



# AGREEMENT

Between

Spreckels Sugar Company, Inc.

*and*

United Food and Commercial Workers,  
Local 135, AFL-CIO, CLC

Effective

January 1, 2014

through

December 31, 2018

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## AGREEMENT

THIS AGREEMENT is made and entered into effective as of the 1<sup>st</sup> day of January, 2014, by and between the United Food and Commercial Workers, Local 135, AFL-CIO, CLC (hereinafter referred to as the "Union"), and Spreckels Sugar Company, Inc. (hereinafter called the "Employer").

### WITNESSETH:

In consideration of the premises and of the respective promises, agreements, and covenants of the parties hereto they do mutually agree as follows:

#### SECTION I. COVERAGE AND RECOGNITION:

**A. Geographical Coverage.** This contract covers the Employer's Brawley factory and its outside beet receiving station serving this factory.

**B. Employee Coverage.** This contract shall cover all employees in the above factory, tare laboratory and outside beet receiving station whom, by virtue of duties performed, are eligible for membership in the Union.

Employees not covered by this contract are those whose work is of a confidential nature and those working in a supervisory capacity. Exempt classifications and definitions of confidential and supervisory employees now recognized and mutually agreed upon by and between the Employer and the Union in the negotiation of this contract and in prior expired agreements shall remain exempt during the term of this Agreement. Employees excluded from coverage under this Agreement may work with the tools of the trade without requirement of Union membership or payment of Union membership dues and without loss of exemption from coverage under this Agreement. Excluded employees who perform a significant amount of bargaining unit work, however, shall pay to the Union an amount equivalent to monthly Union membership dues for the month in which such work has occurred without requirement of Union membership and without loss of exemption from coverage under this Agreement. Furthermore, such payment shall not be considered as according any rights, privileges or responsibilities of Union membership.

**C. Recognition.** The Union is hereby recognized by the Employer as the sole collective bargaining representative of the employees covered by this contract.

The Employer recognizes the Union as having complete jurisdiction to represent the employees in the wage classifications covered by the contract who are engaged in the operation of the factory or any additions thereto.

**D. Management Rights.** Except as specifically abridged by an express provision of this Agreement, the management of the business is the sole and exclusive prerogative of the Employer and the Employer shall have all the rights and prerogatives which it would have in the absence of this Agreement, including, but not limited to, the right to hire, direct and schedule the work force; establish, eliminate, change or introduce new equipment, processes or improved production methods; assign work to employees; subcontract work to outside contractors; transfer work to any of its other facilities; discipline, suspend or discharge for just cause; determine

staffing and composition of the work force; determine the extent to which operations shall be expanded or curtailed; promote, demote, transfer or lay-off employees because of lack of work or for other operational reasons; and make, alter and amend work rules in conflict with the specific provisions of this Agreement.

The determination and designation of the size and composition of the intercampaign crew at the end of both the Fall and Spring campaigns is the sole and exclusive prerogative of the Employer. The only limitation with regard to the exercise of this management prerogative shall be that the Employer shall not exercise its right of selection in an arbitrary or capricious manner.

## **SECTION II. EMPLOYMENT:**

**A. Union Membership.** Membership in good standing in the Union, on or immediately following the thirtieth (30th) day following the beginning of employment or the effective date of this Agreement, whichever is later, shall be a condition of continued employment. For the purpose of this section, tender of the initiation fee and tender of the periodic dues (in accordance with past practice) uniformly required as a condition of retaining membership shall constitute good standing in the Union. This provision shall, where appropriate, be modified to conform to applicable decisions of the National Labor Relations Board.

**B. Probationary Employees.** New employees shall be hired upon a probationary basis until they have acquired seniority, and employees thus hired shall acquire no seniority until they have worked forty-five (45) days, in which case, seniority shall commence upon the date of original employment. It is understood and agreed that the forty-five (45) days referred to in the foregoing sentence may be accumulated so long as an employee's continuous service remains unbroken. A sixty (60) working day probationary period shall apply to employees newly hired into positions in the Specialist, Technician A-1 and Technician A work classifications. Employer may arbitrarily, and without the necessity of assigning cause therefore, discharge any such employee during such probationary period. A list of new employees shall be furnished by Employer to the Union.

**C. Reemployment After Layoffs.** In the hiring of persons reemployed after layoffs in accordance with seniority, as hereinafter defined, the Shop Steward or Union Representative shall be notified of such hiring when the same takes place.

**D. Checkoff.** The Employer will deduct an amount equivalent to dues, initiation fees, and assessments biweekly from the wages of the employees who voluntarily authorize such deductions in writing, and will forward same to the Union monthly during the term of this Agreement unless the authorization is cancelled in writing by the employee to the Union and the Union notifies the Employer. No deduction will be made on any employee, until receipt by the Employer of a signed copy of a voluntary deduction authorization.

The Union agrees to submit to the Employer a list of employees' names and deduction amounts for the current month no later than fourteen (14) days prior to the month of deductions.

**E. Active Ballot Club.** The Employer will make a deduction for the Union's Active Ballot Club from the wages of the employees who voluntarily authorize such deduction in writing and will forward the Active Ballot Club deduction to the Union. Such Active Ballot Club deductions will be made biweekly and remitted to the Union monthly during the term of this Agreement, unless

the authorization is cancelled in writing by the employee to the Union and the Union notifies the Employer.

**F. Indemnification.** The Union shall indemnify and save the Employer harmless against any and all claims, demands, suits or other forms of liability which shall arise out of or by reason of action taken or not taken by the Employer in reliance upon authorizations furnished to the Employer by the Union, or for the purpose of complying with any of the provisions of this section.

### **SECTION III. HOURS AND OVERTIME:**

**A. Work Day.** Work performed by any employee in excess of eight (8) hours in his/her work day shall be overtime. On shift changes where an employee is required to work in excess of eight (8) hours without provision for at least eight (8) hours' rest, shall be paid overtime for all hours so worked in excess of eight (8) hours.

The hours worked shall be consecutive except for the necessary interruption of a lunch period approximately in the middle of the working day.

#### **[1] During Intercampaign:**

(a) Any employee working the regular shift from 8:00 a.m. to 4:30 p.m., if requested to work during his/her lunch period, shall complete his/her scheduled shift and shall be paid one and one-half times the straight-time rate for all work over eight (8) hours.

(b) Any employee assigned to a shift other than a regular shift for a period of five (5) successive scheduled working days or more shall receive the applicable shift premium for all hours worked, except that no shift premium shall be paid for any shift starting within two (2) hours of the normal day shift starting time of 8:00 a.m. with respect to janitors and sugar packaging, warehousing, pulp, bulk, liquid operations and laboratories serving those operations between 6:00 a.m. and 8:00 a.m. with respect to all other operations. If any such employee is assigned to such irregular shift for less than five (5) successive scheduled working days, he/she will be paid one and one-half (1-1/2) times his/her straight-time rate for all hours worked outside the regular shift of 8:00 a.m. to 5:00 p.m. All shifts starting at 8:00 a.m., 4:00 p.m., or 12:00 midnight shall be deemed to be regular shifts and all other shifts starting at other hours shall be deemed to be irregular shifts within the meaning of this paragraph. Any employee whose assigned intercampaign shift is changed shall be given twenty-four (24) hours' notice of such change or shall be paid the overtime rate for the first shift so worked. Eight (8) working hours, exclusive of lunch period, shall constitute a working day, regardless of whether the shift worked is a regular or irregular shift.

