; to promulgate, amend and enforce reasonable work rules, regulations, policies and procedures; to determine, modify, change and otherwise set the work duties of employees; to determine, modify, change and otherwise set job content and qualifications; to determine whether to offer light duty and to determine employee eligibility for light duty; to change job content and qualifications; to change job descriptions; to modify the methods, procedures, materials and operations to be used or to discontinue their use by employees of the Employer; to change standards and methods of performance; and in all respects to carry out, in addition, the ordinary and customary functions of management, whether exercised or not. The rights and waivers herein shall extend beyond the expiration of this Agreement until a successor agreement is reached.

1.2 Should a specific provision of this Agreement or State or Federal Law directly conflict with, modify or restrict an enumerated right under this Article, the specific provision of the Agreement or the State or Federal Law shall prevail over the enumerated right.

### ARTICLE 2 - BARGAINING UNIT

#### 2.1 UNION RECOGNITION.

2.1.1 The Employer recognizes the Union as the sole collective bargaining agent with respect to work, rates of pay, hours, and terms and conditions of employment for the appropriate bargaining unit composed of all employees, including employees of lessees, licensees and concessionaires (sometimes herein referred to as "leased department") except as limited below, who perform work within drug stores, food markets, discount stores, and shoe stores presently operated and hereafter established, owned or operated by the Employer within the present geographic jurisdiction of the Local Union. Drug stores are defined as those types of establishments covered by collective bargaining agreements identified as Retail Drug Agreement, July 11, 2005 - July 13, 2008.

2.1.2 The Union agrees that it will not make claim to any employees of present concessionaires or sublessees who work in the present or future store or stores of the Employer, unless the Union can show its majority representation of such employees within an appropriate bargaining unit. In that event, the Union may take economic action without violating this Agreement.

2.1.3 In the event the signatory Employer should operate discount stores, food stores, or shoe stores within the geographic jurisdiction of the Local Union, the appropriate terms and conditions of employment, as in existence with the other employers operating alike retail establishments, shall be immediately applied by the signatory Employer.

## 2.2 INCLUDED BARGAINING UNIT WORK.

2.2.1 Current Work. All work performed on the premises in the nature of work generally performed by employees of the bargaining unit shall not be assigned to any person not in the bargaining unit or contracted for with any other union.

2.2.2 Future Work. Any future work of the nature generally performed by retail clerks created by the Employer shall be performed by members of the bargaining unit as herein set forth.

2.2.3 Employee Definitions. For the purpose of this Agreement, the following definitions shall apply:

2.2.3.1 Intern Pharmacist. An intern pharmacist is a nonlicensed employee permitted to practice pharmacy under the direct supervision of a licensed pharmacist. Upon graduation, graduate intern pharmacists shall be employed by the company for no more than eight (8) consecutive months or the length of time required to take the pharmacy exam two (2) consecutive times. If the graduate intern pharmacist fails to pass the pharmacy exam after the second time they will be offered an open pharmacy technician job (if they are currently licensed as a pharmacy technician with the state of California). If the Company has no available positions in the district, they will be terminated and shall have no recourse to the grievance procedure set forth in this Agreement.

2.2.3.2 Drug Clerk. A drug clerk includes all other employees covered by this Agreement except one (1) hour photo clerks.

2.2.3.3 Employees. Hereinafter “employees” or “all employees” shall mean employees covered by this Agreement.

2.2.3.4 Full-Time Employee. A full-time employee is one employed and/or scheduled to work forty (40) hours per week. Any employee who is scheduled and works ten (10) consecutive weeks at forty (40) hours per week will be classified as a full-time employee. This requirement shall not apply during the Christmas or vacation season or where an employee is scheduled forty (40) hours due to the absence of another employee in excess of three (3) consecutive weeks. Provided, however, that forty (40) hour weeks worked immediately prior to any of the above exceptions and those worked immediately following the exception shall be considered continual for the purpose of calculating the ten (10) consecutive weeks.

2.2.3.5 Part-Time Employee. A part-time employee is one employed and/or scheduled to work less than forty (40) hours per week.

2.2.3.6 Probationary Employees. The first (1<sup>st</sup>) sixty (60) calendar days of employment shall be considered a probationary (trial) period for full-time employees. The first (1<sup>st</sup>) ninety (90) days of employment shall be considered a probationary (trial) period for part-time employees. During such probationary period, an employee may be terminated for any reason and he shall have no recourse to the grievance procedure set forth in this Agreement. Interns who are promoted to a pharmacist position shall be subject to the above probationary period.

2.2.3.7 Trainees. Insofar as trainees are concerned, the probationary period shall be ninety (90) calendar days except for an employee promoted from within the bargaining unit the probationary period shall be forty-five (45) calendar days. After such probationary (trial) period the employee who was promoted from within the bargaining unit is unable to perform the duties of management trainee, he shall be restored to his former classification of work and scheduled hours without discrimination or loss of seniority. This provision does not prevent the Employer from discharging employees for good and sufficient cause.

2.2.3.8 Pharmacy Clerks/Shift Supervisor. Selection of Pharmacy Clerks, Shift Supervisor and other higher paid classifications shall be determined by giving factors such as seniority, qualifications, performance and intent to remain with the Employer full consideration.

2.2.3.9 Pharmacy Technician. Pharmacy Technicians must be currently registered as pharmacy technicians with the California State Board of Pharmacy and have fulfilled all requirements to maintain this registration.

Drug and Pharmacy Clerks who are licensed pharmacy technicians and who perform pharmacy technician duties shall be paid at the next higher pharmacy technician rate over their current drug clerk rate. The clerk will be provided a form to be signed by the pharmacist in charge verifying the hours that the clerk performed pharmacy technician work that day.

The Company will post pharmacy technician openings within the agreed upon district areas for a period of two (2) weeks. The posting will include the store number and whether the job is full-time or part-time. Drug or Pharmacy clerks with a pharmacy technician license who bid on such positions will be promoted based on seniority, availability and ability. Once promoted, Pharmacy Technicians who perform drug clerk or pharmacy clerk duties shall continue to be paid as a Pharmacy Technician.

## 2.3 EXCLUDED BARGAINING UNIT WORK.

The following individuals shall be excluded from the coverage of this Agreement:

### 2.3.1 Management Exclusions.

2.3.1.1 All stores shall have a total of four (4) supervisory exclusions. Thrifty PayLess Inc. d/b/a Rite Aid shall have these employees excluded from the coverage of this Agreement at its sole discretion. These excluded employees shall be allowed to perform any and all work designated by the Employer within the store or any department thereof without restriction. Twenty-four (24) hour stores may have a fifth (5<sup>th</sup>) supervisory exclusion.

2.3.1.2 It is agreed that only two (2) excluded supervisory management employees (store manager and assistant store managers) shall be permitted to perform bargaining unit work on Sunday or holidays (excluding load day) where the combined working hours of the store's full-time and part-time employees (excluding hours of ice cream clerks) total less than one thousand (1,000) hours per payroll period.

2.3.1.3 It is hereby agreed that the Company may utilize management exclusions in up to three (3) designated training stores per district for management trainee positions provided the Company complies with the total number of exclusions allowed within the jurisdiction as provided for in Article 2.3. The Company will provide the Union with the identification of the training stores.

2.3.1.4 Managers and assistant managers excluded as set forth in this Article, shall be permitted to perform any work within the store or department without restriction.

2.3.1.5 A department located within a multi department retail establishment shall not be entitled to any exclusion unless it is a concession, in which case there shall be only one (1) overall manager excluded, regardless of the number of such departments involved.

2.3.1.6 In said concession, leased or subleased departments, where the Employer is actively engaged in the performance of clerks' work for more than fifty percent (50%) of his time in any one (1) single location, he shall be considered the store manager for the purpose of exclusion from the collective bargaining unit. No other exclusions shall be allowed in other departments operated by the concessionaire within the same establishment where the excluded manager, as hereinabove identified, has supervision.

2.3.2 Outside Employees. It is agreed that the Employer and the Union have a common interest in protecting work opportunities for all employees covered by this Agreement. It is further agreed that the displaying, servicing, ordering and demonstrating of merchandise for sale can be handled at the Employer's discretion by nonbargaining unit display men, salesmen, vendor representatives, or any other employee of vendors who are servicing their merchandise to the Employer.

In no event, however, shall any bargaining unit employee be laid off or reduced in hours as a result of work being performed by any salesman, vendor or display man described above.

2.3.3 Culinary Workers.

2.3.4 Demonstrators who do not make sales or display merchandise for pick-up by customers.

2.3.5 Office Employees who are limited to office-clerical work and whose combination of duties do not include any of the clerks' work.

2.3.6 Future Concessionaires or Sublessees or their employees whose duties do not include work generally performed by members of the bargaining unit.

2.3.7 Licensed Pharmacists.

2.3.8 Should any of the classifications hereinabove excluded in the above Paragraphs, designate by a majority thereof the undersigned Union as their bargaining agent, the Employer agrees to recognize and bargain for said employees in accordance with the law.

## 2.4 INDIVIDUAL AGREEMENTS.

2.4.1 All Employees. The Employer agrees not to enter into any agreement or contract, either orally or written, with its employees covered by this Agreement, individually or collectively which in any way conflicts with the terms and provisions of this Agreement.

2.4.2 New Employees. During the period an employee is not a member of the Union, the regular wages, as herein specified for the classification of said employee and all other provisions of this Agreement shall apply.

## ARTICLE 3 - UNION AFFAIRS

### 3.1 REQUIRED UNION MEMBERSHIP.

3.1.1 Union Shop. All employees shall, as a condition of employment, become members of the Union not later than the thirty-first (31<sup>st</sup>) day of their employment or the thirty-first (31<sup>st</sup>) day following the date of signature or the effective date of this Agreement, whichever is later, and shall remain members in good standing as a condition of continued employment.

3.1.2 Seven-Day Notice. The Union will advise the Employer, in writing, when any employee has failed to acquire or maintain Union membership as required by this Agreement. Immediately upon receipt of said notice, the Employer shall advise said employee(s) that they will no longer be scheduled for hours of work on the subsequent weekly schedule until said employee(s) give evidence of compliance or the Union notifies the Employer of such compliance. Failure to comply within seven (7) days after removal from the schedule said employee(s) shall be terminated, if such termination is not in violation of existing law. The Union agrees to indemnify and hold the Employer harmless in any and all claims and/or causes of action which arise out of or are in any way connected with the Employer's compliance with this provision.

### 3.2 INFORMATION FOR UNION.

3.2.1 New/Transferred Employees. The Employer shall notify the Union of all new hires and/or permanently transferred employees within fifteen (15) working days excluding Saturday, Sunday, and holidays of the date of employment and said notice shall contain the name of such new employee, the Social Security number of the new employee, the position for which employed, the store number and location, the date of commencement of work, and the rate of pay at which the person is employed. This information shall be provided electronically to the union. Failure to comply with this notice shall entitle the new employee to receive the journeyman rate of pay for all days worked after the fifteenth (15<sup>th</sup>) working day excluding Saturday, Sunday, and holidays and until such notice is received by the Union.

Claims that the notice of all new hires and/or permanently transferred employees has not been provided within the fifteen (15) days provided in Article 3.2.1 must be filed within thirty-one (31) days following the day the list should be received. This provision shall not apply to claims that the list is inaccurate.

3.2.2 Store Employee Lists. The Employer agrees to permit the Union to check the list of employees covered by this Agreement, and their respective wage rates of preceding months, and will provide the Union a complete payroll list and seniority list for all employees covered by this agreement including: name, social security number, store number, local union number, wage rates, full-time and part-time status and hire date. The list will be automatically provided twice annually, in January and July.

3.2.3 Full-Time, Part-Time Ratio. The Employer shall provide each Local Union with a semiannual report of the status of the full-time and part-time ratio of employees throughout the jurisdiction of this Agreement. Semiannual report shall include employee name, social security number, full-time or part-time status, store and local union number. This information shall be provided electronically to the union.

3.2.4 Payroll Data. In case of a dispute over wages the Union representative shall, upon request, have the right to a copy of the necessary payroll information relative to employees covered by this Agreement. The Union reserves the right to require, in such disputed instances as it deems necessary, that owed wages of employees be paid through the office of the Union or a notarized

statement submitted to the Union of gross amounts paid and deductions made. Either method may be used by the Employer.

3.3 STORE VISITS. In order to observe conditions existing under this Agreement and to settle grievances, representatives of the Union shall have the right to visit the stores.

It is the general policy of the Union for its representatives not to visit the stores during the busy afternoon hours, Saturdays or days preceding holidays. However, upon receipt of a reported violation, a Union representative shall have the right to visit such store at any time for the purpose of investigating such violation.

The Union further agrees that it will arrange with the store manager for such investigation of reported grievances and that any meetings between employees and Union representatives shall be limited to one (1) employee at a time and shall be conducted with the least possible interference with store operations. Such meetings shall be held on the premises in a place designated by the store manager. In instances when employees are working during hours that the stores are closed to the public, the Union may request a list of the employees involved and the hours worked.

3.4 UNION BULLETIN BOARDS. The Union may supply each store with a bulletin board not to exceed two (2) feet by three (3) feet in size for the purpose of posting notices of official Union business. Bulletin boards shall not be used to post notices of a political or adversarial nature. The implementation of this program shall be coordinated by the Company's Labor Relations Department.

3.5 UNION PRINCIPLES.

3.5.1 New Employees. When new or additional employees are needed, the Employer may immediately notify the Union of said need. The Employer reserves the right to select the particular applicant to be hired; but there shall be no discrimination against any applicant by reason of membership or nonmembership in the Union, or an applicant with previous employment experience in the Retail Drug industry with an Employer covered by a Collective Bargaining Agreement in the State of California.

3.5.2 Union Principles/Picket Lines. The Employer shall not discharge or discriminate against any employee for upholding Union principles, as long as such act does not constitute a violation of this Agreement, and nothing herein shall be so construed as to abrogate an employee's rights under the law, including the right individually to refuse to cross a bona fide picket line established in a bona fide dispute by any bona fide labor organization. For the purpose of this Paragraph, a sanctioned picket line shall be one which is sanctioned by the Local Union signatory to this Agreement and the Southern California Food and Drug Council or the appropriate County Federation of Labor, AFL-CIO.

3.6 UNION BUSINESS.

3.6.1 Employees shall be granted time off without pay for the purpose of attending negotiations, adjustment or arbitration hearings or for other bona fide Union business. While the employee/representative of the Union serves in this capacity, they will not be subject to Article 5.1, Employer Transfer of Employees or 5.2, Inter-Union Transfer.