**B. Campaign Work Week.** During the campaign season, the work week shall commence at 8:00 a.m. on Monday, and work performed by any employee within one (1) work week in excess of forty (40) hours shall be overtime. The campaign work week and schedules and the number of hours shall be determined exclusively by the Employer and may include such overtime as the Employer shall direct; provided, that in interpreting this sentence does not have the right to determine exclusively the rotating shift schedules for campaign jobs which are required to be filled on a twenty-four (24) hour day, seven (7) days a week basis, and which are assigned a rotating shift schedule which will average forty-two (42) hours per week, and that so long as the

Employer operates on such an average forty-two (42) hour campaign schedule it shall be either the Shift Schedule set forth in Schedule 1 or shall be the Shift Schedule set forth on either Schedule 2 or Schedule 3 or any other schedule as mutually agreed upon between the Employer and the Union.

Except for the foregoing, the Employer retains the exclusive determination of the Shift Schedules during campaign. For example, should the Employer determine that it is necessary to work a rotating shift schedule which will average more than forty-two (42) hours per week, it is not necessary that such schedule be worked out within the framework of Schedule 1 or either Schedule 2 or Schedule 3, or if due to shortage of manpower it is necessary for the Employer to work a forty-eight (48) hour campaign work week, this may be done on a 3-shift schedule.

Employees in campaign jobs which are required to be filled on a twenty-four (24) hour day, seven (7) days a week basis, shall be assigned to a rotating shift schedule set forth in Schedule 1 attached hereto; provided that the Employer and the Union may by mutual agreement substitute the rotating shift schedule set forth on either Schedule 2 or Schedule 3 attached hereto or any other schedule as mutually agreed upon. Forty-two (42) hour work week schedules shall be applicable only to campaign jobs which the Employer fills on a twenty-four (24) hour per day, seven (7) days per week basis and which are assigned to a rotating schedule set forth in this Agreement or to another rotating shift schedule mutually agreed upon by the Employer and the Union.

The Employer will explore with the Union any alternate work schedule provided that the alternate work schedule is cost neutral and has no adverse impact on operations.

**C. Intercampaign Work Week.** During the intercampaign season, the work week shall commence on Monday and work performed by an employee in excess of forty (40) hours, Monday through Friday, shall be overtime, except work performed pursuant to the alternative work week schedules as set forth in subparagraph J. Work performed by janitors may be Sunday through Saturday.

**D. Overtime.** Overtime work performed by any employee shall be paid for at one and one-half (1½) times the straight-time rate, except that double the straight-time rate shall be paid for all work performed on Sundays during intercampaign, during the hours between 12:01 a.m. and midnight on such Sundays. Employer shall, insofar as practical, distribute overtime work equitably among qualified employees who are willing to work. Employees shall not refuse to work overtime unless excused for justifiable personal reasons. No employee shall be laid off during his/her regular working schedule for the sole purpose of equalizing any overtime that the employee has worked during the same week.

Overtime rate shall be based upon the employee's regular rate, but in the event overtime is worked on a higher-rated job, overtime shall be based on such higher rate. In the event of overtime worked on a lower-rated job, then overtime shall be based on the employee's regular rate.

Any employee required to work on his/her day off during his/her schedule, as then in effect, shall be paid time and one-half (1½) for all hours worked by him/her on such day.

There shall be no duplication or pyramiding of overtime or other premium rates which are referred to or required in this and/or any other section of this contract.

**E. Reporting and Call-Back Pay.**

**[1] Reporting Pay:** Any employee who reports for work, or is already working (not having been notified not to report for work) shall be compensated for not less than four (4) hours' work for the day upon which he/she reports for work. If the employee works more than four (4) hours in any one day, he/she shall be guaranteed not less than eight (8) hours' work.

Any employee who returns to work from an absence and has not informed the Employer prior to his/her regularly scheduled work shift that he/she is returning to work, or any employee who reports late to work without notification unless it is impossible to notify the Employer, may be sent home without pay.

**[2] Call-Back Pay:** Any employee having reported off the job, thereafter being called back to the job before starting his/her regular shift, shall be guaranteed not less than four (4) hours' compensation at one and one-half (1½) times his/her straight-time rate; and any employee working over four (4) hours shall be compensated at double his/her straight-time rate for work performed in excess of four (4) hours.

**F. Shift Differential.** During intercampaign, there shall be a shift differential for non-rotating shifts of twenty cents (\$.20) per hour for the second (swing) shift and thirty cents (\$.30) per hour for the third (graveyard) shift. Shift differential must be computed in holiday, vacation, and overtime pay.

**G. Lunch Period.** Shift employees whose duties are being performed during one (1) of three (3) shifts of eight (8) hours each may take a reasonable time to eat, provided that the nature of their employment is such that no interruption of their duties will result. In the event the nature of their employment requires constant attendance, relief will be supplied, but it is agreed that no relief will be requested by employees who can normally eat their lunch while in performance of their duties.

Employees whose duties are not performed during one (1) of three (3) consecutive shifts of eight (8) hours each day may be assigned unpaid lunch periods of not less than one-half (1/2) hour as follows:

- (1) The employee's lunch period shall be assigned on not less than a weekly basis.
- (2) The employee's assigned lunch period shall occur between the third (3<sup>rd</sup>) and fifth (5<sup>th</sup>) hours of the employee's shift.
- (3) The employee's assigned lunch period may be changed during the first (1<sup>st</sup>) hour of the employee's shift without penalty.
- (4) If the employee's assigned lunch period is changed after the first (1<sup>st</sup>) hour of the employee's shift, the employee shall complete his/her scheduled shift, receive one and one-half (1½) times the straight-time rate for all hours worked in excess of eight (8) hours, and be given a reasonable time to eat within the third (3<sup>rd</sup>) and the fifth (5<sup>th</sup>) hours of his/her shift.

Nothing in this Agreement shall require the Employer to maintain paid lunch periods during campaign or intercampaign.

**H. Definitions.** “Campaign Season” for factory operations is understood to mean the period during which beets are sliced or sugar is produced and includes test-out (not exceeding seven (7) days immediately preceding the slicing of beets) and laying by periods. Test-out shall commence when a boiler or a lime kiln is lighted preparatory to commencing campaign, but if this occurs more than seven (7) days immediately preceding the slicing of beets, then test-out shall be considered as commencing seven (7) days immediately preceding the slicing of beets.

“Campaign Season” for receiving beets from growers’ trucks and taring and testing beets is understood to mean the period in which beets are received.

“Intercampaign Season” is understood to mean the period of the year not included within the definitions of Campaign Season as hereinabove defined.

“Intercampaign rotating shift” is defined to mean any period during which operations are carried on three (3) consecutive eight (8) hours shifts over a period of six (6) consecutive weeks (or three (3) consecutive pay periods) and each established shift rotates on a weekly basis.

“Year-round employees,” as used in this Agreement, is understood to mean any employee whose name is placed on the posted intercampaign crew list by the Employer pursuant to the provisions of Section VIII-D at the end of the Spring (main) campaign.

**I. End of Campaign.** The Employer will endeavor to schedule the work of year-round employees at the end of campaign by short-shifting such employees so as to avoid loss of working time for such employees in the changeover from campaign to intercampaign operation, provided no overtime liability is incurred in so doing.