3.6.2 The Employer agrees to schedule any employee who is an officer, or representative of the Union in any capacity, for hours of work that will permit the employee to attend meetings of the Union, provided it involves not more than one (1) employee per store.

3.6.3 The Union agrees to give the Employer no less than ten (10) days' notice of such meetings.

3.6.4 The Company recognizes the right of the Local Union to appoint two (2) stewards per store. The Union will notify the labor relations department of the names and store number of the stewards. Upon two (2) week's notice to the Company labor relations department, one (1) steward per store will be scheduled off and paid eight (8) hours pay to attend one (1) one (1) day steward's training seminar per calendar year. Thrifty PayLess Inc. d/b/a Rite Aid will pay the stewards within one (1) week of the Union providing the company with a certification of the steward's attendance at the seminar.

#### ARTICLE 4 - DISCIPLINE/VOLUNTARY QUILTS

##### 4.1 REGISTER SHORTAGES/IRREGULARITIES.

4.1.1 No employee may be required to make up cash register shortages, unless he is given the privilege of checking the change and daily receipts upon starting and completing the work shift, and unless the employee has exclusive access to the cash register during the work shift, except as specified below.

4.1.2 No employee may be required to make up register shortages when management exercises its rights to open the register during the employee's work shift, unless the register is opened in the presence of the employee and the employee is given the opportunity to verify all withdrawals and/or deposits.

4.1.3 When, as the result of a shopper's report, an employee, subsequent to the shopping incident, is called upon for an interview by a security agent, the employee may, upon receipt of such advice or during such interview, request the presence of a Union representative during the interview. Such Union Representative must be available within a reasonable period of time but in no event later than twenty-four (24) hours after such request, or the interview may proceed without a Union Representative.

4.1.4 When an employee is the subject of a shopper's report or multiple reports and is to be counseled on said report or reports by the Employer, the counseling will take place within a reasonable time period not to exceed thirty (30) days from the date of the last report affecting the employee. The employee and the Union Representative will, by request, be given an opportunity to read said reports during counseling.

4.1.5 A warning notice shall not be required in the case of a discharge for cash register irregularities but such alleged irregularities must constitute good cause for the purpose of sustaining said discharge. Such alleged irregularities shall not constitute good cause for discharge when the company fails to follow the procedures set forth in Article 4, Paragraphs 1.1 and 1.2 above, unless the alleged irregularities are not affected by failure to follow said procedures.

4.2 INVESTIGATION/INTERVIEW. In any instance where an employee is to be interviewed and/or interrogated by the Employer or his representative in respect to any alleged violation of the Collective Bargaining Agreement or alleged infraction of Company policies which may result in disciplinary action, the employee shall be afforded the opportunity of calling his Business Representative and having his Business Representative present during such interview or interrogation. The Union Representative must be available within twenty-four (24) hours or sixty (60) hours on a Friday, Saturday or Sunday (seventy-two [72] hours when a holiday falls on a Monday, thirty [30] hours

for holidays which fall on days other than Monday) after such request, or the interview may proceed without a Union Representative.

#### 4.3 DISCIPLINE.

4.3.1 Good Cause. Non-probationary employees shall not be discharged except for good and sufficient cause such as dishonesty, insubordination, incompetency, intoxication, unbecoming conduct or failure to perform work as required. Age, sex, creed, or color shall not be grounds for the termination of an otherwise qualified employee.

4.3.2 Warnings. Non-probationary employees who are discharged for incompetency or failure to perform work as required (including excessive absenteeism or excessive tardiness) shall first (1<sup>st</sup>) have had two (2) prior warnings in writing within twelve (12) months preceding the discharge of such incompetency or of related or similar failure to perform work as required, with a copy sent to the Union. The employee so notified shall be required to sign such notice, but such signing shall in no way constitute agreement with the contents of such notice.

4.3.3 Discharge for Incompetency. It is understood that a discharge for incompetency shall occur only at the end of an employee's weekly schedule after the employee has completed the probationary period.

4.3.4 Notice. Any employee who is discharged shall be informed at the time of discharge of the immediate cause of discharge. The cause to be confirmed in writing, with a copy sent to the Union and affected employee, within ninety-six (96) hours thereafter, excluding Saturday, Sunday, and holidays.

4.4 DEMOTION. No Pharmacy Clerk, Pharmacy Technician, Shift Supervisor and other higher paid classification shall be demoted from his or her position because of deficient performance in the job without first having received a prior warning notice in writing, copy to the Union, specifying the deficiencies.

4.5 NOTICE OF INTENTION TO QUIT. An employee who intends to quit his job shall, to the extent possible, give two (2) weeks' notice of his intention to quit. An employee who gives any notice of the intention to quit his job shall not be terminated or otherwise discriminated against during the current workweek and the workweek following the date on which the employee gives such notice, but in no event can he insist upon working later than the designated quit date.

### ARTICLE 5 - TRANSFERS/SENIORITY

#### 5.1 EMPLOYER TRANSFER OF EMPLOYEES.

5.1.1 The Employer may transfer employees to meet the necessities of the business, as long as in so doing, he does not exceed the transfer-travel limits set forth below. Reasonable tolerance of these time limits shall be allowed for temporary transfers such as vacation relief and store openings. For good and sufficient reason, an employee may refuse a transfer from the jurisdictional area of one Local Union to another.

5.1.2 Requests for transfers within the Union's geographical jurisdiction so an employee may work nearer one's home will be given appropriate consideration and will not be refused arbitrarily. Similarly, an employee will not be arbitrarily transferred to a store farther from one's own home.

5.1.3 Transfer Travel Limits. When the transfer of an employee becomes necessary, due to slackening of business, the Employer shall not require said employee to travel to a store that is more than fifteen (15) miles from his current store or twenty-five (25) miles from his residence. In making transfers under Paragraph 5.1.1 and 5.1.2 of this Article and this Paragraph, the Employer will make every effort to assign employees on a nondiscriminatory basis to the store which would cause the least hardship to the employee and require the least travel time. Such transfer shall not be used for disciplinary purposes.

5.2 INTERUNION TRANSFER. If an employee is transferred from one UFCW Union's area to another in Southern California, he shall retain all seniority, but during a period of six (6) months from date of transfer, shall not displace any other employee, or reduce the employee's hours. This clause shall not be applicable in the event of the application of Article 5.5.

### 5.3 SENIORITY.

5.3.1 Definition. Seniority is the length of continuous employment of an employee with an individual Employer. Temporary absence from work in accordance with the provisions of this Agreement shall not break seniority. Seniority can only be broken by the following:

5.3.1.1 Quit.

5.3.1.2 Discharge.

5.3.1.3 Layoff for more than nine (9) months.

5.3.1.4 Failure to return in accordance with the terms of a leave of absence or when recalled after a layoff.

5.3.2 Transfer to Higher Category. When an employee is transferred from one job classification to another, the seniority acquired with the store and the Company shall be retained, and new seniority in the new classification shall commence as of the time of transfer. Transfers shall not be made for the purpose of displacing another employee. Should a layoff or reduction in hours occur in his new job classification, he shall be permitted to reclaim the position he formerly vacated, or whatever equivalent job he is able to perform and to which he is entitled by the combined seniority in the old and new classification.

Drug Clerks and Pharmacy Clerks promoted to Pharmacy Technicians shall receive the next higher rate of pay for Pharmacy Technicians and shall progress through the remaining progression steps based on additional hours worked.

5.3.3 Vacation Relief. The seniority of a newly hired employee shall not take effect until the employee has completed the probationary period as provided under Article 2.2.3.6 of this Agreement and shall then be retroactive to date of hire. However, the seniority of employees hired for vacation relief periods shall not take effect until sixty (60) days of employment and then shall be retroactive to date of hire. Said sixty (60) day period shall be between May 1 and August 31.

5.3.4 Ice-Cream Dippers. Regular ice cream dipping shall first be assigned to the least senior clerks in the store. Except as set forth in Article 7.1.8, employees assigned to the job of ice cream dipper shall have the first (1<sup>st</sup>) opportunity in accordance with seniority, to perform other clerks' work in the store. Senior clerks will be assigned to ice cream dipping only when business conditions require same.

5.3.5 Seniority After Christmas Season. The seniority of employees hired as Christmas extras shall not take effect until seventy-five (75) days of employment and then shall be retroactive to date of hire. An employee who is laid off following the Christmas Season and hired back within (7) days shall also have seniority dating back to initial date of hire.

5.4 QUALIFICATIONS. When seniority is invoked by an employee, the employee's ability and skill in performing the work claimed shall be the determining factors in establishing such rights.

5.5 LAYOFFS/RECALLS/HOURS REDUCTIONS.

5.5.1 Full-Time.

5.5.1.1 Full-time employees shall have seniority rights over part-time employees.

5.5.1.2 A full-time employee who is to be laid off or reduced to part-time status due to legitimate business reasons will be:

5.5.1.2.1 Offered the least senior full-time position within the mutually agreed upon Company district. To accept the offer, the employee must respond within twenty-four (24) hours, excluding Saturday, Sunday and holidays.

5.5.1.2.2 If the employee does not accept the offer, he/she may claim any part-time positions in his own store.

5.5.1.3 "Legitimate business reasons" shall be:

5.5.1.3.1 Reduction in sales; or

5.5.1.3.2 Technological change which would result in elimination, reduction or modification of current job duties.

5.5.2 Part-Time.

5.5.2.1 A part-time employee who is to be laid off due to legitimate business reasons will be offered the least senior part-time position within the mutually agreed upon Company district. To accept the offer, the employee must respond within twenty-four (24) hours, excluding Saturday, Sunday and holidays.

The parties will review and change, if necessary, district areas once/year to be consistent with the original intent.

5.5.3 Additional Hours for Part-Time Employees.

5.5.3.1 A part-time employee shall have the right to claim within his own store all part-time hours when such hours become available up to eight (8) hours per day and forty (40) hours per week based upon seniority over other part-time employees provided such part-time employee has the qualifications and ability to perform the duties of the position claimed.

5.5.3.2 After first (1<sup>st</sup>) having notified, in writing, the home store manager and the Union, a part-time employee shall also have the right to request additional available hours up to forty (40) hours per week at no more than three (3) other stores within the Employer's district. Said part-time

employee shall notify, in writing, the manager of such stores of the request, and said manager shall endeavor to comply with such request on a seniority basis.

5.5.3.3 No new part-time or extra employee shall be hired until or unless said part-time employee has been afforded the opportunity to work such additional hours on a seniority basis as set forth above.

5.5.4 Recall.

5.5.4.1 The last employee laid off for legitimate business reasons shall be given the first (1<sup>st</sup>) opportunity to reinstatement in the former position, if said employee presents himself for work within ninety-six (96) hours, excluding Saturday and Sunday, from the postmarked date of a certified or registered letter to the employees last known address, and such letter shall state that failure of such employee to present himself within the ninety-six (96) hour period shall cancel his seniority. The Employer shall not require said employee to travel to a store that is more than fifteen (15) miles from his current store or twenty-five (25) miles from his residence.

5.5.4.2 Thrifty PayLess Inc. d/b/a Rite Aid agrees to recall laid off employees by seniority to any newly constructed stores within the district before hiring any new employees.

5.5.5 Reduction to Part-Time. A full-time employee, who has been reduced to part-time employment because of legitimate business reasons or for medical reasons must be offered the first (1<sup>st</sup>) full-time job that opens in the district in which he is currently employed. If the employee declines the offer, his only rights to be restored to full-time status shall be within his store.

5.5.6 Layoff Timing. A layoff shall only occur at the end of an employee's weekly schedule after the employee has completed the probationary period.

ARTICLE 6 - WORKDAY/WORKWEEK/SCHEDULES

6.1 STORE HOURS. The Employer shall have the sole right to fix and determine the opening and closing hours of its stores.

6.2 WORKDAY DEFINED. For the purposes of this Agreement, a working day is the period from midnight to midnight. Where shifts overlap into two (2) working days, payment shall be made for the hours worked on each working day in accordance with the rates established for such days.

6.3 WORKDAY GUARANTEES.

6.3.1 Full-Time/Scheduled Workday. All full-time employees reporting for work on their scheduled workday shall be guaranteed a full day's work of eight (8) hours with pay; except if a full-time employee is scheduled to work six (6) days in any workweek, he shall be guaranteed four (4) hours' work on the sixth (6<sup>th</sup>) day. The four (4) hour day need not be the actual sixth (6<sup>th</sup>) day, but may be, in the Employer's discretion, any one (1) of the workdays in the weekly work schedule except Sunday.

The integrity of the eight (8) hour day shall be preserved and all time worked shall be paid for. Part-time jobs shall not be created or scheduled for the purpose of destroying the eight (8) hour day principle.

6.3.2 Part-Time Guarantee. Upon reporting for work, all part-time employees and those replacing employees in an emergency shall be guaranteed not less than four (4) hours' work with pay. Only registered school students who are under age eighteen (18) shall be allowed to work less than four (4) hours per shift during the period the student is attending school.

6.3.3 On Call Guarantee. If the Employer requires an employee to remain at home "on call" the Employer shall guarantee the employee four (4) hours' pay at the appropriate rate for such day. All Employer requests for an employee to remain available for "on call" duty shall be in writing to the employee.

#### 6.4 WORKWEEK GUARANTEES.

6.4.1 Full-Time. The workweek shall be Monday through Sunday. Eight (8) hours shall constitute a regular day's work, and forty (40) hours, consisting of five (5) eight (8) hour days shall constitute a regular week's work. All employees hired to work on a full-time basis or who are scheduled and work at least forty (40) hours in ten (10) consecutive weeks shall be guaranteed forty (40) hours' work per week, except in a holiday week, in which it shall be thirty-two (32) hours, provided the employee is available and able to work the required work schedule. When a question arises as to whether or not an employee has worked the ten (10) consecutive week requirement prior work periods shall be reviewed. Such review must consider weeks worked during the twelve months preceding the grievance provided that the employee files the grievance within twenty one (21) days of not being scheduled forty (40) hours pursuant to section 16.2.3. Part-time jobs shall not be created or scheduled for the purpose of destroying the forty (40) hour week principle. The Employer may, on a one (1) time basis, change the work week if such change is done for all the stores in the bargaining unit. The process of implementing the change in the work week shall not adversely impact any employee nor shall such change modify any guarantee in the Collective Bargaining Agreement. The Employer shall provide the Union at least one (1) month's advance notice prior to making such change.

6.4.2 Part-Time. All non-probationary part-time employees shall be guaranteed a minimum of twelve (12) hours' work per workweek unless it is operationally unfeasible. Unfeasible shall be defined as follows:

6.4.2.1 The employee is called in to cover an absence or illness of another bargaining unit employee or in an emergency.

6.4.2.2 The employee is unable to work the scheduled hours or declines to work twelve (12) hours per workweek.

6.4.2.3 An employee working more than twelve (12) hours per workweek declines or refuses to work additional hours when requested to do so.

6.4.2.4 The provisions of Article 7.3.3 shall not be applicable to part-time employees.

6.4.2.5 The employee is classified as an ice cream clerk.

6.4.2.6 Part-time employees who are available to work the scheduled hours shall be guaranteed a minimum of twenty-four (24) hours per week based on the following:

Stores with an annual sales volume of at least \$15 million - guaranteed twenty-four (24) hours per week after six (6) months of continuous employment.

Stores with an annual sales volume of at least \$12 million - guaranteed twenty-four (24) hours per week after nine (9) months of continuous employment.

Stores with an annual sales volume of at least \$9 million - guaranteed twenty-four (24) hours per week after twelve (12) months of continuous employment.

Stores with an annual sales volume less than \$9 million - guaranteed twenty-four (24) hours per week after eighteen (18) months of continuous employment.

Employees shall not lose their guarantee if they are operationally transferred to a different store after earning the guarantee.

Grievances regarding the twenty-four (24) hour guarantee must be filed within forty-eight (48) hours of the final schedule posting or shall be considered waived. Reduction of hours of another part-time employee necessitated by the scheduling of more hours to the employee making a claim shall not give rise to any schedule/pay grievance by a part-time employee who is affected provided the guarantees in this agreement are still met.

Eligible employees may elect to work less than twenty-four (24) hours per workweek with the written agreement of the employee, the Employer and the Union. In such cases, the employee will be scheduled pursuant to the twelve (12) hour minimum provided for above. This election may be revoked at any time by giving the company two (2) weeks written notice.

Part-time employees will be required to fill out an agreed upon availability form one time per year.

6.5 **INTERRUPTION OF OPERATIONS.** In the event operations cannot commence or continue when so recommended by civil authorities; or public utilities fail to supply electricity, water, or gas; or the interruption of work is caused by an Act of God, the foregoing guarantees shall not be applicable.

## 6.6 **WORK SCHEDULE.**

6.6.1 **Ready for Work.** All employees shall report for and be ready for work at their scheduled starting time. The term “ready for work” shall include appropriate or required dress.

6.6.2 **Work Schedules.** The Work Schedule will be posted in the employee break room, except that pharmacy department employees will be scheduled on the pharmacy schedule which shall be posted in the pharmacy. The Employer shall post a work schedule in ink for all employees, showing their surname and first (1<sup>st</sup>) initial not later than noon on Thursdays. Any alteration in such work schedule must be made not later than noon of Fridays of such preceding week. If the work schedule within any day is changed after noon on Friday without reasonable cause, the matter may be subject to the grievance procedure. An employee shall be guaranteed pay for the specific days in a workweek upon which he is scheduled to work, provided he is available for such work. The schedules shall show total number of hours scheduled for each employee. Information shall be posted alongside the schedule indicating employee classification and full-time/part-time status. This information shall be updated quarterly.

In the event that a new schedule is not posted, the previous week’s schedule shall apply. In formulating the work schedule of any employee, a minimum of ten (10) hours shall have elapsed between the two (2) consecutive work shifts unless the weekly rotation of Sunday and night shifts is involved, provided, however, that this provision shall not apply to an employee designated by the Store Manager to act in his absence, nor shall it apply in the event of emergencies. Work performed prior to

the ten (10) hours' elapsed time in violation of this Paragraph shall be paid at the rate of time and one-half ( $1\frac{1}{2}x$ ).

6.6.3 Rotation of Work. The Employer shall endeavor to rotate all full-time employees on night and Sunday work, except where such rotation adversely affects the Employer's operation.

6.6.4 Rotation of Days Off. All full-time clerks upon completion of one (1) year's service shall be provided with two (2) consecutive days off at least once each calendar month on either a Friday-Saturday, Saturday-Sunday, or Sunday-Monday. In order to be considered for two (2) consecutive days off, an employee must submit a request at least two (2) weeks prior to said weekend off. When scheduling an employee as required above, the provisions of Paragraph 3 of Article 7 shall not apply. Provisions of this Paragraph shall not be applicable during the month of December each year.

6.6.5 Rest Periods.

6.6.5.1 An employee working more than six (6) hours in a day shall receive two (2) fifteen (15) minute uninterrupted rest periods during such day. Each fifteen (15) minute rest period includes travel time. The first (1<sup>st</sup>) rest period shall be given in the first (1<sup>st</sup>) half of the shift and the second (2<sup>nd</sup>) rest period during the second (2<sup>nd</sup>) half of such shift.

6.6.5.2 An employee working more than two (2) hours and not more than six (6) hours shall receive one (1) fifteen (15) minute uninterrupted rest period. Each fifteen (15) minute rest period includes travel time. This shall be given during the first (1<sup>st</sup>) four (4) hours of the employee's shift.

6.6.5.3 An employee working a shift with more than five (5) hours and up to six (6) hours will be provided one (1) fifteen (15) minute break.

6.6.5.4 Insofar as practicable, rest periods shall be in the middle of each work period.

6.6.5.5 All employees who are required to work a minimum of an additional one (1) hour of overtime shall be entitled to a ten (10) minute rest period prior to the start of such overtime work.

6.6.5.6 The term uninterrupted means not being called to perform work. If the employee is called back to work during the break, the employee will be given a new uninterrupted break period to replace that which was interrupted as soon as possible.

6.6.6 Lunch Period. All hours shall be worked consecutively, except for a lunch period, which shall be one (1) hour. No eight (8) hour employee shall be scheduled for more than five (5) hours or less than three (3) hours before a meal break. However, by mutual agreement in writing between the manager and the employee, less than one (1) hour may be established to meet business conditions, but in no event may less than one-half ( $\frac{1}{2}$ ) hour be given. If the Union becomes aware of abuse it reserves the right to revoke the option at any location(s) after first (1<sup>st</sup>) covering the Steps 1 and 2 of the grievance procedure contained in Article 16. Any employee who works six (6) hours or more and does not receive an uninterrupted meal period of at least one half ( $\frac{1}{2}$ ) hour prior to the fifth (5<sup>th</sup>) hour of work shall received an additional hour of pay.

6.6.7 Sixth/Seventh Day. No employee shall be required to work seven (7) days in any workweek except in an emergency. It shall not be a violation of this contract, nor shall it constitute cause for discharge, if an employee declines to work on the sixth (6<sup>th</sup>) day of the workweek unless scheduled to work on such day.

6.6.8 Sunday Ratio. The Employer may schedule no more than three (3) part-time shifts for every one (1) eight (8) hour shift scheduled.

6.6.9 Holiday Ratio.

6.6.9.1 An employee who works on a holiday shall be guaranteed eight (8) hours' work, except that a full-time, or regular part-time employee who regularly works less than eight (8) hours on the day on which the holiday is observed, shall be guaranteed not less than the number of hours regularly worked on such day.

6.6.9.2 The eight (8) hour guarantee shall be deemed to have been complied with if less than an eight (8) hour shift is worked on the holiday, but said hours are part of an eight (8) hour shift which includes hours on either the day before or the day after the holiday. Hours worked during the twenty-four (24) hour period of the holiday shall be compensated at the holiday rate as set forth in this Article, and each hour so compensated shall apply toward the eight (8) hour holiday guarantee.

6.6.9.3 On holidays, the Employer may schedule no more than three (3) short shifts [less than eight (8) hours] for every one (1) eight (8) hour shift scheduled.

6.6.9.4 Where a condition arises that there are no part-time employees available, then full-time employees may be scheduled for less than eight (8) hours, on a voluntary basis, provided that said work is in excess of the regular holiday workweek of thirty-two (32) hours.

6.6.9.5 In those stores open for less than nine (9) hours on holidays, full-time employees who have been scheduled for four (4) eight (8) hour days will be permitted to work less than eight (8) hours on the holiday, but will be guaranteed the number of hours the store is open, less a lunch hour if the shift exceeds six (6) hours. Such employees shall receive no less than five (5) hours' pay at the holiday premium rate. If said employees perform work before the store opening and/or after the store closing, the eight (8) hour guarantee at the holiday premium rate of pay shall apply, and all hours worked in excess of eight (8) hours shall be compensated at the holiday premium rate of pay. This exemption from the holiday guarantee shall apply to full-time employees only, unless no full-time employees are available.

6.6.10 Holiday Scheduling. Work on Thanksgiving and Christmas shall be assigned by the Employer on a voluntary basis. Should the Employer be unable to staff its store with volunteering employees the Employer may assign employees to work the holiday by inverse seniority. Once an employee has agreed to work on Thanksgiving or Christmas and the work schedule has been posted, he shall be required to work said days. Written requests to work on any holiday shall be given first (1<sup>st</sup>) preference based on seniority. Employees working on the day of December 24<sup>th</sup> and/or December 31<sup>st</sup> shall be scheduled on the basis of inverse seniority to allow the most-senior employee the early shift on Christmas Eve and New Year's Eve.

6.6.11 Overtime Preference. Employees shall be given preference for overtime work by seniority, provided they are qualified to perform such overtime work. This provision shall not be a requirement on the Employer to create overtime work.

6.6.12 Full-Time/Part-Time Ratio. The Employer agrees to a ratio that will provide an overall ratio of forty percent (40%) full-time employees and sixty percent (60%) part-time employees throughout the jurisdiction of this Agreement. It is agreed that all UFCW bargaining unit employees shall be included within the calculation, excluding only employees classified as ice cream clerks and Christmas extras. The Employer acknowledges that this ratio shall be accomplished through attrition or as provided for in Article 5.5 of this Agreement.

6.6.13 Part-Time Scheduled Hours. More senior part-time employees shall not be scheduled fewer hours in a store than less senior part-time employees, who are qualified to perform the same work in the same store when availability is equal. Alleged violations of this Paragraph must be grieved by the end of the first (1<sup>st</sup>) shift of the Friday following any Thursday scheduled posting or by the end of the first (1<sup>st</sup>) shift on the Monday following any Thursday or Friday schedule change or shall be forever waived. Reduction of hours of a less senior employee necessitated by the scheduling of more hours to a senior employee shall not give rise to any schedule/pay grievance by a less senior employee. The Employer agrees that it will not flat schedule all part-time employees in any store.

6.6.14 Schedule Preferences. Any employee wishing special scheduling consideration including preferential schedule hours must make such preferences known in writing to the store management prior to noon Tuesday. Such notices will remain in effect until revoked in writing by the employee. Store management will attempt to accommodate, by seniority, as many such requests as operationally practical provided the employee has the skills and ability to perform the job.

## ARTICLE 7 - WAGES

### 7.1 ALL EMPLOYEES.

7.1.1 Base Rates. Attached to and made a part of this Agreement is Appendix A which sets forth the straight-time hourly rates for all employees covered by this Agreement.

7.1.2 Apprenticeship. An apprentice is an individual who has had insufficient experience to qualify as an experienced or journeyman clerk. Effective with the sixth (6<sup>th</sup>) anniversary date of hire, employees shall receive the journeyman drug clerk rate of pay regardless of the total number of hours worked.

#### 7.1.3 Prior Industry Experience.

7.1.3.1 New hires not previously employed by the Employer who are entitled to prior experience credit shall receive the entry level wage rate during the first (1<sup>st</sup>) thirty (30) days of employment and the six (6) month rate during the next ninety (90) days of employment. Thereafter the employee shall be paid in accordance with Appendix A.

7.1.3.2 New hires previously employed by the Employer shall receive full credit for prior experience with the Employer in the type of work to be performed. New hires shall be credited with prior experience and paid at no less than the wage rate they were last receiving prior to leaving the industry.

7.1.3.3 Definition of Prior Experience. Prior industry experience is defined as experience under UFCW collective bargaining agreements in the State of California in the drug and discount industry or general merchandise in the food agreement during the ten (10) year period prior to employment under this Agreement. Only such experience stated on the employee's application and confirmed by the Employer or acceptable proof by the employee shall be credited.

7.1.4 Christmas Extra Employees. Clerks hired specifically to work during the period of November 1st through January 15th shall be paid at the entry level wage.

### 7.1.5 Shift Supervisors.

7.1.5.1 Stores in which the total clerks' hours worked exceed four thousand (4,000) hours per month shall employ a minimum of three (3) shift supervisors. Each Shift Supervisor will be compensated in accordance with the wage schedule for shift supervisors set forth in Appendix A. When a store qualifies for four (4) exclusions, a fourth (4<sup>th</sup>) shift supervisor shall be assigned.

7.1.5.2 To qualify as a shift supervisor store, the aforementioned qualifying hours must be maintained as an average during four (4) of the preceding six (6) months. The evaluation period to determine which stores qualify as "shift supervisor stores" will be from October 1 through March 31 and April 1 through September 30. The necessary adjustments based on this evaluation will be effective the first (1<sup>st</sup>) payroll period in January and July of each year. Selection of the shift supervisors shall be vested solely in management who will give factors such as seniority, qualifications and intent to remain in the industry full consideration.

7.1.5.3 It is agreed that management trainees shall not be classified as shift supervisors.

7.1.6 Pharmacy Clerks. Clerks who are assigned to assist in clerical and pharmacy related duties (including the running of the pharmacy register if it is in combination with clerical pharmacy duties) directly connected with the pharmacy and under the supervision of the pharmacist shall receive thirty-five cents (35¢) per hour over their current rate of pay when performing such duties.

7.1.7 Price Accuracy Coordinators. Clerks who are assigned the position of Price Accuracy Coordinator shall receive an additional fifty cents (50¢) per hour over their classification rate of pay. The determination of whether the Price Accuracy Coordinator position is utilized in any store at anytime shall be the sole discretion of the Employer. Nothing in this Agreement shall require the Employer to utilize this position; and the Employer may eliminate the position (and the corresponding premium pay) at any time at its sole discretion. It is understood that in stores where the Employer eliminates the Price Accuracy Coordinator position, qualified employees will be given consideration to fill open Shift Supervisor positions. Seniority will prevail in the event that the elimination of this position in any store results in a full-time reduction.

### 7.1.8 Ice-Cream Clerks.

7.1.8.1 The rate of pay for ice-cream clerks shall be as set forth in Appendix A of this Agreement.

7.1.8.2 The Company will not have to make any fringe contribution on behalf of ice-cream clerks -- nor will ice-cream clerks be eligible for night premium, Sunday premium, sick leave, holiday pay, vacation pay, or funeral pay.