**J. Janitors and Sugar Packaging, Warehousing, Pulp, Bulk and Liquid Operations.**

[1] The Employer may implement alternate work weeks of five (5) consecutive days (for example, Tuesday through Saturday) for janitors and in sugar packaging, warehousing, pulp, bulk, liquid operations and laboratories serving those operations, without incurring Saturday or Sunday intercampaign premiums. If such flexible work week schedules are utilized, employees will be given at least seventy-two (72) hours’ notice of a change of work week schedule. Employees will be paid overtime rates for all work performed in excess of eight (8) hours in the work day or forty (40) hours in the work week.

**K. Section 554 Waiver.** The parties hereby agree that the “equivalent” rule set forth in the third sentence of Section 554 of the California Labor Code shall not apply to the Employer and the employees covered by this collective bargaining agreement, and employees subject to this collective bargaining agreement may work more than seven (7) consecutive days without the necessity of accumulating days of rest to receive the equivalent of one (1) day of rest in seven (7) in each calendar month. The foregoing shall be considered an express waiver of rights under Sections 551 and 552 of the California Labor Code as provided by Section 554 thereof.

**SECTION IV. HOLIDAYS:**

The following are declared holidays: New Year’s Day (January 1), President’s Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veteran’s Day (November 11 or day after Thanksgiving), Thanksgiving Day (day appointed by the President or the Governor of California), the day before Christmas (December 24), and Christmas Day (December 25). The Employer will have the option to decide each year whether the holiday will be Veteran’s Day or the day after Thanksgiving and will notify employees of its choice by November 1 of each year. During campaign, if a holiday falls on Sunday, Sunday shall be recognized as the holiday and if a holiday falls on Saturday, Saturday shall be recognized as the holiday. During intercampaign, if the holiday falls on Sunday, the following Monday shall be recognized as the holiday and if the holiday falls on Saturday, it shall, at the option of the Employer, be recognized on such Saturday or on the Friday immediately preceding.

Eligible employees shall be entitled to receive eight (8) hours straight-time pay for any of the above-mentioned holidays. An eligible employee who works on a day recognized as a holiday shall receive holiday pay in addition to the employee’s normal rate of pay for the hours worked on the holiday, except that the employee shall be paid double time for all hours worked in excess of eight (8) hours for those overtime hours which occur during the holiday.

Eligibility for Holiday pay for holidays not worked is subject to the following:

(1) The employee must work for the last regular work day of his/her work schedule prior to and the first regular work day of his/her work schedule following the holiday. The last regular work day preceding and the first regular work day following the holiday must occur within two (2) weeks of the holiday. Payment will be made in cases where absences on the work day prior to or the work day following the holiday were due to industrial accident, bona fide illness or other absence excused by the Employer. An employee on leave of absence shall not be entitled to holiday pay. A non-year-round employee must also be on the active payroll of the Employer as of the date of the holiday to be eligible for holiday pay.

(2) Failure to work when requested on a holiday shall disqualify an employee for unworked holiday pay.

**SECTION V. VACATIONS:**

**A. Work Required for Vacation of 5, 10, 12, 14, 15, 17, 20 or 25 Working Days.** In every calendar year, any employee who has worked during such calendar year seventy-five percent (75%) or more of the working days for the Employer shall receive the following vacation with pay:

<b>Years of Continuous Service</b>	<b>Vacation</b>
1 year.....	5 working days
2 years.....	10 working days
5 years.....	12 working days
10 years.....	14 working days
12 years.....	15 working days
15 years.....	17 working days

20 years.....	20 working days
25 years.....	25 working days

Calculation of such seventy-five percent (75%) of the working days shall be computed on a basis of a five (5) day work week during the intercampaign, and the regularly scheduled number of days in the individual employee's work week during campaign. In determining whether an employee has 2, 5, 10, 12, 15, 20, or 25 or more years of continuous service, there shall be included in his/her continuous service record his/her accumulated paid-for service as a campaign or seasonal worker, provided: (1) the employee works continuously throughout each campaign (unless excused for lack of work or other causes beyond the employee's control), (2) such campaign service is rendered in consecutive years, and (3) there has been no break between his/her employment as a campaign or seasonal worker and his/her employment as a permanent or year-round employee.

In exception to the above, the Employer agrees that the year in which an employee completes 5, 10, 12, 15, 20 or 25 years of continuous service, as the case may be, shall be the year in which such employee is entitled to enjoy the number of days' vacation specified above for 5, 10, 12, 15, 20 or 25 years of continuous service, as the case may be.

Any employee after working seventy-five percent (75%) of the working days during the calendar year shall, upon termination, be paid, in cash, the equivalent of the vacation to which he/she is entitled.

**B. Deductions.** Time lost due to sickness, not exceeding sixty (60) days, shall not be deducted in computing said seventy-five (75%) set forth in paragraph A.

**C. Five-Day Vacation Benefit for Certain Employees Not Qualifying for Vacation Under Paragraph A.** Any employee who does not qualify for a vacation under Section V-A, and who works one hundred sixty (160) or more days in the calendar year and who remains employed until laid off in such calendar year shall be entitled to five (5) working days' vacation with pay and one (1) additional working day vacation with pay for every five (5) consecutive years of service with one hundred sixty (160) or more days worked in each calendar year.

**D. Time for Taking Vacations.** Vacations may be taken at any time at the employee's convenience, provided ample notice is given to the Employer; and provided further that the Employer determines that no interference with the Employer's operations will result. Where requested vacation periods conflict, preference shall be given to the oldest employee in point of service. An employee, upon ample notice to the Employer, subject to the conditions of this subsection D, may postpone the taking of vacation earned in one (1) calendar year to, but not beyond, the following calendar year.

**E. Holidays Occurring During Vacation.** Should any of the holidays specified in Section IV occur during intercampaign while an employee is on vacation, such vacation shall be extended one (1) day for each holiday so occurring, or at the option of the Employer, the employee shall receive holiday pay in lieu of such extra day. If an employee takes his/her vacation during campaign and a holiday listed in Section IV of this Agreement occurs on what would have been such employee's regularly scheduled work day, he/she will receive as vacation pay for that day the amount he/she would have earned had he/she worked his/her regular shift.

**F. Retiring Employees.** If an employee retires pursuant to the pension plan of the Employer, he/she shall upon retirement receive a prorated vacation.

## **SECTION VI. SICK LEAVE:**

Employees of the Employer shall receive pay at the straight-time rate during working time lost because of sickness or injury, subject to the following provisions:

Year-round employees shall be eligible each calendar year to receive ten (10) days with full pay, provided that payment shall be made only for those scheduled days which the employee would have worked had the disability not occurred. Unused days of sick leave in any one calendar year may be accumulated and transferred to the following year, and from year to year thereafter up to one hundred and ten (110) days.

Non-year-round employees, commencing with their second (2<sup>nd</sup>) consecutive main campaign, shall be eligible to receive each year sick leave not to exceed five (5) full days with pay, provided that payment shall be made only for those scheduled days which the employee would have worked had the disability not occurred. Unused days of sick leave of non-year-round employees in any one calendar year may be accumulated and transferred to the following year, and from year to year thereafter, to a maximum of fifty (50) days. Such accumulation together with the non-year-round employee's current year's sick leave allowance, shall not exceed a maximum sick benefit allowance for such year of fifty-five (55) days. Sick leave benefits shall be paid on the first (1<sup>st</sup>) day which the employee is absent from work as a result of illness or disability.

In industrial injury or disability cases, Worker's Compensation or Unemployment Compensation Disability (U.C.D.) benefits and sick benefit allowances shall be paid separately, but in the event Worker's Compensation payments or Unemployment Compensation Disability payments cover all or part of the period during which sick benefit allowances are paid, the sum of the two (2) shall not exceed the sick benefits payable for said period, and the unused portion of the accumulated sick leave will continue to be credited to the employee. In the event that an employee's absence due to an industrial injury or disability extends beyond the sick leave period, he/she shall receive only Worker's Compensation or Unemployment Compensation Disability (U.C.D.) for the excess period.

An employee shall not be entitled to sick benefit allowance when sickness or injury is due to employee's willful intention to injure himself/herself or another, venereal disease, intoxication, or use of drugs.

The employee shall furnish a satisfactory medical certificate which shall include the date of the medical examination, the period of time during which the employee was incapacitated, the date which the employee is released to return to work, and work restrictions, if any. The medical certificate shall be signed and dated by the individual providing the medical services and shall set forth that individual's title. Whenever the employee fails to furnish a satisfactory medical certificate as requested or the absence is unexcused under the Employer's Attendance Program, the employee shall not be eligible for sick leave benefits.

## SECTION VII. COMPREHENSIVE MEDICAL INSURANCE COVERAGE:

**A. Group Hospital-Medical Insurance for Eligible Year-Round Employees and Their Eligible Dependents.** The Employer shall furnish to eligible year-round employees and their eligible dependents group hospital-medical insurance as follows:

**[1] Coverage Options.** The Employer will offer comprehensive group hospital medical plans for eligible year-round employees and their eligible dependents which may include where available:

- (A) Point of Service (POS)
- (B) Preferred Provider Organization (PPO)
- (C) Health Maintenance Organization (HMO), or
- (D) Exclusive Provider Organization (EPO)

The Employer may self-insure its medical plans. The lifetime major medical maximum coverage under the medical plans shall not be less than two million dollars (\$2,000,000) for a covered individual. Deductibles, co-payments, and other conditions or limitations of coverage shall be determined in accordance with the terms of the plan and coverage option selected by the employee from the plans offered.

The Employer may substitute plan providers and plans during any subsequent year of this Agreement provided the plan or plans substituted are comparable to the existing plans and provided further that such substituted plan or plans require employee premium contributions which are less than or equal to the then current premium costs under the substituted plan.

The following table outlines the required employee contribution per month for the medical programs currently made available by the Employer. The contribution amounts set forth on the following table represent the maximum employee contributions and the actual required contribution may be less if the respective percentage amount of actual costs yields a lower amount.

### HEALTH CARE MONTHLY PREMIUMS

Provider: Blue Cross

#### High Plan

Employee only	\$101.00
Employee and Children	\$241.00
Employee and Spouse	\$241.00
Family	\$288.00

#### Choice Plan

Employee only	\$174.00
Employee and Children	\$179.00
Employee and Spouse	\$179.00
Family	\$396.00

Effective January 1, 2014, January 1, 2015, and January 1, 2016, the employee will contribute twenty-five percent (25%) of the actual plan costs for the preceding year but the premium will

not increase over the previous year by more than twenty-five dollars (\$25.00) per month for all coverages.

Effective January 1, 2017, and January 1, 2018, the employee will contribute twenty-five percent (25%) of the actual plan costs for the preceding year but the premium will not increase over the previous year by more than twenty dollars (\$20.00) per month for all coverages.

Rates are subject to change annually (up or down) as noted above based on claims experience and upward changes are subject to the agreed caps. In the event that the actual plan costs for the preceding plan year (January 1 to December 31) are such that employees have paid more than twenty-five percent (25%) of the actual plan costs, the amount of any overpayment will be refunded to the employee so that the employee will have paid no more than twenty-five percent (25%) of the actual plan costs.

Deductions from employees' paychecks will be made each biweekly pay period. To calculate the biweekly contribution amount: multiply the above rates by twelve (12) and divide by twenty-six (26) (the number of biweekly pay periods each year).

**[2] Eligibility Rules.** A year-round employee shall become eligible for coverage under this Section on the first (1<sup>st</sup>) day of the month following his/her completion of sixty (60) days of continuous service, provided said year-round employee is then actively at work for the Employer. When a year-round employee has satisfied the eligibility requirements for benefits as provided under this Section but thereafter ceases to be a year-round employee, he/she shall, if restored to year-round status within one (1) year, become eligible for coverage on his/her first working day following his/her restoration to year-round status, provided that he/she has not in the interim broken continuous service as defined in Section VIII C of this Agreement, and further provided that said year-round employee is then actively at work for the Employer. To be eligible for dependent coverage, an employed spouse must elect coverage under any medical plan offered by the Employer of the spouse. This requirement shall not apply to a spouse during the period the spouse is laid off from employment. In addition, this requirement shall not apply to the spouse of an eligible employee electing coverage under any agreed upon HMO option. Dependents of year-round employees shall be eligible for hospital-medical coverage until they attain the age of twenty-six (26). Non-year-round employees and their dependents shall become eligible for coverage under this Section if the employee works an average of at least thirty (30) hours per week during a measurement period of twelve (12) months or as otherwise required under the Affordable Care Act and applicable regulations.

**[3] Revision of Benefits.** The Employer is agreeable to discussing with the insured employees at their request, change in plan provider and revision of the benefits of such plan where this can be done without increasing the overall cost of the plan to the Employer.

**[4] Summary of Benefits.** A summary of benefits is set forth on Schedule 2 attached hereto. The actual Agreement will control.

**B. Coordination of Benefits.** The hospital-medical coverage provided by this Agreement shall include a coordination of benefits clause in the form substantially the same as that presently required by The Equitable Life Assurance Society of the United States. Said coordination of benefits clause, and any coordination of benefits clause set forth in several hospital-medical plans of the Employer, is to be interpreted not to apply to an individual policy individually

purchased by a covered employee or his/her covered dependents; nor is the coordination of benefits clause to apply to group plans applicable to covered employees and their covered dependents and not arising out of the employee's or the dependent's employment.

**C. Dental Insurance Program for Eligible Year-Round Employees and Their Eligible Dependents.**

**(1) Dental.** The Employer agrees to continue a Dental Insurance Program for eligible year-round employees and their eligible dependents as follows: The Program shall pay eighty percent (80%) of basic and preventive services on the basis of a reasonable and customary fee schedule. The Program shall pay fifty percent (50%) of major dental services on the basis of a reasonable and customary fee schedule. There shall be a deductible of fifty dollars (\$50) per family member per year with a maximum of three (3) deductibles per family. The maximum payment for dental services per year per individual under the plan shall be one thousand dollars (\$1,000).

**(2) Orthodontic.** The Employer shall make available an orthodontic benefit agreed upon by the parties. This benefit will pay one-half (1/2) of the eligible charges incurred by a covered individual after the individual satisfies the one (1) time separate orthodontic deductible of one hundred dollars (\$100). This benefit will be available to each family member under the age of nineteen (19). Payments for orthodontic benefits will not apply for purposes of the one thousand dollars (\$1,000) per year dental maximum. The maximum lifetime orthodontic benefit for each eligible individual shall be two thousand dollars (\$2,000).