7.1.8.3 The duties of an ice-cream clerk shall be limited to the handling and sale of ice cream and incidental candy bars, chewing gum and popcorn located at or immediately adjacent to the ice-cream counter and the stocking only of ice-cream products situated within the self-service display cases. In addition, the ice-cream clerk may perform general cleaning of the immediately adjacent area to the front of the store and if applicable the concourse of same. The ice-cream clerk can also perform the following janitorial duties: dry mop store, empty trash, clean break room, clean front door glass and spot clean spills and breakages. Further, the ice-cream clerk may collect shopping carts and assist customers to their cars with their purchases. These clerks may also be required to wrap or bag. It is agreed that a maximum of four (4) employees may be classified and assigned the duties of an ice-cream clerk in a given store, provided, however, that only two (2) ice-cream clerks will be scheduled to work during the same hours (shift) each workday.

7.1.8.4 In the event an ice-cream clerk wishes to become a regular clerk, he must make his request in writing to the store manager. The store manager shall not arbitrarily refuse such request when an opening exists.

7.1.8.5 Any ice-cream clerk assigned to other than the above duties shall be paid at the journeyman rate of pay for the entire shift during which the nonpermitted work occurs.

7.1.8.6 Upon promotion, ice cream clerks shall receive up to five (5) months' credit for hours worked during the previous five (5) months for the purpose of determining health and welfare eligibility. For all other benefit purposes, the date of promotion shall begin any waiting period. The Employer shall not be required to make any retroactive contributions.

## 7.2 PREMIUMS.

7.2.1 Night Premium. For all time worked by employees, after 7 p.m. and before 7 a.m., by employees hired on or before August 5, 2005, a premium of twenty-five cents (25¢) per hour shall be paid.

7.2.1.1 24-Hour Store Night Premium. In twenty-four (24) hour stores, the night premium shall be twenty-five cents (25¢) per hour for all hours worked between the hours of 7 p.m. and 10 p.m. and seventy-five cents (75¢) per hour for all hours worked between the hours of 10 p.m. and 7 a.m.

7.2.2 Sunday Premium. For all time worked on Sunday by employees, a premium of one dollar (\$1.00) per hour shall be paid. This provision shall not apply to employees hired on or after July 1, 1986.

## 7.3 OVERTIME.

7.3.1 Daily/Weekly Overtime. All work performed in excess of the regular day's work of eight (8) straight-time hours in any one (1) day, or in excess of the regular forty (40) straight-time hours in any one (1) regular workweek, or thirty-two (32) straight-time hours in any holiday week exclusive of work on the holiday, shall be deemed overtime and paid for at the overtime rate of time and one-half (1½x) the employee's regular straight-time rate of pay, or at a higher premium rate, if such is applicable.

7.3.2 Sixth Day Overtime/Full-Time. Time and one-half (1½x) shall be paid on said sixth (6<sup>th</sup>) day, contingent upon the employee's completion of his scheduled workweek.

7.3.3 Seventh Consecutive Day Overtime/Full-Time. Where a five (5) day, full-time employee is scheduled to work more than six (6) consecutive days in any combination of workweeks, said employee shall receive time and one-half (1½x) (or such higher premium as may apply) for all time worked after the sixth (6<sup>th</sup>) consecutive day, until such time as his consecutive days of work have been interrupted by a prescheduled day off. The above shall not apply to regularly scheduled six (6) day employees, provided that overtime or premium rates are paid where applicable. The sixth (6<sup>th</sup>) day of work within one (1) workweek, whether prescheduled or not, shall act as an interruption in the continuity of consecutive days worked. Where the application of this sixth (6<sup>th</sup>) day provision would interfere with the rotation of days off, overtime shall be paid after the seventh (7<sup>th</sup>) consecutive day. This paragraph shall not apply when the seventh (7<sup>th</sup>) consecutive day is necessary to accommodate the employee's written request for specific days off.

7.3.4 Predesignated Day Off Guarantee. Any full-time employee called to work on his predesignated day off, as established in the work schedule provisions, shall be guaranteed eight (8) hours' work at the overtime rate of pay.

7.3.5 Sixth Day Overtime/Part-Time. Part-time employees shall be paid time and one-half (1½x), or such premium rate as may apply, for all work performed on the sixth (6<sup>th</sup>) day of work as such, in any regular workweek, or on the fifth (5<sup>th</sup>) day of work in any week in which a holiday falls, excluding the holiday, as provided in this contract. This Paragraph shall not apply when a part-time employee desires, in writing, additional work, including work on a sixth (6<sup>th</sup>) workday and the Employer accommodates said employee. If the Union becomes aware of abuse it reserves the right to revoke the option at any location(s) after first (1<sup>st</sup>) covering the Steps 1 and 2 of the grievance procedure in Article 16.

7.3.6 Early/Late Meal Periods. An eight (8) hour employee who is required to work in excess of five (5) hours without a meal period shall receive overtime pay from the end of the fifth (5<sup>th</sup>) hour until the meal period commences. Eight (8) hour employees who are required to work less than three (3) hours before commencing their lunch period shall receive overtime pay for the time between the start of their lunch period and the three (3) hour mark.

7.3.7 Overtime Basis. The overtime rate for employees who receive a wage scale in excess of the rates in this contract shall be based on said employee's actual rate of pay.

7.3.8 Nonpyramiding. The following are penalty rates: overtime rates, premium rates (night and Sunday), holiday rates. No penalty rate of any kind shall be pyramided or paid in addition to any other penalty rates, and only the single highest applicable penalty rate shall be paid for any given hour of work.

7.4 **PAY PERIOD AND WAGE STATEMENT.** All employees shall be paid on a weekly or biweekly basis. The Employer shall designate a payday not to exceed six (6) days following the completion of the applicable pay period, and employees must be paid on that day. The Employer agrees to furnish each employee with a weekly itemized wage statement showing the name of the employee, period covered, straight-time and overtime or premium hours worked, total amount of straight-time, overtime and premium wages paid and all deductions made. An employee scheduled off on a payday shall be paid on the employee's last scheduled working day before the payday, if checks are available. Upon request, the person in charge of the store at the time, will provide the employee with accurate information concerning their earned vacation and sick leave hours.

## 7.5 **TIME RECORDS.**

7.5.1 Daily Records. The Employer shall furnish forms, either time cards or other time records, on which the employee shall be required daily to record time worked on each day. Such daily record shall be verified by the Employer and employee at least weekly and shall be available for inspection upon request by the Union representative entitled to such information.

7.5.2 Collusion or Coercion. In the event of falsification of time records through collusion or coercion, where it is established that both the employee and the Employer had knowledge of such falsification, the employee shall be paid for all time worked, by check mailed to the Union.

7.6 **BONUS PAYMENTS.** All extra-contractual bonuses, discounts, and commissions paid or given to the associate shall not be considered as wages but are to be considered for the purpose of this Agreement as extra compensation over and above the minimum wage provided for in this Agreement. All extra-contractual bonuses, discounts and commissions are at the option of the Employer and may be

changed or discontinued at any time without notice. Extra-contractual bonuses, discounts and commissions shall not be used to defeat the wage provision of this Agreement.

7.7 TRAVEL TIME. Whenever the employee is required by the Employer to change from one store to another during the same day, all time consumed by said employee in going either to or from one store to another shall be considered and paid for as part of the employee's regular duties.

When an employee must travel for training purposes, he shall be paid for mileage if the training location is more than twenty five (25) miles from his residence.

7.8 INJURY ON THE JOB. When an employee is injured on the job, there shall be no deduction from the employee's pay for the day in which the employee was injured and reported for medical care. When such employee returns to work following the injury, and is certified as ready and able to perform all regular duties, but requires medical treatment as a result of the same injury, the Employer shall adjust the work schedules without penalty to the employee, to provide both the time for medical care and the number of hours of work for which the employee is regularly scheduled.

7.9 LEGAL PROCEEDINGS.

7.9.1 Required Appearance. Any employee served with a legal notice, citation or subpoena which involves any facet of the Employer's operation, or which may require the employee to appear in legal proceedings during scheduled work time, shall immediately inform the Employer of such service.

7.9.2 Requested Appearance. Employees shall be paid as time worked under the terms of this Agreement for time spent at appearances in legal proceedings at the request of the Employer.

7.9.3 Work Related Appearance. In addition, employees shall be paid as time worked under this contract for time spent at appearances or required standby in legal proceedings under subpoena issued by the court when the event, or events, giving rise to the issuance of the subpoena occurred while the employee was on duty working for the Employer, and so long as the Employer is not a party defendant or respondent in such proceeding, and no relief of any kind is sought against the Employer nor the imposition of any penalty or punishment upon him.

7.9.4 Former Employees. Those who at the time of the legal appearance are no longer employed by the Employer, shall be paid by such Employer at the rate of straight time for the time spent at the legal appearance, with a minimum guarantee of four (4) hours per day. In no sense is it to be construed that the former employee becomes an employee as a result of such payment.

7.10 STORE/COMPANY/MEETINGS.

7.10.1 Store Meetings. No store and/or Company meetings shall be held as to conflict with the regular meetings of the Union, and upon three (3) days' notice to the Employer of a special meeting, the Employer agrees to hold no store meetings in conflict therewith. Employees shall not be required to attend store meetings on their scheduled days off. Actual time spent at store meetings shall be considered as time worked and paid for in accordance with this Agreement, but shall not constitute hours worked with respect to overtime or any other premium pay and report-in pay provisions of Article 7.3.2, .3, .4 and .5 and Article 6.3.1, .2 and .3 shall not be applicable. Should the Company have more than one (1) store meeting per quarter all time spent at store meetings in excess of the one (1) per quarter shall be considered as time worked and paid for in accordance with this Agreement, including all premiums, overtime and report-in pay.

7.10.2 Company Meetings. Attendance at Company meetings (as distinguished from store meetings) shall not be required, but shall be completely voluntary on the part of the employee.

7.11 AUTO ALLOWANCE. The mileage allowance shall be the company's uniform mileage allowance but in no event shall it be less than twenty-eight cents (28¢) per mile.

7.12 TRAINING SCHOOL FEES. Where, as a condition of employment, the Employer requires attendance at a school or training establishment, and where a fee is charged for such instruction or training, the fee shall be borne by the Employer.

7.13 BOND FEES. Whenever the Employer requires the bonding of any employee or the carrying of any insurance for the indemnification of the Employer, the premiums for the same shall be paid for by the Employer. Should an employee be refused bond by a bonding company, after his first (1<sup>st</sup>) thirty (30) days of employment, the Employer agrees to make a reasonable effort to secure a bond in an appropriate case without added cost to the Employer.

7.14 HEALTH EXAMINATION. The Employer shall pay the cost for any city, county or state health examination required of employees who are covered by this Agreement.

7.15 NO REDUCTION IN RATES. It is further agreed that no employee shall suffer any reduction in rates or general working conditions by reason of the signing of this Agreement. No employee receiving hourly rates in excess of the rates herein shall be replaced by another employee at a lesser hourly rate for the purpose of avoiding any of the provisions of this Agreement.

7.16 WAGE AND PRICE CONTROLS. If by Presidential decree or legislative enactment, wage and price controls are instituted which cause any provisions of this Agreement to affect either of the parties adversely, such provisions may be reopened for negotiations. The party adversely affected must give fifteen (15) days' written notice to the other party in order to so reopen this Agreement. Any issues unresolved as a result of such reopening may be submitted to final and binding arbitration by either party under the procedures set forth in Article 16.

7.17 CHARITY. The Employer shall not conduct or handle any campaign or drive for charitable purposes among his employees except where the cooperation and contributions of the employees are voluntary.

7.18 PRODUCTS HANDLED. The rates set forth herein in Appendix A reflect and are based upon the kinds, types, mixture, customer exposure, and the merchandising, advertising and pricing methods of products traditionally and historically handled by the retail drug industry of Southern California.

Rates of pay for employees under this Agreement handling products not traditionally and historically handled, as set forth above, by the retail drug industry of Southern California, shall be subject to further negotiation upon written notice by either party to this Agreement.

If the parties cannot agree on the appropriate wage rates for such employees pursuant to such negotiations, either party may then submit the unresolved issue to the arbitration procedure set forth in Article 16 of this Agreement.

## ARTICLE 8 - VACATIONS

### 8.1 FULL-TIME EMPLOYEES.

8.1.1 One Year. All full-time employees who have been continuously employed by the Employer for one (1) year shall receive one (1) week's vacation with full pay.

8.1.2 Two Years. All full-time employees who have been continuously employed by the Employer for two (2) years shall receive two (2) weeks' vacation with full pay.

8.1.3 Five Years. All full-time employees who have been continuously employed by the Employer for five (5) years shall receive three (3) weeks' vacation with full pay.

8.1.4 Fifteen Years. All full-time employees who have been continuously employed by the Employer for fifteen (15) years shall receive four (4) weeks' vacation with full pay.

8.1.5 Twenty Years. All full-time employees who have been continuously employed by the Employer for twenty (20) years shall receive five (5) weeks' vacation with full pay.

8.1.6 Continuous Employment Defined. Continuous employment for the purpose of this Article shall be measured from the last date of hire with the Employer. However, when there has been continuous leave of absence in excess of one (1) year, the period of continuous employment shall be reduced by the number of full years of such absence.

### 8.2 PAY. Vacation pay is a work earned benefit.

8.2.1 Full Pay Defined. The term "full pay" shall be defined as forty (40) hours' pay at the employee's straight-time hourly rate which was in effect at the time his vacation became due on the employee's anniversary date provided, however, that if the Employer does not pay the vacation pay on the anniversary date, the payment of vacation pay shall be based on straight-time hourly rate of pay in effect at the time the employee takes the vacation.

Absence from work up to seven (7) weeks or two hundred eighty (280) straight-time hours within the period of fifty-two (52) consecutive weeks, immediately preceding the employee's anniversary date, due to sickness, injury or temporary layoff, or other bona fide emergencies, shall be considered as time worked for the purpose of determining eligibility for full vacation pay. In the event that an employee is absent from work in excess of seven (7) weeks, as set forth above, whatever vacation pay the employee is entitled to shall be prorated according to the ratio that the straight-time hours actually worked bear to two thousand eighty (2,080) hours. Hours worked shall include paid holidays, paid vacations and paid jury duty.

8.2.2 Part-Time Vacation Pay. Part-time employees shall be entitled to vacation pay on each anniversary date of their employment, prorated on the basis of the average straight-time hours worked during the preceding year, according to the vacation formula set forth in this Article 8.1. Said vacation pay shall be based on the straight-time hourly rate in effect on the employee's anniversary date provided, however, that if the Employer does not pay the vacation pay on the anniversary date, the payment shall be based on the straight-time hourly rate of pay in effect at the time the employee takes the vacation.