**D. Employees off the Payroll for Six (6) Full Months or More.** The Employer agrees to cover year-round employees, who are off work due to a work-related or non-work-related injury/illness, with medical and dental coverage for themselves and their eligible dependents for a period of six (6) months, provided the employees continue to make their regular employee monthly co-payments. This six (6) month period of time will begin on the first (1<sup>st</sup>) of the month following the month in which the employee was absent due to injury or illness. The employee may provide for the employee monthly premium payment by continuous regular payroll deductions if available through unused sick leave and/or vacation pay. If the employee does not have unused sick leave and/or vacation to make the regular employee monthly premium payroll deduction, then arrangements must be made by the employee with the Human Resources Manager to make the monthly payment by no later than the fifteen (15<sup>th</sup>) of the month. If the employee is still off work after six (6) full consecutive months, then the employee may continue the coverage under COBRA as of the first (1<sup>st</sup>) of the seventh (7<sup>th</sup>) month at the then applicable COBRA premium rate and available for the length of time specified under COBRA guidelines as long as the COBRA premium payment is made each month. The provision of extended coverage under this paragraph will not serve to extend the COBRA continuation period beyond eighteen (18) months after the date of the qualifying event, as defined under the COBRA statute. Leaves granted under the Family Medical Leave Act ("FMLA"), will not serve to extend the six (6) months of Medical and Dental coverage provided under this provision.

**SECTION VIII. SENIORITY:**

**A. Seniority List:** The Employer shall on or before February 1 of each year furnish to the Union a complete seniority list as of the end of the prior calendar year covering all employees under this Agreement.

**B. Seniority Defined.** Seniority shall be based upon the employee's total length of service with the Employer. An employee's total length of service shall date from the time he/she was first placed on the payroll; provided his/her service has been continuous, as hereinafter defined. In the event an employee's service has not been continuous (as hereinafter defined) from the time he/she was first placed on the payroll, his/her total length of service shall be the period last passed during which his/her service was continuous.

**C. Continuous Service.** An employee's service is deemed to be continuous as long as he/she works during each successive campaign, and in addition thereto, works during each successive intercampaign to the extent employment is offered him/her.

Continuous service is broken (1) by quitting employment; (2) by discharge; (3) in the event an employee is not working for the Employer in the intercampaign during a period from six (6) to two (2) weeks prior to the opening of the following campaign, by his/her failure to offer his/her service to the Employer in writing at some time during said period, leaving with Employer an address at which he/she may promptly be reached; (4) by refusing offered employment, provided, however, that refusal of very temporary employment during the intercampaign shall not constitute a break in continuous service; (5) by lay-off of twelve (12) or more consecutive months; (6) by retirement; (7) by being off work for any reason other than the above listed conditions for more than fourteen (14) consecutive months. Conditions (3) and (4) last herein mentioned may be waived at the Employer's sole discretion. If the Employer, at its sole discretion, rehires an employee who was terminated pursuant to condition (7) above, and such rehire occurs within two (2) years of the employee's termination, the employee shall be credited with his/her seniority existing at the date of termination.

Employer may grant an employee a written leave of absence, including a leave of absence for pregnancy, during which continuous service may not be deemed broken, and in the event the Employer grants such leave of absence, it will give to the Union written notice thereof. Leave of absence shall be limited to six (6) months, except as otherwise provided in this contract, and the Employer may renew such leave of absence for additional periods not to exceed six (6) months' duration each.

Any employee who is now engaged in full-time duty for the Union, or who shall hereinafter be engaged in such full-time duty for the Union will be granted a leave of absence therefore without loss of seniority, provided that such leave of absence shall not extend beyond the term of this Agreement, unless extended by mutual consent. During such leave of absence the employee's continuous service shall not be deemed broken.

**D. Hiring, Rehiring, Lay-off of Employees.** The Employer agrees that in laying off employees, it will apply the employee's total length of service together with requirements of the job, the knowledge, training, ability and skill of employees. The Employer agrees that in hiring and rehiring of employees, it will apply employee's total length of service in his/her job classification together with requirements of the job, the knowledge, training, ability and skill of employees, except in hiring employees for stations classified at the base rate or under, in which event the Employer will apply employees' total length of service rating together with requirements of the job, the knowledge, training, ability and skill of employees. During intercampaign, an employee may be required to do any work and such work shall constitute a regular part of his/her employment. Employees hired or retained for the regular intercampaign crew shall be paid not less than their campaign classification rate. Employees hired for work in

the base rate classifications or for sugar and pulp loading, or for bag manufacturing, shall be paid at the rate applicable for such work. The Employer will, prior to the end of each campaign, furnish the Union with a list of names of employees to be carried on the next succeeding intercampaign crew: and the Employer will, before posting, discuss such list with the Qualifications Committee.

**E. Promotions.** Promotions will be based upon the employee's qualifications to perform the particular job. In making such determinations, the Employer will take into account the requirements of the job, the knowledge (to include without limitation, successfully passing the applicable job related test for such position), training, ability and skill of the employees as of the time that the job was awarded. In the event that two (2) or more employees have equal qualifications to perform the job, the more senior employee will be awarded the position. The Employer is not required to provide either a trial or training period for any employee in connection with promotions or job awards.

**F. Qualifications Committee.** The Qualifications Committee shall consist of three (3) employees selected by the Union and three (3) management representatives. It is the responsibility of this committee to discuss any questions that may arise under this Agreement concerning promotions, vacancies, hiring, rehiring, lay-offs, and any other questions of seniority or its applications. Nothing in this paragraph shall be interpreted as preventing the Union from referring such matters to the grievance procedure.

**G. Posting of Jobs.** Vacancies in jobs requiring prompt filling will be immediately filled and the Employer will post a notice of the action taken within a reasonable time thereafter. The Employer will, for a period of seventy-two (72) hours, exclusive of Saturday and Sunday, after posting such vacancies under the terms of the seniority clause. Applications received within the seventy-two (72) hour period will be given consideration on the basis of the applicant's seniority rating, together with their qualifications for the job to be filled. Vacancies which do not require filling in less time will be posted at least seven (7) days prior to filling, provided, however, that vacancies at the beginning of campaign which require filling in less time will be posted for at least seventy-two (72) hours, exclusive of Saturday and Sunday. Employees eligible for the filling of vacancies shall not be limited to employees making application therefore. In exception to the above, the Employer need not post Station B or Station C jobs. This exception shall not apply to Station B – 1 jobs.

The date, hour and place of the meeting of the Qualifications Committee will appear on each posted job notice and a copy thereof together with copies of the job applications will be furnished to the Union twenty-four (24) hours prior to the Qualifications Committee meeting. There shall be no lateral transfers by the Employer to circumvent the posting of job vacancies; but this shall not prevent the Employer from interchanging employees in the same rate class with their consent. The duties and qualifications of the posted job shall not be varied or altered by the Employer for the sole purpose of favoring particular applicants.

The Employer will solicit interest among current Station C employees for movement to Station B positions by posting a "Notice of Interest" form. Station C employees may advise the Employer of their interest in the Station B position and the Employer will select an employee who has expressed an interest for movement to the Station B position. In the event there are no employees who expressed an interest in movement or there are no Station C employees who are qualified for the Station B position, the Employer may hire from outside to fill the position.

**H. Lateral Bidding.** Where an employee has obtained his/her present job as the result of a prior job bid, he/she shall be permitted subsequently to bid laterally to another job in the same wage classification only if (a) he/she has worked in the present job for at least sixty (60) days, or (b) there has occurred subsequent to the award of the present job a regularly scheduled non-processing period, which shall not include temporary shutdowns.

## **SECTION IX. DISCRIMINATION AND DISCHARGE:**

**A. Discrimination.** The Employer shall not discharge or discriminate against any employee for Union activities, upholding Union principles, or serving on a committee of the Union.

Neither the Union nor the Employer shall discriminate against any employee or applicant for employment because of race, creed, color, sex, age or national origin or any other basis prohibited by applicable federal, state or local law.

Wherever the male or female gender is used in this Agreement, it shall be understood to include the other gender as well.

**B. Discharge.** The Employer reserves the right to discharge an employee for just cause. The Employer shall issue a discharge slip specifying the grounds of discharge to each discharged employee and furnish a copy thereof to the Union.

## **SECTION X. RECLASSIFICATION, TRANSFERS AND LAY-OFFS:**

**A. Notice of Layoff.** Before terminating the service of an employee for reasons other than for discharge, the Employer will give to the employee not less than five (5) working days' advance written notice of termination. This provision shall not apply to employees hired for temporary work or to campaign employees.

**B. Reclassification.** In the event an employee's job is eliminated or he/she is unable to perform the duties of the job, the Employer, after securing the written consent of the employee involved and of the Union, may, instead of laying off such employee, transfer him/her to another position and fix his/her rate accordingly.

**C. Temporary Transfer.** The Employer may in its discretion select employees for temporary transfer to other classifications either to replace absent employees or as temporary additions to staff. Where an employee is transferred to a higher paid classification, he/she shall receive the rate applicable to said higher paid classification during the period of said transfer; if transferred to a lower paid classification, he/she shall receive his/her regular higher rate. Where the Employer has elected to fill a temporary vacancy, the vacancy shall be posted as a temporary position when the Employer knows that the incumbent will be absent for a period of six (6) months or more.

Qualifications acquired by employees through temporary transfer may be considered in applying the promotion, layoff and recall provisions of the Agreement.

If, after the Employer has made a temporary transfer, the Union shall thereafter question the temporary nature of the vacancy, such question shall be referred to the Qualifications Committee.

## **SECTION XI. GRIEVANCE PROCEDURE:**

**A. Grievances.** All grievances, including any and all matters of controversy, dispute or disagreement of any kind or character existing between the parties and arising out of or in any way involving the interpretation or application of the terms of this Agreement must be presented to the Employer in writing, setting forth in detail the nature of the grievance, and must be presented within thirty (30) calendar days of the date of the alleged grievance occurrence, except that grievances relating to discharge or disciplinary suspension of employees must be so presented within ten (10) calendar days of the date of the occurrence. Any grievance not timely filed is deemed waived by the aggrieved party and will not be considered.

**B. Procedure.** The Union representative shall attempt to informally resolve the dispute first with the Employer representative. If an informal resolution is not reached, the following steps shall be followed:

### **First Step**

In the event the dispute is not resolved through informal discussion, the Union may file with the Employer a written grievance within the time limits provided above specifying the nature of the grievance in reasonable detail, the provision(s) of the Agreement in dispute, the names of the individual or individuals involved, if any, and the remedy demanded. The Union representative and the Employer representative shall schedule a grievance meeting with their respective members of whom has authority to adjust the grievance.

The Employer shall respond to the Union representative in writing within fifteen (15) calendar days after the grievance has been taken up in the First Step meeting.

### **Second Step**

In order to be considered further, an appeal shall be filed with the Human Resources Manager within fifteen (15) calendar days from the date the First Step response was received. Upon receipt of the written appeal, a meeting shall be held promptly between the Union representative and the Human Resources Manager, in an attempt to resolve the dispute. The Employer's Second Step representative shall have fifteen (15) calendar days following the Second Step meeting to respond to the grievance. The Union shall have fifteen (15) calendar days from the date said response was received to appeal the grievance to arbitration.

### **Third Step**

If a grievance is not satisfactorily adjusted in the Second Step, the grievance may be submitted to Arbitration by written notice to the Human Resources Manager not later than fifteen (15) calendar days following receipt of the written answer in the Second Step.

**C. Arbitration.** Any grievance filed for which an arbitrator has not been selected, within thirty (30) calendar days of the receipt by the Union of the Employer's Second Step written response to the grievance, shall be deemed conclusively to have been abandoned and shall not be subject to resolution or consideration hereunder. The parties may by mutual agreement in writing extend the time limits set forth above. Either the Union or the Employer may, after exhausting the foregoing grievance procedure, submit an unresolved grievance which arose and was presented during the term of this Agreement and which concerns the interpretation and application of any of the terms or provisions of this Agreement to an arbitrator for decision in accordance with the following procedure:

There is hereby established a permanent panel of five (5) impartial arbitrators, namely: R. Wayne Estes, Mark Burstein, Anne Ellis, Alexander Cohn and Jean Gaskill. In any case when the Union or the Employer refers to arbitration an unresolved grievance which was presented in accordance with the above procedure, the arbitrator who shall hear such grievance shall be selected as follows: With the loser of a coin toss going first, the Union and the Employer alternately shall cross off names of arbitrators from a listing containing the names of the above arbitrators. The last name remaining shall be the primary arbitrator; the next to last name remaining shall be the alternate. All arbitration hearings shall be held at a mutually agreeable location.

The decision of the arbitrator shall be in writing and shall be final and binding upon both parties. The expenses of arbitration shall be shared equally between the Union and the Employer.

It is understood and agreed, however, that proposals to add or to change this Agreement shall not be arbitrable and that no proposal to modify, amend or terminate this Agreement may be referred for arbitration under this Section; and no arbitrator shall have any power to amend or modify this Agreement, except that in the event new jobs are created, the arbitrator shall in such event have the power to act as provided in Section XVII, subparagraph 2, of this Agreement.

**D. Union Representatives.** The Shop Steward or Union Representatives shall have the right to converse with employees while on the job, but no time shall thereby be unnecessarily lost to the Employer. Any other duly authorized representative of the Union, upon applying to the superintendent's office, shall be allowed a pass entitling him/her reasonable times for the purpose of investigating the performance of this Agreement. This privilege shall be exercised so that no time is lost to the Employer. Any such pass shall cover one trip only at the specified time and must be surrendered upon completion of the trip. Any abuse of this privilege shall result in its being withdrawn by the Employer.

## **SECTION XII. MILITARY SERVICE:**

The Employer will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"). In all cases where employees are reinstated in accordance with USERRA, the Employer shall have the right to make necessary seniority changes, if any, including reductions in force, consistent with the provisions of this Agreement.

## **SECTION XIII. EMPLOYER-UNION COOPERATION:**

For the purposes of cooperating with the Union in the collection of initiation fees and dues and the carrying out of official Union business, the Employer agrees as follows:

- (1) All new employees will be notified at the time of hiring that they must become and remain members in good standing, as provided by law, in the Union as a condition of employment.
- (2) Upon request of the employee, the Employer agrees to refer all employees who are laid off, terminated or disciplined to the Union representative designated by the Union prior to giving the employee their termination or lay-off notice or disciplinary action form.
- (3) Where the Employer or the Union requests a temporary exception to the terms of this Agreement, such request shall be submitted in writing. Any agreement resulting from such request must be in writing stating the period of time it shall be in effect, and signed by both

parties. The Union or the Employer will reply to the other party's request within seventy-two (72) hours.