8.2.3 Payment Date. Vacation pay shall be paid during the pay period the vacation is taken. Any unused vacation will be paid on the next anniversary date. Upon three (3) weeks written advance request, vacation pay shall be paid on the pay date immediately preceding the vacation. The payment of

an employee's vacation pay shall be by separate check and computed at the same tax rate schedule as the computation of regular wages per week. Termination vacation pay is due within seven (7) calendar days of termination or resignation.

#### 8.2.4 Pro-Rata.

8.2.4.1 General. Upon termination of employment for any reason other than discharge for proven or admitted dishonesty, an employee shall receive whatever vacation pay is due, prorated on the basis of the number of straight-time hours worked, provided that the employee has been in the continuous employ of the Company for six (6) months or longer. Said vacation pay shall be prorated according to the ratio that the straight-time hours actually worked bear to two thousand eighty (2,080) hours. Employees terminated for proven or admitted dishonesty shall forfeit all vacation pay.

8.2.4.2 After 6 Months. Employees whose employment is terminated, and who have been in the continuous employ of the Company more than six (6) months, but less than one (1) year, shall not be entitled to such pro rata pay where termination of employment is due to a discharge or to a voluntary quit, but shall receive prorated vacation only when termination of employment is due to a layoff.

8.2.4.3 After 12 Months. Any employee who has been in the employ of the same Employer for twelve (12) consecutive calendar months, but not to exceed eighteen (18) consecutive calendar months, shall upon termination of employment be entitled to receive a pro rata of the earned vacation on the basis of one (1) workweek consisting of forty (40) hours at straight-time pay for all months for which no vacation has been paid.

8.2.4.4 After 18 Months. Where an employee has been in the employ of the same Employer in excess of eighteen (18) consecutive calendar months, he shall receive upon termination, a pro rata of accrued vacation pay on the basis of eighty (80) hours at straight-time pay for all months for which no vacation has been paid, but in no event shall vacation pay for the first (1<sup>st</sup>) year's employment exceed one (1) week's pay. It is further provided that employees who voluntarily quit after eighteen (18) consecutive calendar months of employment with the same Employer, and prior to two (2) years' employment with the same Employer, shall receive pro rata of accrued vacation pay on the basis of forty (40) hours at the straight-time rate of pay.

8.2.4.5 After 5 Years. An employee who has been in the employ of the same Employer for five (5) years or more shall, upon termination, receive accrued vacation pay on the basis of three (3) weeks per year for all time in excess of five (5) years for which no vacation pay has been received.

8.2.4.6 After 15 Years. An employee who has been in the employ of the same Employer for fifteen (15) years or more shall, upon termination, receive accrued vacation pay on the basis of four (4) weeks per year for all time in excess of fifteen (15) years for which no vacation pay has been received.

8.2.4.7 After 20 Years. An employee who has been in the employ of the same Employer for twenty (20) years or more shall, upon termination, receive accrued vacation pay on the basis of five (5) weeks per year for all time in excess of twenty (20) years for which no vacation pay has been received.

8.2.5 Not Waived. Vacation may not be waived by an employee, nor may extra pay be received for work during that period; provided, however, that by prior mutual agreement between the Employer, the employee and the Union, this provision may be waived.

8.3 INDUSTRY VACATION. Additional vacation pay based on industry experience shall be provided in accordance with the provisions of the Trust Fund set forth in Article 14. Said additional vacation pay shall be paid to the employee by the Trust Fund. Any employee entitled to vacation pay as herein provided shall not suffer any loss of credits for health and welfare benefits or pension benefits that are provided under Article 14 of this Agreement.

8.4 VACATION SCHEDULE.

8.4.1 Posting/Selection. The Employer shall prepare and post in each store a vacation schedule not later than January 15th of each year and such vacation schedule shall remain posted until March 1st for the purpose of enabling the employees to select their vacation period. Vacation periods shall be fixed by the Employer to suit the requirements of his business, but as far as possible and practicable, vacations will be given during the summer months (through October if requested by the employee), and for employees with school-age children during the school summer vacation. Vacation periods other than those listed above may be applied for to management and full consideration will be given to grant the request unless it has an adverse affect on the Employer's business. Vacation period shall be unbroken except by mutual consent between Employer and employee.

8.4.2 Scheduling by Seniority. The Employer shall be required to give vacation time off based on the number of weeks of vacation due the employee from the Employer and from the vacation trust fund. Within the limits set forth in this Paragraph, vacations shall be scheduled by seniority.

8.4.3 Notice. In scheduling a vacation of an employee, the Employer shall give as much notice as possible prior to the date of beginning the vacation but not less than thirty (30) days.

8.4.4 Not Cumulative. Vacations may not be cumulative from one (1) year to another.

8.4.5 Holiday During Vacation. If a holiday named under Article 9 of this Agreement falls within the vacation period of an employee, he shall be granted an additional day of vacation with full pay, or an additional day's pay in lieu of the holiday. The additional day of vacation shall be counted as a day worked for the purpose of weekly overtime computation during the week in which the employee returns to work.

ARTICLE 9 - HOLIDAYS

9.1 PAID HOLIDAYS.

9.1.1 Holidays. The following days shall be holidays and granted without reduction in pay:

- |                             |                  |
|-----------------------------|------------------|
| New Year's Day              | Thanksgiving Day |
| Memorial Day                | Christmas Day    |
| Independence Day            | Labor Day        |
| Three (3) Personal Holidays |                  |

No employee shall receive pay for any holidays not worked unless such employee has reported for work on his or her regular working day next preceding and next following said holiday. Employees shall be deemed to have reported for work if absence on said day before and said day after said holiday is due to express permission from or action of the Employer, provided the employee has worked during the holiday week, except that if the employee is absent during the entire holiday week due to illness or injury, then he must have worked at least one (1) day during the week immediately preceding the holiday week in order to be entitled to holiday pay.

9.1.2 Eligibility. During the first (1<sup>st</sup>) year of their employment, employees shall not be entitled to pay for time not worked on the holiday, or to overtime for the first (1<sup>st</sup>) eight (8) hours on the fifth (5<sup>th</sup>) day of such week. Employees shall become eligible for three (3) personal holidays each year on their anniversary date once they have been continuously employed for three (3) years.

9.1.3 Personal Holiday. An employee requesting a given workday date as the personal holiday must do so at least fourteen (14) calendar days in advance. The Employer shall endeavor to grant such requests subject to store operational requirements. The Employer will grant such holiday time off with pay to the senior requesting employee(s). Personal holiday dates, once granted for that year, will become permanent fourteen (14) calendar days prior, and no senior employee(s) shall have a right to such date.

Personal holidays are expected to be scheduled and taken and shall not be cumulative from year to year. In cases where an employee has been scheduled for a personal holiday, and the Employer cancels such holiday, the employee will receive holiday pay in accordance with the provisions of Article 9.2 below. Mutual rescheduling may be undertaken in lieu of holiday pay. Employees who terminate for reasons other than proven or admitted dishonesty shall be paid for all unused personal holidays.

9.1.4 Holiday Requests. The Company agrees that no employee will be denied a personal holiday to which he would otherwise be entitled as a result of the employee's failure to request such a holiday in advance. Rather employees who fail to request the personal holiday in advance shall be entitled to another mutually agreeable day off with pay within thirty (30) days of the request. The Company will make every effort to inform employees of their entitlement to the above named holidays.

9.1.5 Monday Observance. With respect to any of the holidays listed in this Agreement which may, by virtue of controlling legislation be celebrated on Monday, this Agreement will be changed automatically to permit such Monday observance, coincident with the dates specified in such legislation.

## 9.2 HOLIDAY PAYMENT.

9.2.1 Rate. Work as such on a holiday shall be compensated at two and one-half times (2½x) the straight-time hourly rate of pay for all hours worked after an employee's first (1<sup>st</sup>) year of employment. Said two and one-half times (2½x) shall include any premium pay or overtime that may be applicable, and includes pay for the holiday itself.

9.2.2 Holiday Week. A regular holiday workweek shall consist of the holiday itself and four (4) other eight (8) hour days. All full-time employees shall receive forty (40) hours of straight-time pay for thirty-two (32) straight-time hours of work excluding the holiday. A full-time employee, not working on a holiday, shall receive eight (8) hours' pay for the holiday, in addition to the pay specified in this Agreement for the other four (4) days referred to above. All time worked over the thirty-two (32) hours, exclusive of the holiday, shall be paid for at the rate of time and one-half (1½x) the employee's regular rate of pay.

The following hypothetical examples accurately reflect the intention of the parties set forth above with respect to employees after one (1) year of employment:

(Holiday)	<u>M</u>	<u>Tu</u>	<u>W</u>	<u>Th</u>	<u>F</u>	<u>Sa</u>	<u>Su</u>	<u>Total Hours Worked</u>	<u>Hours of Pay at Straight Time</u>
Example #1									
Hrs. wkd.	0	8	8	8	8	0	0	32	
Pay for	8	8	8	8	8	0	0		40
Example #2									
Hrs. wkd.	0	8	8	8	8	8	0	40	
Pay for	8	8	8	8	8	12	0		52
Example #3									
Hrs. wkd.	8	8	8	8	8	0	0	40	
Pay for	20	8	8	8	8	0	0		52
Example #4									
Hrs. wkd.	0	8	8	8	8	8	8	48	
Pay for	8	8	8	8	8	12	12		64
Example #5									
Hrs. wkd.	8	8	8	8	8	8	0	48	
Pay for	20	8	8	8	8	12	0		64
Example #6									
Hrs. wkd.	4	8	8	8	8	0	0	36	
Pay for	14	8	8	8	8	0	0		46
Example #7									
Hrs. wkd.	4	8	8	8	8	8	0	44	
Pay for	14	8	8	8	8	12	0		58
Example #8									
Hrs. wkd.	9	8	8	0	8	8	0	41	
Pay for	22½	8	8	0	8	8	0		54½

9.2.3 Part-Time Holiday Pay. Holiday pay for employees who work less than forty (40) hours shall be based on twenty percent (20%) of the employee's average hours worked per week in the six (6) weeks worked immediately preceding the holiday or the number of weeks worked if less than six (6) except that in computing pay for the New Year's holiday the same period of time used in computing pay for the Christmas holiday shall be used. Pay for the personal, anniversary, and birthday shall be based on the daily average twenty percent (20%) of the weekly average hours worked or compensated for the fifty-two (52) week period from anniversary date to anniversary date. Provided however, that time not worked because of an approved medical leave, worker's compensation leave or family medical leave of absence shall not adversely affect the calculation and the number of weeks used shall be adjusted accordingly.

9.3 VOLUNTARY CLOSING. When the Employer voluntarily closes the store to the public because of any commemoration day or celebration day, or on any holiday other than those set forth in Article 9.1 above, it is agreed that the employees shall suffer no reduction in straight-time weekly earnings on account of such closing.

## ARTICLE 10 - SICK LEAVE

### 10.1 BENEFITS.

10.1.1 Eligibility. All employees covered by this Agreement who have been continuously employed by the Employer for a period of at least one year shall be entitled to forty-eight (48) hours of sick leave with pay, and on each anniversary date of employment thereafter they shall be entitled to forty-eight (48) hours of paid sick leave (subject to Paragraph 10.1.2 of this Article). Sick leave shall be payable only for bona fide illness or injury beginning with the first (1<sup>st</sup>) working day's absence. Any working day on which an employee works more than four (4) hours shall not be considered the first (1<sup>st</sup>) day of absence.

10.1.2 Pro Rata. Part-time employees, and full-time employees who failed to work the full year, shall be entitled to sick leave on the basis set forth above on a pro rata of total hours worked or paid for during the year preceding the anniversary date as a ratio to two thousand eighty (2,080) hours.

10.1.3 Supplementary Disability Benefits. Supplementary Disability Benefits will be provided in accordance with provisions of Article 14 hereof.

10.1.4 Sick Leave Integration. Sick leave pay shall be integrated with the Supplementary Disability Benefits provided under the Trust Fund and California Disability Insurance or California Workers' Compensation Temporary Disability Benefits, or both, so that the sum of the sick leave pay hereunder, and the aforesaid State disability daily benefits which may be payable to an employee shall not exceed one hundred percent (100%) of the employee's daily wage at straight time. If the sick leave pay allowable to an employee hereunder when so combined with any such Supplementary Disability Benefits from the Trust Fund and California Disability Insurance or California Workers' Compensation Temporary Disability Benefits, or both, exceeds one hundred percent (100%) of the employee's daily wage at straight time for any one (1) day, then such sick leave pay for that day shall be reduced accordingly. Any portion of the day's sick leave pay not received by the employee by reason of any such reduction shall be retained as part of the accumulated sick leave pay credit subject to the provisions of Paragraph 10.2, UNUSED SICK LEAVE PAID, of this Article.

10.1.5 Sick Pay Defined. For the purpose of this Paragraph sick pay shall mean pay at the employee's regular classification rate for those days and hours which the employee would have worked had the disability not occurred, calculated at straight time.

10.2 UNUSED SICK LEAVE PAID. Commencing with the employee's second (2<sup>nd</sup>) and succeeding anniversary dates of employment, any sick leave not utilized by the employee during the anniversary year shall accumulate to a maximum of two hundred forty (240) hours. Earned sick leave hours in excess of two hundred forty (240) hours will be paid out annually on the employee's anniversary date. All accumulated sick leave shall be available for use by employees who are unable to work because of illness or injury as specified in Paragraph 10.1 of this Article. Employees who retire from the company will receive a payout of all accumulated sick leave hours.

## ARTICLE 11 - BEREAVEMENT LEAVE AND/OR PAY

Leave for all employees shall be provided because of death of a member of the employee's immediate family provided, however, that employees shall not be entitled to bereavement pay during the first (1<sup>st</sup>) year of employment, but will be given up to three (3) days off without pay. Pay for such leave shall be at the straight-time rate for the hours scheduled for each workday lost because of such absence to a maximum of three (3) consecutive days. Verification of time required for such paid leave shall be

supplied to the Employer by the employee, if requested. Immediate family shall be defined as the employee's spouse, child, mother, father, stepparent, brother, sister, mother-in-law, father-in-law, grandchild, grandparent, stepchild, legal guardian, domestic partner, or other relative living in the employee's home.

## ARTICLE 12 - JURY DUTY LEAVE AND/OR PAY

When a full-time employee is required to be in any court or courthouse for jury service he shall be scheduled for a day shift from the hours of 8:00 a.m. to 5:00 p.m. on each day that he is scheduled for jury service, and on a Monday-through-Friday workweek and shall receive pay during such workweek for each day on such jury service at the rate of eight (8) hours times his straight-time hourly rate. An employee shall not be entitled to receive jury duty benefits during the first (1<sup>st</sup>) year of employment.