(4) The Union shall furnish the Employer a written list of the names of all authorized members of the Qualifications Committee, the names of all Union officers, including Shop Stewards, and any changes in those holding any of the foregoing positions when such changes occur.

**SECTION XIV. WAGES:**

**A. Wage Increase.** The wages to be paid to the employees of the Employer covered by this Agreement are set forth in Exhibit A attached to this Agreement, which Exhibit provides for and includes the wage increases set forth below.\*

**SPRECKELS SUGAR COMPANY WAGE INCREASES**  
(yearly increases in cents per hour)

	<u>1/6/2014*</u>	<u>1/5/2015*</u>	<u>1/4/2016*</u>	<u>1/2/2017*</u>	<u>1/1/2018*</u>
<b>Specialist</b>	<b>0.50</b>	<b>0.40</b>	<b>0.55</b>	<b>0.50</b>	<b>0.50</b>
<b>Maint/Spec</b>	<b>0.50</b>	<b>0.40</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>
<b>Technician A/A1</b>	<b>0.45</b>	<b>0.40</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>
<b>Technician B/B1</b>	<b>0.40</b>	<b>0.35</b>	<b>0.45</b>	<b>0.45</b>	<b>0.45</b>
<b>Technician C</b>	<b>0.40</b>	<b>0.35</b>	<b>0.40</b>	<b>0.40</b>	<b>0.40</b>
<b>Station A/A1</b>	<b>0.30</b>	<b>0.25</b>	<b>0.30</b>	<b>0.30</b>	<b>0.30</b>
<b>Station B/B1</b>	<b>0.30</b>	<b>0.25</b>	<b>0.30</b>	<b>0.30</b>	<b>0.30</b>
<b>Station C</b>	<b>0.30</b>	<b>0.25</b>	<b>0.30</b>	<b>0.30</b>	<b>0.30</b>

\*To be adjusted to the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) pay period following the start of the calendar year.

\*Prior collective bargaining agreements, historical understandings, and past practice confirm that the Employer has the discretion to establish, increase, decrease or eliminate special wage rates (sometimes referred to as "red circle rates") for individual employees in excess of the minimum wage rates specified in this Agreement and in prior agreements for such employees.

**B.** No employee now receiving a wage rate higher than that specified in this Agreement shall suffer a reduction in such wage rate by reason of this Agreement.

**C. Piece Work.** No piecework schedules shall be put into effect.

**D. Direct Deposit.** The Employer has implemented a voluntary direct deposit program for employees on the year-round list and for seasonal employees.

**SECTION XV. PENSION PLAN:**

The presently existing pension plan agreements between the Employer and the Union covering their year-round employees as therein stated, shall be renewed and extended commencing January 1, 2014, and ending December 31, 2018, except as provided as follows:

**A. Benefit Formula.**

The prior existing pension plan between the Employer and the Union covering year-round employees shall continue unchanged effective January 1, 2014:

<b><u>Average Gross Earnings For The Highest Consecutive Five (5) Calendar Years of Employment</u></b>	<b><u>Monthly Benefit Unit</u></b>
Greater than \$40,000	\$38
37,000 to 39,999	37
34,000 to 36,999	36
31,000 to 33,999	35
28,000 to 30,999	34
25,000 to 27,999	33
22,000 to 24,999	29
19,000 to 21,999	27
0 to 18,999	24

**B. Early Retirement**

Eligibility: Age 55 with 5 years of vesting service

Reduction: 5% per year for retirement prior to age 65

**SECTION XVI. MISCELLANEOUS:**

**A. Bulletin Boards.** The Employer shall furnish a suitable bulletin board to be located at each entrance to the premises which is designated as an employee entrance. Said bulletin board shall be used exclusively by the Union for the posting of notices and bulletins pertaining to the employees' affairs.

**B. Charity.** The Employer shall consult with the Union before implementing any charitable campaign involving bargaining unit personnel. In any such campaign, all employees shall be advised that any contribution is completely voluntary, and neither the Union nor the Employer shall make any threat or promise of benefit to induce contributions.

**C. Choice of Days Off.** Employees with the greatest seniority shall have first choice of days off insofar as practical.

**D. Funeral Leave.** In the event of a death in the immediate family of a year-round employee who has one (1) or more years of seniority with the Employer, the employee shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend the same, not to exceed three (3) regularly scheduled working days. This provision does not apply if the death occurs during the employee's vacation or while the employee is on leave of absence, lay-off, or sick leave.

For the purposes of this provision, the immediate family shall be restricted to father, mother, brother, sister, spouse, child, stepchildren, mother-in-law, father-in-law, grandparents, grandchildren, brother-in-law, sister-in-law. In all "in-law" cases, the deceased shall be a

covered relation of the current spouse. At the request of the Employer, the employee shall furnish a death certificate and proof of relationship.

Funeral leave applies only in instances in which the employee attends the funeral and is not applicable for other purposes such as settling the estate of the deceased.

The Employer will provide up to three (3) days of excused but unpaid leave in the event of the death of an employee's aunt or uncle.

The foregoing funeral leave provisions shall be applicable to non-year-round employees in the calendar year following their completion of three (3) years of continuous service.

Non-year-round employees who have completed one (1) year of continuous service shall be entitled to the foregoing funeral leave, without pay.

**E. Jury Duty.** Any employee required to serve on a jury and who misses work shall be paid the difference between his/her straight-time earnings and the amount paid him/her for jury duty, provided he/she furnishes proof of such jury duty and provided the hours of jury duty occur during the individual's regularly scheduled shift.

**F. Payday.** All employees shall be paid every other Friday with pay checks available from 8:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m. All hours worked, straight time and overtime, will be shown on check stubs.

**G. Safety Committee.** The Union and the Employer shall mutually agree upon the number of representatives which each shall elect to serve on the Safety Committee. The Safety Committee shall meet approximately every thirty (30) days.

**H. Safety Glasses.** The Employer shall furnish prescription safety glasses to all employees who require such in the normal performance of their duties at no cost to the employee, provided that the prescription be obtained and furnished by the employee at no cost to the Employer.

**I. Strikes and Lockouts.** During the term of this Agreement, there shall be no cessation, interruption or delay of work or other action by the employees or the Union which impairs the Employer's operations or financial condition or affects the distribution of its products, including, without limitation, strikes (including sympathy strikes), work stoppages, slowdowns, picketing, boycotts or corporate campaigns. During the term of this Agreement there shall be no lockouts by the Employer.

**J. Time Off Given to Union Representatives.** Time off given to representatives of the Union to attend Council meetings or Conventions of the United Food and Commercial Workers Union shall be without loss of pension or hospital-medical benefits.

**K. Time With Pay to Eat.** In the event an employee is required to work more than two (2) hours at the conclusion of his/her assigned shift, the Employer agrees to grant such employee time with pay to eat.

**L. Travel Allowance.** All employees will be compensated for board, lodging, and travel expense when required by the Employer to spend a night or more away from home. Employees

will be paid regular pay for days on which they are required to travel in the interest of the Employer. Employees required to use their own vehicle for Employer business travel after reporting to work at their assigned work location shall be reimbursed for mileage at the then-applicable IRS rate for mileage reimbursement.

**M. Uniforms and Caps.** Whenever the Employer demands the wearing of uniforms or head coverings, the same shall be furnished and laundered by the Employer, and shall bear a Union label unless the same is not available. Welders shall be furnished, at the Employer's expense, with suitable safety appliances.