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

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

The Employer may require proof of attendance for jury service.

An employee must report immediately that he has been called for jury service and shall cooperate with the Employer in securing release from such service as appropriate in the circumstances then existing and with regard to the work performed by the individual concerned.

An employee shall be eligible for jury duty pay for a maximum of thirty (30) days only during the life of this Agreement. Jury duty pay shall not be required for Grand Jury service. In the event an employee is called for a second (2<sup>nd</sup>) tour of duty during the term of this Agreement, the Employer shall join the employee in seeking the employee's excuse from service if such service would cause a financial hardship to the employee.

## ARTICLE 13 - OTHER LEAVES OF ABSENCE

13.1 EMERGENCY LEAVE. Non-probationary employees may take an automatic emergency leave of absence not to exceed two (2) weeks in the event of certified, serious illness or injury of the employee, or serious illness, injury or death in the employee's immediate family without prior notice; provided that the employee makes every reasonable effort to notify the Employer within twenty-four (24) hours of the commencement of said leave. Said two (2) weeks automatic emergency leave of absence shall be a part of the time limits set forth in Paragraph 2 below.

13.2 AUTHORIZED LEAVE. Employees with six (6) months' seniority shall be entitled to leaves of absence for the following reasons and up to the following maximum periods:

13.2.1 Death in the employee's immediate family or other personal reasons deemed sufficient by the Employer up to a three (3) month period.

13.2.2 Certified illness, injury, or pregnancy of the employee requiring absence from work up to six (6) months renewable for up to an additional six (6) month period.

13.2.3 In absences covered by Workers' Compensation, the employee's leave of absence shall be continuous until such time as the employee has been released from his period of temporary disability and is available and qualified for work, provided, however, such leave of absence shall not exceed fifteen (15) months. This provision is subject to the requirements of Article 15.10 of this Agreement.

13.3 LEAVES IN WRITING. All leaves of absence shall be in writing and copies shall be given to the Union and the employee.

13.4 REINSTATEMENT AFTER A LEAVE. Upon a return from a leave of absence the employee shall be restored to the job and location the employee left. If this is impractical, he shall be restored to as comparable a job as possible, or to a store which is as close to the person's home as geographically possible within the travel limitations. Further, said employee, upon written request, shall have the right of first refusal for any openings in their prior store. In no event shall a probationary employee be a bar to the returning employee.

13.5 EMPLOYMENT. If an employee works for remuneration during a leave of absence, without receiving written permission from both the Employer and the Union, he shall be considered a quit.

13.6 TERMINATION AFTER A LEAVE. Any employee on a leave of absence who fails to return to work at the expiration of said leave, may be automatically terminated by the Employer and shall then receive all vacation pay and sick leave owed under the contract with written notice of termination sent to the employee and the Union.

13.7 UNION BUSINESS. An employee in good standing with the Employer, whose acceptance of employment with the Union takes him from his employment with the Employer, shall, upon written request to the Employer by the Union, receive a leave of absence for the period of his service with the Union, of not less than thirty (30) days up to six (6) months. The six (6) months can be extended an additional six (6) months upon mutual agreement between the Employer and the Union. A Union's request for such a leave of absence, and for the return of an employee to work at the conclusion of such a leave, shall each be served upon the involved Employer, in writing, a minimum of two (2) calendar weeks immediately preceding the date of the proposed commencement of the requested leave and the proposed return to work respectively. Not more than one (1) employee shall be given such a leave from the same store during the same period of time, nor shall more than seven (7) employees in the company be on such a leave at one (1) time. An eligible employee shall not be granted more than one (1) such leave of absence during the term of this Agreement, nor shall such a leave of absence be granted the employee, who, at the time of his request for such leave of absence, is on a leave of absence from the Employer for any other reason. Upon his return, he shall be reemployed at work similar to that in which he was engaged immediately prior to this leave of absence in accordance with Article 13.4. During the period of the authorized leave of absence, the Union shall be obligated to make Trust Fund contributions on behalf of the involved employee. An employee granted a Union business leave shall not engage in any Union activity involving his or her Employer.

## ARTICLE 14 - TRUST FUNDS

14.1 BENEFIT FUND.

The Trustees are authorized and directed to establish a study committee to review the legality, feasibility and desirability of setting up and maintaining an employee funded Section 125 Flexible Spending

Account (FSA). If an FSA is determined to be legal, feasible and desirable in this context, the Trustees are further authorized and directed to establish such an arrangement and offer it to employees covered by this Agreement; provided that the FSA shall not be offered to employees of any Employer who is unwilling or unable to permit employee participation in the FSA.

14.1.1 Benefits. The existing Health and Welfare Trust Fund known as the Southern California Drug Benefit Fund (hereinafter “Benefit Fund”) shall be continued as modified herein.

The alternate plan of benefits, the Gold Plan, will continue to be maintained for certain employees in accordance with the existing eligibility rules. The contribution rate for the Gold Plan will continue to be seventy-five percent (75%) of the identified platinum contribution rate.

14.1.2. Benefits and Eligibility. The Trustees are instructed to amend the current benefits and eligibility rules effective January 1, 2009 as directed in the current Memorandum of Agreement. If the maximum contribution rates specified in Paragraph 14.1.3 are not adequate to continue the Plans as so amended and maintain the reserves directed by Paragraph 14.1.4, then the Trustees shall have the authority to modify the eligibility rules and regulations for active employees and retirees to the extent they determine necessary to operate within the maximum contributions and maintain reserves as provided below in Paragraph 14.1.4. Nothing herein shall limit the Trustees in determining the priorities to be given to any particular benefit or set of benefits. Benefit modifications, which the Trustees approve, shall be implemented.

The Trustees may maintain other plan options for other employers provided that the employers whose employees participate in such plans contribute at the rate established by the Trustees that will fund that plan and maintain the reserve required by Paragraph 14.1.4 below.

Retirees and their dependents, whether retired before or after July 13, 2005, are not vested in the Benefits provided by the Benefit Fund. There is no obligation on the Employer to continue to contribute or on Trust Fund to continue to provide retiree benefits after expiration of this Agreement unless a successor agreement provides for continuation of such coverage. If the contributions provided in Paragraph 14.1.3, below, are not sufficient to continue present benefits, the Trustees shall have complete discretion in modifying benefits for retirees including requiring retirees to pay part of the cost of their benefits.

14.1.3 Contributions. The Employers shall contribute:

	<u>Platinum</u>	<u>Gold</u> (75% of Platinum)
July 2008 hours (6% increase) Through December 2008 hours	4.0280	3.0210
January 2009 (11% increase) through June 2010 hours	4.4711	3.3533
July 2010 hours (8% increase) through June 2011 hours	4.8288	3.6216
July 2011 hours (up to 9.5% increase) through June 2012 hours	5.2875	3.9656

14.1.3.1 Employees hired on or after August 1, 2004 shall be required to contribute five dollars (\$5.00) per week for eligible spouse or dependent coverage. The Employer shall attempt to

collect required active employees contributions through its payroll system and such collected monies shall be forwarded to the Trust by the Employer on a monthly basis. The Plan shall provide an acceptable electronic data list to the Employer's designated department of new eligible employees and new ineligible employees by the Monday in the last week of each calendar month to enable the Employer's collection of these weekly employee contributions. The Employer shall not owe the Plan any monies or otherwise be liable to any employee in any manner, for failure to collect employee contributions. It shall be the Plan's responsibility to collect any uncollected required employee contributions.

14.1.3.2 There is no obligation on the Employer to continue to contribute or on the Trust Fund to continue to provide retiree benefits after the expiration of this Agreement unless a successor agreement provides for continuation of such coverage. If the contributions provided in Paragraph 14.1.3 above, are not sufficient to continue present benefits, the Trustees shall have complete discretion in modifying benefits for retirees including requiring retirees to pay part of the cost of their benefits.

14.1.4 Reserves. Reserves shall be targeted at three (3) months of projected expenses. If the projected reserves exceed the three (3) months during the last year of the contract, the trustees shall take action to temporarily reduce contributions (so as to achieve the three (3) month reserve target at the end of the contract). Notwithstanding this or any other provision of this agreement, the contribution for the last month of the contract shall be equal to no less than the current cost of the plan.

14.1.5 Cost Containment. The Benefit Fund Trustees are directed to explore all reasonable methods of cost containment to minimize the Employer contribution obligations under the contract. In the event Medicare becomes secondary in the application of the retiree benefit plan, the Trustees will take immediate and remedial action to protect the financial integrity of the Plan.

14.1.6 Other Benefit Plans. It is understood that the Employer retains any existing rights which he may have, in his exclusive discretion, to alter, amend, cancel, or terminate any existing employee benefit plan or plans or part thereof that are not provided for in this Agreement.

14.1.7 Excluded Employees. Employees excluded from the bargaining unit who work for an Employer signatory to this Agreement may participate in any of the foregoing benefits under rules and regulations established by the Trustees. The trustees shall determine the contributions required for such benefits.

14.1.8 National Health and Welfare Coverage. In the event that there is passage of National Health and Welfare legislation, the parties agree to reopen the agreement for negotiations, the sole purpose of which shall be to negotiate language instituting prevention of duplicate costs for both the Employer and the employees involved.

14.1.9 Amendments. The Trustees are directed to amend the Trust Agreement or Benefit Plans to be consistent with the provisions of this Agreement. The Trustees shall have the discretion in acting on claims for benefits under the plan subject to review only in accordance with the arbitrary and capricious standard.

## 14.2 PENSION FUND.

14.2.1 Trust Fund and Pension Plan. The Southern California UFCW Unions and Drug Employers Pension Fund (hereinafter "Pension Fund") and the Southern UFCW Unions and Drug Employers Pension Plan (hereinafter "Pension Plan") shall be continued for the life of this Agreement, subject to the terms of this Agreement and applicable law. Contributions shall be made into the Pension

Fund as set forth below and shall be for the sole purpose of providing pensions for eligible employees as defined in the Pension Plan.

14.2.2 Benefit Formula. For the term of this Agreement, the basic formula will be twenty-seven dollars and thirty cents (\$27.30) for the first (1<sup>st</sup>) ten (10) years, and thirty-six dollars and forty cents (\$36.40) for each year thereafter. In all cases, the benefit will be the larger of the newly negotiated formula under this Paragraph, or the current accrued benefits through 1988, plus this new formula from 1989 forward. Participants with a separation in service on or before December 31, 1998 will have their benefits frozen at the previous amount. Additional benefits above the basic formula are available in Section 14.2.5.2.6.

14.2.3 Supplemental Benefit. The Trustees are to continue one hundred dollar (\$100) bonus program as a general obligation of the Pension Trust for the term of this Agreement.

14.2.4 Reciprocity. The Trustees are authorized to enter into reciprocal agreements with the Trustees of the other Retail Clerks Unions or UFCW and Retail Employer trust funds to provide for the transfer or preservation of credited service of employees working under the coverage of the Pension Fund and any such other trust.

14.2.5 Contributions.

14.2.5.1 The contributions credited for a given fiscal year shall be for hours worked in the twelve (12) month period beginning August and ending July of the following year. For example, contributions for the 2008 fiscal year shall be contributions due for work months August 2008 through July 2009.

14.2.5.2 For the 2008 Plan year and subsequent Plan years, the Employer shall contribute the minimum contribution, up to forty-eight and one-half cents (\$0.485) per hour, required to avoid or reduce the amount of an accumulated funding deficiency under ERISA or as determined in paragraph 14.2.5.2.4 below. Employer contributions under forty-eight and one-half cents (\$0.485) per hour in a Plan year shall be handled on the following basis:

14.2.5.2.1 Unused portion: each company “banks” cents per hour under forty-eight and one-half cents (\$0.485) which are not required under the first paragraph of 14.2.5.2.

14.2.5.2.2 “Banked” cents per hour for a year may be used in another one (1) year period if more than forty-eight and one-half cents (\$0.485) is required to satisfy the first paragraph of 14.2.5.2. Employer obligations shall not exceed forty-eight and one-half cents (\$0.485) times four (4) years for the period from August 2008 through July 2012.

14.2.5.2.3 Any “banked” amounts not required under the first paragraph of 14.2.5.2 shall not be owed at end of contract and shall remain a company asset.

14.2.5.2.4 To comply with the Pension Protection Act (PPA), the Plan actuary shall provide a certification to the Trustees on an annual basis starting starting in 2008 stating whether or not the Plan is in endangered status or critical status for the Plan year. Each year beginning in 2009, the actuary will also prepare a preliminary certification reflecting the projected contribution. If the preliminary certification shows that for the plan year in question the plan will be in endangered or critical status, then, effective with hours worked in August of such year, the contribution rate shall be increased (not beyond \$0.485 as per above) to the extent needed for such certification to show the plan to be in neither endangered not critical status. If at a contribution rate of forty-eight and one-half cents (\$0.485) the plan is nevertheless projected to be in endangered or critical status, the banked funds, but

not more than the amount needed to avoid endangered and critical status, shall be paid to the Fund by Employer in twelve (12) equal monthly payments beginning in August of such Plan year; provided, however, that all payments of banked funds must be made before the expiration of this Agreement. Each Employer's banked funds shall be equal to the amount of the reduction in the contribution rate from forty-eight and one-half cents (\$0.485) multiplied by the hours reported by the Employer during the period contributions were reduced under this Agreement. The final certification will reflect these new terms. If the final certification in any given year shows the plan to be either in endangered or critical status, the Trustees shall develop a Funding Improvement or Rehabilitation Plan, as required by PPA.

14.2.5.2.5 Employers shall not pay any amount in excess of the maximum deductible amount for the year in which contributions are paid by the Employer.

14.2.5.2.6 The Trustees on a yearly basis will review the funding of the Pension Fund. Based on this review and current status of the Plan they may authorize an accrual rate increase of no more than ten percent (10%). Such an increase will be for a one (1) year period only but may be reviewed and reauthorized or adjusted each year. It is understood that over the term of this contract the maximum total accrual increase in ten percent (10%) over the accrual rates as of July 2008.

14.2.6 Other Pension Plans. The Employer retains the exclusive right to alter, amend, cancel, or terminate any Employer-sponsored pension plan or employee-retirement plan that existed prior to participation in this Pension Fund.

14.2.7 Laws and Regulations. The Trust Agreement and the benefits to be provided under the Pension Plan referred to above and all acts pursuant to this Agreement, the Trust Agreement and the Pension Plan shall conform in all respects to the requirements of the Treasury Department, Internal Revenue Service, and to any other applicable state or federal laws and regulations. If any part of the Pension Plan is determined by a Court of competent jurisdiction or an appropriate regulatory agency not to be in accord with the provisions of the Employee Retirement Income Security Act of 1974 or the regulations pertaining to such Act or any amendments thereto, the Trustees are authorized to modify the Pension Plan to conform with such Act or regulations.

14.2.8 Amending Agreement. The Trustees are directed to amend the Trust Agreement or the Pension Plan to be consistent with the provisions of this Agreement. The Trustees shall have discretion in acting on claims for benefits under the plan subject to review only in accordance with the arbitrary and capricious standard.

14.2.9 The contribution rate for Employers that first contribute to the Pension Fund after June 30, 1989, excluding Employers whose predecessors first contributed to the Pension Fund before June 30, 1989, shall be forty-eight and one-half cents (\$0.485) per hour and shall not be subject to the minimum contribution or banking provisions described above.

14.3 **RESOLUTION OF DIFFERENCES.** Differences between the Employer and the Union as to the interpretation or application of the provisions of the Trust Agreement providing for the establishment and maintenance of the Benefit Fund and the Declaration of Trust providing for establishment and maintenance of the Pension Fund, relating to employee benefits, shall not be subject to the grievance or arbitration procedure established in this Agreement or any Collective Bargaining Agreement. All such differences shall be resolved in the manner specified in the applicable Trust Agreement.

#### 14.4 PAYMENT OF CONTRIBUTIONS.

14.4.1 Payments. Payment of contributions by the Employer required to be made to the trusts established under this Article 14 shall be made on or before the twentieth (20<sup>th</sup>) day of each month based upon all straight-time hours worked or paid for not to exceed forty (40) hours in any one (1) week during the preceding month by each employee covered by this Agreement. Such payments shall be accompanied by a list of names of the employees for whom such contribution is made, showing the number of hours worked or paid for as set forth above by each employee during the preceding month. Time during vacation periods (including vacation pay upon termination), sick leave, jury duty, bereavement leave and holiday absences which is paid for as provided for under this Agreement and all work performed on Sundays and holidays, exclusive of daily or weekly overtime, shall be considered as time worked, to which the provisions of this Article shall apply.

No fringe contributions shall be made on behalf of Christmas extra employees. However, should they be employed on or after January 16th, and Christmas Season employees who are hired back within seven (7) days, the Trust Fund shall credit them with all hours worked for health and welfare purposes retroactive to the date of hire as a Christmas extra, but no retroactive contribution shall be required from the Employer.

Contributions shall not be made for vacation payments made on the basis of industry experience as set forth in Article 8.3 and unused sick leave paid in accordance with Article 10.2. The Employer, by payments of the amounts provided for in this Article, shall be relieved of any further liability and shall not be required to make any further contributions to the cost of the benefits, either in connection with the administration of the plans or otherwise.

14.4.2 Audits/Collections. The Trustees are hereby authorized to institute periodic audits of Employer's contributions to ascertain whether such contributions have been and are being made, fully and accurately.

If any such audit should disclose either an under-reporting or nonreporting of required contributions, the Trustees, at their sole discretion, may assess all or a portion of the audit expenses against such Employer, which the Employer hereby agrees to pay. The Trustees may add reasonable interest charges to any unpaid contributions and the Employer also shall pay such interest charges.

If it should become necessary to institute legal action against a contributing Employer to collect unpaid contributions, the Trustees, in their sole discretion, may assess all or a portion of attorneys' fees and court costs against the Employer, in addition to any audit expenses. The Employer hereby agrees to pay such attorneys' fees and court costs. The Trustees are authorized and directed to establish a method to encourage regular and prompt payment by instituting the imposition of liquidated damages to those Employers who are delinquent in their payments.

The Employer agrees to make all pertinent books and payroll records available to the Trustees, or their agents, for their inspection in the conduct of any audit performed pursuant to this Article.

14.5 BUSINESS EXPENSES. It is understood that the provisions of this Article are being entered into upon the condition that the payments made by the Employer hereunder shall be deductible as business expenses under the Internal Revenue Code as it presently exists or as it may be amended subsequent to the date of this Agreement and under any similar applicable state revenue or tax laws.

## 14.6 PENSION AND BENEFIT TRUST FUND APPOINTMENTS.

### 14.6.1 Designation of Trustees.

14.6.1.1 Employer Trustees. For the Pension and Benefit Fund, the number of Employer Trustees shall be four (4), with Kaiser-Permanente Foundation, CVS Pharmacy, Thrifty PayLess Inc. d/b/a Rite Aid, and Vons, A Safeway Company, each entitled to appoint a Trustee and his successors.

14.6.1.2 Union Trustees. For the Pension and Benefit Fund, the number of Union Trustees shall be seven (7), with Local Unions 135, 324, 770, 1036, 1167, 1428, and 1442 each entitled to appoint a Trustee and his successors.

14.6.1.3 The Union Trustees and Employer Trustees shall have equal voting power.

## 14.7 ACCEPTANCE OF TRUSTS.

14.7.1 The Employer and the Union hereby accept the terms of the existing Health and Welfare Trust, and the Pension Trust Agreements. By this acceptance the Employer agrees to and shall become a party to both of said Trusts with the same force and effect as though the Employer had executed each original Declaration of Trust.

14.7.2 Any amendments that from time to time may be made thereto, including the creation of supplementary trusts to handle any of the funds referred to in this Agreement, shall be binding upon the Employer.

14.7.3 The Employer hereby specifically ratifies the appointment of Trustees made by the Employers as set forth in Paragraph 14.6 above, designates and appoints them or their successors, as his Trustees, and authorizes them to act in such capacity. The same parties that appointed the trustees shall appoint their successors.

## ARTICLE 15 - GENERAL CONDITIONS

### 15.1 NONDISCRIMINATION.

15.1.1 Selection of applicants for jobs shall be on a nondiscriminatory basis and shall not be based on, or in any way affected by, Union membership, bylaws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership, policies, or requirements, or by race, color, creed, national origin, age, sex or disability.

15.1.2 The Employer and the Union agree not to discriminate against any person in regard to hire, tenure of employment or job status because of race, creed, religion, color, national origin, age, or sex nor shall race, creed, religion, color, national origin, age, sex or disability be a basis for the rejection or termination of any employee or applicant for employment.

15.2 NEW CONTRACT. When a first (1<sup>st</sup>) contract is signed, the period of employment for vacation and sick leave eligibility shall be measured from the last date of hire with the Employer.

15.3 GENDER REFERENCES. All references in this Agreement to sex; for example, any reference to "his," "he," or "him" shall also apply to "her," "she," or "hers" and vice versa. References to "they," "them," and "their" shall apply equally to both sexes.

15.4 UNIFORMS. The Employer shall furnish all required uniforms and, except where the garment is of a drip-dry material, shall pay for the laundering and upkeep of same. The Union members shall have the right to wear their Union buttons. The Employer will permit its female employees to wear pantsuits or slacks (not blue jeans) in accordance with reasonable and appropriate standards of attire for retail employees.

15.5 NAME TAGS. Name tags of clerks shall not include the last names but may include the initial of the last name.

15.6 RESTROOMS. Restroom facilities shall comply with requirements under applicable regulations or laws.

15.7 WEIGHT LIMIT. No employee shall at any time be permitted or required to lift any item weighing more than the limit allowed by law.

15.8 POLYGRAPH TEST. No employee or applicant for employment covered by this Agreement shall be requested or required by any representative of the Employer to be the subject of a Polygraph (lie detector) test for any reason whatsoever. The Employer agrees to refrain from any direct or indirect action that violates this understanding.

#### 15.9 SUCCESSORS AND ASSIGNS.

15.9.1 New Owner. This Agreement shall be binding upon the successors and assigns of the parties hereto. In the event of a bona fide sale or transfer of any store covered by this Agreement during the period hereof, the new owner or such transferee shall be notified of the obligation of this Agreement and be required to become a party hereto. In the event of a bona fide sale or transfer of thirty percent (30%) or more of the stores in Southern California within a period of three (3) months, the new owners or such transferee shall be notified of the obligation of this Agreement and be required to become a party hereto. In the event of a bona fide sale or transfer of less than thirty percent (30%) of the stores in Southern California within a period of three (3) months, the new owners or such transferee shall not be required to become a party hereto. The former owner shall be required to meet any and all monetary benefits that employees have accumulated under this Agreement.

15.9.2 Accrued Vacation. Upon sale or transfer of ownership of any store, or upon dissolution of business, vacation pay for all months worked for which no vacation pay has been given, shall be immediately paid to all employees coming under this Agreement, regardless of length of time said employee has been with the Employer.

#### 15.9.3 Sale or Transfer.

15.9.3.1 In the event of a sale or transfer of a store or stores, an employee shall be allowed a seven (7) day period from the date of announcement to the employees of the sale or transfer during which time he may determine whether he wishes to stay with the seller or whether he wishes to make application for employment with the new owner or transferee. In the event the employee chooses to remain with the seller, such choice shall not be construed as any guarantee of employment over and beyond the terms of this Agreement.

15.9.3.2 In the event of a sale or transfer of a store or stores, the new owner or transferee shall make every effort to fill his employment needs in such store or stores from those employees of the seller or transferor who were employed in the stores sold or transferred.

15.9.3.3 Such new owner or transferee, however, shall not be required to retain in his employ any of the employees of the seller or transferor. Any employee of the seller or transferor who is employed within the thirty (30) day period referred to immediately below by the new owner or transferee shall be employed on a probationary basis for a period of thirty (30) days from the date the new owner or transferee assumes responsibility for the management and operation of the store or stores, subject to termination within such thirty (30) days with or without cause and without reference to seniority. Any termination within such thirty (30) day period shall not be reviewable through the grievance or arbitration procedures, except for a violation of Paragraph 15.9.3.2 of this Article.

15.9.3.4 Any employee of the seller or transferor who is employed by the new owner or transferee within such thirty (30) day period and who is retained on the payroll of the new owner or transferee for a period in excess of such thirty (30) day period, shall be credited with and retain all seniority acquired while in the employ of the seller or transferor since his most recent date of hire by such seller or transferor for the purpose of determining benefits to which he is entitled under the Collective Bargaining Agreement with the new owner or transferee by virtue of such seniority as if his employment were continuous, including retention of anniversary date of employment, provided that the employees of the seller or transferor shall for the purposes of termination be credited with no more seniority than that of the most-senior employee employed by the new owner or transferee covered by an agreement with a UFCW Local on the date of assumption of responsibility, and provided further that the new owner or transferee shall not be liable for any benefits or payments owed to the employee because of employment with the seller or transferor. "Seller or transferor" is defined to include prior owners of the same store since January 1, 1956.

15.9.3.5 The seller or transferor shall pay all vacation and sick leave accrued for time worked as of the date the sale or transfer becomes effective for all employees who have completed at least six (6) months with the Employer on the effective date of the sale or transfer, and said date shall become the date of employment with the new Employer for the purpose of vacation and sick leave only.

15.10 SEPARABILITY CLAUSE. The provisions of this Agreement are deemed to be separable to the extent that if and when a court of last resort adjudges any provisions of this Agreement in its application between the Union and the undersigned Employer to be in conflict with any law, such decision shall not affect the validity of the remaining provisions of this Agreement, but such remaining provisions shall continue in full force and effect, provided further, that in the event any provision or provisions are so declared to be in conflict with a law, both parties shall meet immediately for the purpose of renegotiation and agreement on provision or provisions so invalidated.

15.11 TITLES. The titles and subtitles used in this Agreement are for the sole purpose of identification and shall have no bearing on the construction or meaning of the paragraphs to which they refer.

15.12 AMENDMENTS, ADDITIONS and WAIVERS. This Agreement is subject to amendment, alteration or addition only by a subsequent written agreement between and executed by the Employer and the Union. The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of any such term or condition.

15.13 EFFECTIVE DATES. All economic terms and conditions of this Agreement shall be effective July 13, 2008, except as otherwise specified herein. All operational terms and conditions which change previously existing practices shall be effective not later than the date of execution of this Agreement.

15.14 401(k) PARTICIPATION. Employees covered by this agreement shall be provided the opportunity to participate in the Thrifty PayLess Inc. d/b/a Rite Aid Corporation's 401(k) plan for

Collectively Bargained Associates and may designate to contribute pretax income in accordance with the plan document, rules and regulations. There shall be no Employer contribution.

## ARTICLE 16 - GRIEVANCE/MEDIATION AND ARBITRATION

16.1 **DISPUTES OR QUESTIONS.** Any and all matters of controversy, dispute or disagreement of any kind or character existing between the parties arising out of or in any way involving the interpretation and/or application of the terms of this Agreement shall be settled and resolved by the procedures and in the manner as set forth herein.

### 16.2 **GRIEVANCE FILING/STEPS.**

16.2.1 **Discharge/Layoff.** A discharged or laid-off employee has ten (10) days from the date of discharge or layoff, excluding Saturday, Sunday, and holidays, within which to file written protest with the Union (with notice to the Employer). Said discharge shall then be subject to this Article. If no protest is filed within said ten (10) day period, or within ten (10) days of the notice specified in Article 4.3.4, all rights possessed by said employee or the Union to protest the discharge or layoff are waived.

16.2.2 **Wage Discrepancy.** If a wage discrepancy is claimed to exist, the representative of the Union shall first (1<sup>st</sup>) attempt to settle it with the representative designated by the Employer.

Failing settlement at this level, the Union shall in writing notify the Employer of the alleged discrepancy and the names of the employees involved, and the period of time that such discrepancy is claimed to cover. Upon receipt of such written notice, the Employer agrees to promptly furnish the representative of the Union wage data pertaining to the alleged wage discrepancy. If the parties fail to settle such wage discrepancy, said discrepancy shall be subject to the provisions of this Article.

16.2.3 **Reporting Monetary Discrepancies.** A claim for unpaid wages, holidays, vacation, jury duty, sick leave, bereavement pay, or night, or Sunday, or for any other direct compensation, must be filed with the Union by the employee, promptly upon discovery. The Union shall, thereafter, if it believes such claim has validity, promptly notify the Employer. A claim not filed by the employee with the Union within twenty-one (21) days after discovery and not filed by the Union with the Employer within an additional ten (10) days, shall be deemed null and void. (The Union has thirty-one (31) days from the employee's date of discovery to file notice with the Employer.) Notwithstanding the foregoing, no wage or other direct compensation claim not involving interpretation of the contract can cause such Employer to pay such claim or any portion thereof retroactively for a period of more than six (6) months immediately prior to the date of the Employer's receipt of notice from the Union of the claim. In any event, the Employer's obligation to compensate an employee for unpaid time worked under Article 7.5, shall not be limited in any way by the foregoing, except for the six (6) month limitation.

The Employer shall promptly investigate all claims for failure to pay or incorrect payment of wages and premiums for time worked and pay any discrepancies within twenty-one (21) days of the date it is brought to the Employers attention.

The claim shall include the employees name, social security number, store number, approximate time period and nature of the claim.

#### 16.2.4 Grievance Steps.

Step 1 - Store Level. Employees, either directly or with their Union representative, shall attempt to settle or resolve any dispute with their store manager or supervisor within ten (10) days after discovery of the event giving rise to the grievance. In the event the matter or dispute is not settled or resolved, the employee shall have ten (10) days in which to file a written protest with the Union with a copy of such notice to the Employer. The written grievance shall reasonably describe as fully as possible the matter at issue and contract provision alleged to have been violated, including the names of the individual(s) involved and the date(s) of the alleged violation, and the remedy sought.

Step 2 - Formal Meeting. Upon receipt of an employee's written protest, as detailed in Step 1, either party may request a formal grievance meeting. Upon receipt of written notice from either party, representatives of the Employer and representatives of the Union shall meet within one (1) calendar week in order to attempt to settle or resolve the matter. Any request for a formal grievance meeting must be submitted within ten (10) days after receipt of the employee's written protest.

Step 3 - Arbitration. Any matter not settled or resolved in Step 2 may be submitted to arbitration by either party to this Agreement, i.e., the Employer or the Union, provided that written demand for arbitration must be made within forty-five (45) days from the date of occurrence. Failure to comply with the time limits contained in this Paragraph and/or in Steps 1 and 2 shall render the grievance null and void. Any rights possessed by either the Union or the employee with respect to arbitration shall be irrevocably waived.

Upon the receipt of the written demand for arbitration, the parties shall, within seven (7) days' after receipt of such demand, confer and select an arbitrator from a list of nine (9) persons previously mutually agreed upon by the parties as being acceptable to resolve disputes under this Agreement. As for the selection of the arbitrator for a specific dispute, the parties shall select such individual by alternately striking names from the list until the last name remains.

The hearing shall be held within thirty (30) days after the arbitrator is selected, contingent upon the arbitrator's availability, with the further understanding that the arbitrator's award will be issued no later than forty-five (45) days after the hearing is completed.

16.3 TIME PERIODS. The time periods set forth above may only be extended by mutual written agreement between the parties.

#### 16.4 MEDIATION.

16.4.1 Within fifteen (15) calendar days following the Step 2 grievance meeting, either party may request that the dispute be submitted to mediation. Mediation shall be voluntary by both the Employer and the Union and any objections to mediation must be made in writing within seven (7) calendar days following receipt of the above request.

16.4.2 The adjustment and arbitration provisions shall be stayed for not more than eighty (80) days pending mediation.

16.4.3 Mediation shall take place on the first (1<sup>st</sup>) Tuesday after the first (1<sup>st</sup>) Monday of every odd-numbered month (January, March, etc.). Subsequent days for mediation will be scheduled, if necessary.

16.4.4 Mediation shall continue for a trial period of not less than six (6) months. Following this six (6) month period, and upon thirty (30) days written notice, either party may cancel this mediation provision.

16.4.5 The following two (2) individuals will be scheduled to mediate the disputes on a rotating basis:

-----  
Louis Zigman

In September of each year, the parties will meet and mutually agree upon a new list of mediators, which may include either or both of the individuals currently on the panel.

16.4.6 The procedures set forth in Appendix C attached to this Agreement shall be the rules for the parties and the mediator.

16.4.7 All costs of the mediator shall be borne equally by both the Employer and the Union.

16.4.8 If the parties agree to be bound by the mediator's recommendation, the decision shall be codified and signed by the Employer and the Union.

16.4.9 Any matter not resolved pursuant to this provision may be submitted to arbitration within fifteen (15) days following the mediation. Failure to adhere to the fifteen (15) day time limit will waive any right to arbitration.

## 16.5 POWERS AND LIMITATIONS OF THE ARBITRATOR.

16.5.1 The arbitrator shall determine the arbitrability of any dispute, should it arise.

16.5.2 The arbitrator shall not have the power to alter, change or modify this Agreement in any respect. The rights of the parties to make any changes, modifications or amendments to this Agreement shall be reserved to themselves only, and shall not be subject to the arbitrator's authority.

16.5.3 With the exception of arbitrations involving suspension and/or discharge the expenses of the arbitrator shall be borne equally by both the Employer and the Union. All jointly incurred expenses (i.e., transcripts, reporters' costs, arbitrator's fees, and room rental) of arbitrations involving suspension and/or discharge shall be borne by the loser. Unless the grievance which has been submitted to the arbitrator is totally sustained or denied, it shall be deemed split and the jointly incurred expenses shall be borne equally between the Employer and the Union.

16.5.4 The arbitrator's decision shall be final and binding on all parties hereto.

16.6 WORK STOPPAGES. Matters subject to the procedures of this Article shall be settled and resolved in the manner provided herein. During the term of this Agreement, there shall be no cessation or stoppage of work, lockout, picketing or boycotts, except that this limitation shall not be binding upon either party hereto, if the other party refuses to perform any obligation under this Article or refuses or fails to abide by, accept or perform a decision or award of an arbitrator, and fails to appeal to a court of competent jurisdiction.

ARTICLE 17 - EXPIRATION AND RENEWAL

This Agreement shall be in effect from July 13, 2008, to and including July 15, 2012, and shall continue from year to year thereafter unless either party shall give written notice to the other at least sixty (60) days prior to the expiration date of July 15, 2012, or at least sixty (60) days prior to any subsequent July 15 of any succeeding year of its desire to alter, amend, or terminate this Agreement.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

FOR THE EMPLOYER:

\_\_\_\_\_  
Thrifty PayLess Inc. d/b/a Rite Aid  
Brad Sapp, Director, Labor Relations

FOR THE UNIONS:

\_\_\_\_\_  
UFCW Local 135  
Mickey Kasparian, President

\_\_\_\_\_  
UFCW Union Local 324  
Greg M. Conger, President

\_\_\_\_\_  
UFCW Union Local 770  
Ricardo F. Icaza, President

\_\_\_\_\_  
UFCW Union Local 1036

\_\_\_\_\_  
UFCW Union Local 1167  
Bill Lathrop, President

\_\_\_\_\_  
UFCW Union Local 1428  
Connie Leyva, President

\_\_\_\_\_  
UFCW Union Local 1442  
Michael Straeter, President

APPENDIX A - WAGES

A. SCHEDULE OF RATES.

Minimum Rates

Clerks:	\$8.20
Ice Cream Clerks:	\$8.20
Shift Supervisor:	\$9.00
PACs:	\$8.70

Position Premiums: After July 13, 2008 upon promotion to a higher classification, employees will either move to the minimum rate for that position or be given the following promotional premiums whichever is greater:

Shift supervisor & PACS: \$0.50

Six (6) month increase (applicable only to those employees hired in at the minimum rates):

Clerks, Supervisors, PACs, Ice Cream Clerks \$0.25

\* Bargaining Note: It is not Rite Aid's intent to hire clerks in at rates greater than \$8.20 but less than \$8.45 for the purpose of avoiding this six (6) month increase.

Employees who are on the payroll on the dates of increase shall receive the following wage increases (all wage increases shall be paid on the first (1<sup>st</sup>) full payroll period following the date):

Clerks/PAC's:

<u>7/13/2008</u>	<u>7/12/2009</u>	<u>7/11/2010</u>	<u>7/10/2011</u>
\$0.30	\$0.25	\$0.25	\$0.30

Shift Supervisors:

<u>7/13/2008</u>	<u>7/12/2009</u>	<u>7/11/2010</u>	<u>7/10/2011</u>
\$0.30	\$0.30	\$0.30	\$0.30

All Clerks at top rate on:

	<u>7/13/2008</u>	<u>7/12/2009</u>	<u>7/11/2010</u>	<u>7/10/2011</u>
6 <sup>th</sup> year anniversary	\$13.25	\$13.50	\$13.75	\$14.05
10 <sup>th</sup> year anniversary	\$13.40	\$13.65	\$13.90	\$14.20

All PAC's at top rate on:

	<u>7/13/2008</u>	<u>7/12/2009</u>	<u>7/11/2010</u>	<u>7/10/2011</u>
6 <sup>th</sup> year anniversary	\$13.75	\$14.00	\$14.25	\$14.55
10 <sup>th</sup> year anniversary	\$13.90	\$14.15	\$14.40	\$14.70

All Shift Supervisors at top rate on:

	<u>7/13/2008</u>	<u>7/12/2009</u>	<u>7/11/2010</u>	<u>7/10/2011</u>
6 <sup>th</sup> year anniversary	\$13.75	\$14.05	\$14.35	\$14.65
10 <sup>th</sup> year anniversary	\$13.90	\$14.20	\$14.50	\$14.80

PHARMACY TECHNICIAN

	First full payroll period following <u>July 13, 2008</u>	First full payroll period following <u>July 12, 2009</u>	First full payroll period following <u>July 11, 2010</u>	First full payroll period following <u>July 10, 2011</u>
First 520 hours	\$11.00	\$11.00	\$11.00	\$11.00
Next 700 hours	11.75	11.75	11.75	11.75
Next 1040 hours	12.25	12.25	12.25	12.25
Next 1040 hours	13.25	13.25	13.25	13.25
Experienced (after 3300 hours)	16.40	16.85	17.30	17.80

A Pharmacy Technician who is paid in excess of the above experienced rates will receive the following increases on the first (1<sup>st</sup>) full payroll period following the dates:

<u>7/13/2008</u>	<u>7/12/2009</u>	<u>7/11/2010</u>	<u>7/10/2011</u>
\$0.45	\$0.45	\$0.45	\$0.50

Increase all intern and pharmacy graduate rates by the following amounts:

<u>7/13/2008</u>	<u>7/12/2009</u>	<u>7/11/2010</u>	<u>7/10/2011</u>
\$0.25	\$0.25	\$0.25	\$0.25

No employee now receiving an hourly wage as shown by the books of the Employer in excess of the minimum rates applicable as herein set forth shall suffer any reduction in compensation by virtue of the minimum wage provision set forth, provided nothing contained herein shall prevent the payment of greater compensation than the minimum herein specified.

In the event that the state or federal minimum wage increases, the Employer shall increase the clerk start rate to twenty cents (\$0.20) above the minimum wage rate and the six (6) month rate forty-five cents (\$0.45) above the minimum start rate.

## APPENDIX B - ARBITRATORS

The list of arbitrators shall be:

John Gibson	Wayne Estes
Edgar Jones	Howard Block
William Petrie	Anthony Miller
Michael D. Prihar	Barbara Chvany
Don Prayzich	

## APPENDIX C - MEDIATION PROCEDURE

The mediation procedure is entirely informal in nature. The relevant facts should be elicited in a narrative fashion to the extent possible, rather than through examination and cross-examination of witnesses. The rules of evidence will not apply and no record of the proceedings will be made. All persons involved in the events giving rise to the grievance should be encouraged to participate fully in the proceedings, both by stating their views and by asking questions of the other participants at the mediation hearing.

The primary effort of the mediator should be to assist the parties in settling the grievance in a mutually satisfactory fashion. In attempting to achieve a settlement, the mediator is free to use all of the techniques customarily associated with mediation, including private conferences with only one (1) party. If settlement is not possible, the mediator should provide the parties with an immediate opinion, based on the Collective Bargaining Agreement, as to how the grievance would be decided if it went to arbitration. That opinion would not be final and binding, but would be advisory. It would be delivered orally and would be accompanied by a statement of the reasons for the mediator's opinion. The advisory opinion could be used as the basis for further settlement discussions or for withdrawal or granting of the grievance. If the grievance is not settled, granted or withdrawn, the parties are free to arbitrate. If they do, the mediator could not serve as arbitrator, and nothing said or done by the parties or the mediator during mediation could be used against a party during arbitration.

Neither attorneys nor court reporters or any other type of note taker shall be allowed to be present at the proceedings.

#### APPENDIX D - FULL-TIME OPTION

Full-time employees shall have the ability to voluntarily request to work less than forty (40) hours per week under the following terms and conditions:

- a. They shall retain their full-time seniority.
- b. They shall designate the starting period of said reduction and specific number of hours that shall constitute their guaranteed reduced work week.
- c. All contractual benefits shall be pro-rated based on the employees actual hours worked to two thousand eighty (2080) hours per year.
- d. For the purpose of serving on jury duty the employee shall be considered full-time. However, jury duty pay shall be based upon actual hours worked.
- e. They shall have the right to return to a forty (40) hour guaranteed weekly schedule by giving the store manager a written notice of their intent to do so.
- f. Upon notification of (e) above the employee shall be returned to a forty (40) hour weekly schedule no later than the second (2<sup>nd</sup>) pay period after said written notice is received.
- g. During the period the employee has selected a voluntary reduction from forty (40) hours the employee shall be removed from the full-time/part-time ratio and shall neither count toward or against such ratio.
- h. If the employee voluntarily elects to reduce to less than forty (40) hours per week, the employee shall be required to sign a form agreed upon between the Union and Employer (see below). A copy of said form shall be sent to the Union and shall not become effective until signed by the appropriate local union.

#### APPENDIX E - SECURITY AND CRIME PREVENTION COMMITTEE

The parties agree to meet and discuss the formation of a Security and Crime Prevention Committee. The purpose of the Committee shall be to discuss and formulate proposals for the enhancement of security and the minimization of crime in the stores. Said Committee shall be advisory in nature.

THRIFTY PAYLESS INC. D/B/A RITE AID  
REQUEST FOR VOLUNTARY REDUCTION IN HOURS

I voluntarily request that I be allowed to reduce my scheduled hours from forty (40) hours per week to \_\_\_\_\_ hours per week, beginning with the payroll period starting \_\_\_\_\_. I understand that this decision is entirely up to me, and that I have the right to consult with the union before signing this form if I want to.

Seniority. I understand that I will retain my full-time seniority rights under the labor contract during the period I am voluntarily working this reduced schedule.

Right to Return to Forty (40) Hour Schedule. I understand that I have the right to return to a forty (40) hour a week schedule by giving my store manager a written notice that I want to do so. My return to a forty (40) hour a week schedule will be effective no later than the second (2<sup>nd</sup>) pay period after I give the store manager my written notice.

Benefits. I understand that my benefits will be based upon hours worked.

Employee:

Date:

\_\_\_\_\_  
Signature

\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Social Security Number

Store Manager:

Date:

\_\_\_\_\_  
Signature

\_\_\_\_\_

\_\_\_\_\_  
Store Number

\_\_\_\_\_

Union: Local \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date