**N. Tools.** Employees' tools, which are damaged on the job and are no longer usable for that reason, will be replaced by the Employer at the Employer's expense in a timely fashion; provided the employee furnishes the Employer a certificate, or other proof satisfactory to the Employer, that such tools were damaged on the job and are of a quality equal to or better than American made tools.

**O. Drug Testing.** Employees using, possessing or under the influence of alcohol or illegal drugs while at work or on the Employer's property will be subject to discharge. The Employer may require that applicants for employment successfully pass a drug and/or alcohol test, including, but not limited to, urinalysis testing, as a condition of obtaining employment. Employees may be required to undergo substance abuse testing, including, but not limited to, urinalysis testing, where, in the opinion of the Employer, probable cause exists warranting such testing. Where an employee has not been actively employed for a period of thirty (30) or more consecutive days for reasons other than workers compensation leave, pregnancy leave or other leave provided by statute, said employee shall be required to submit to a drug test. Where such test reveals the presence of alcohol and/or illegal drugs, the employee will be subject to discharge. The Employer's Substance Abuse Policy is attached as Exhibit D, attached hereto.

**P. 401(k) Plan.** The Employer will make available a 401(k) Plan for its year-round-employees. The cost of establishing and administering the Plan shall be paid for by the Employer. The Plan shall be funded solely by contributions of the participants.

**Q. Discipline for matters other than attendance.** If an employee has no discipline for two (2) years from the date of his/her last discipline, all prior discipline of the employee will not be used in future disciplinary proceedings.

**R. Facility Closure.** To the extent required by then applicable law and regulation, in the event of a facility closure, the Employer will provide advance notice to the Union and will discuss the impact and effects of such closure on employees covered by this Agreement.

**S. Injury Reporting.** All work related injuries shall be reported immediately to the employee's immediate supervisor and in no event reported later than the end of the employee's shift on the day of the injury.

## **SECTION XVII. JOB ELIMINATION AND NEW JOBS:**

**A. Job Elimination Resulting from Installation and Operation of New Machinery and Mechanized Processes.** The Employer agrees to discuss with the Qualifications Committee all cases of job elimination resulting from the installation and operation of new machinery and

mechanized processes; but the final determination in all such matters shall rest with the Employer.

**B. New Jobs.** In the event any new jobs are created, the work classifications and wage rates thereof shall be negotiated by the Employer and the Union, provided, however, should the parties fail to agree on the work classifications and wage rates for any such new jobs, the Employer shall have the right to fill such new jobs and fix the work classifications and wage rates therefore, subject to the Union's right to refer the matter of the work classifications and wage rates of such new jobs to normal grievance procedure.

#### **SECTION XVIII. TERM OF AGREEMENT:**

This Agreement shall be effective as of January 1, 2014, and shall continue in full force and effect without any further change or adjustment from its execution date to December 31, 2018, and may be renewed thereafter for periods of one (1) year, either in the form of the Agreement as it then exists, or with changes and amendments in the manner following:

A. If neither party to this Agreement, prior to sixty (60) days before the expiration of the term then in existence, notifies the other party in writing of its desire to rescind or make any changes or amendments in said Agreement, then said Agreement shall be automatically extended and renewed for the following year.

B. In the event that either party is desirous of the renewal of this Agreement with any change or amendment, the party desiring such change or amendment shall give notice of the same to the other party not less than sixty (60) days before the expiration of the term then in existence. In the event such change or amendment is agreed to by both parties hereto, before the expiration date of the term then in existence, it shall be incorporated into and made a part of this Agreement, but in the event said parties cannot mutually agree to the acceptance of said change or amendment, or any other change or amendment to take the place of that proposed, this Agreement shall not be renewed for another year, and shall terminate and become null and void upon the expiration of the term then in existence, unless the parties hereto agree to continue negotiations, or to submit the matter in controversy to arbitration. In such instances this Agreement shall continue in full force and effect pending the negotiations or arbitration.

#### **SECTION XIX. SCOPE OF AGREEMENT:**

This Agreement is in full settlement of the Union's proposals and the Employer's counter proposals respecting the December 31, 2013 opening, and this new Agreement and the present pension plan between the Union and the Employer, as extended by Section XV hereof, except as otherwise amended as provided by a separate "Pension Agreement" of even date between the Union and the Employer, shall constitute the full understanding of the parties and settlement of December 31, 2013 opening.

This Agreement and the foregoing pension agreement, as amended, shall not be openable for any purpose or on any matter prior to the date of expiration.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective officers duly authorized so to do, effective as of the day and year first hereinabove written.

FOR THE EMPLOYER:

SPRECKELS SUGAR COMPANY, INC.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

FOR THE UNION:

UNITED FOOD AND COMMERCIAL  
WORKERS UNION, LOCAL 135

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**CAMPAIGN ROTATING SHIFT SCHEDULES**  
**Schedule 1**

	<u>M</u>	<u>Tu</u>	<u>W</u>	<u>Th</u>	<u>F</u>	<u>Sa</u>	<u>Su</u>
1 <sup>st</sup> Week	C B A	C B A	D B A	D B A	D C A	D C A	D C B
2 <sup>nd</sup> Week	D C B	A C B	A C B	A D B	A D B	A D C	B D C
3 <sup>rd</sup> Week	B D C	B A C	B A C	B A D	C A D	C A D	C B D
4 <sup>th</sup> Week	C B D	C B A	D B A	D B A	D C A	D C A	D C B
5 <sup>th</sup> Week	A C B	A C B	A D B	A D B	A D C	A D C	B D C
6 <sup>th</sup> Week	B D C	B A C	B A C	B A D	B A D	C A D	C B D
7 <sup>th</sup> Week	C B D	C B A	C B A	D B A	D C A	D C A	D C B
8 <sup>th</sup> Week	D C B	A C B	A D B	A D B	A D C	A D C	B D C
9 <sup>th</sup> Week	B A C	B A C	B A D	B A D	C A D	C A D	C B D
10 <sup>th</sup> Week	C B D	C B A	C B A	D B A	D B A	D C A	D C B

**CAMPAIGN ROTATING SHIFT SCHEDULES**  
**Schedule 1 (cont.)**

11 <sup>th</sup> Week	D	A	A	A	A	A	B
	C	C	C	D	D	D	D
	B	B	B	B	C	C	C
12 <sup>th</sup> Week	B	B	B	B	C	C	C
	D	A	A	A	A	A	B
	C	C	D	D	D	D	D
13 <sup>th</sup> Week	C	C	D	D	D	D	D
	B	B	B	B	C	C	C
	A	A	A	A	A	A	B

The above schedule changes shifts from day shift to swing shift to graveyard shift, in that order. The cycle of shifts is completed with the twelfth (12<sup>th</sup>) week and commences to repeat itself on the thirteenth (13<sup>th</sup>) week.

## Schedule 2

	<u>M</u>	<u>Tu</u>	<u>W</u>	<u>Th</u>	<u>F</u>	<u>Sa</u>	<u>Su</u>
<b>1<sup>st</sup> Week</b>							
A	D	D	D	D	D	Off	Off
B	G	G	G	G	Off	D	D
C	S	S	Off	Off	G	G	G
D	Off	Off	S	S	S	S	S
<b>2<sup>nd</sup> Week</b>							
A	Off	Off	S	S	S	S	S
B	D	D	D	D	D	Off	Off
C	G	G	G	G	Off	D	D
D	S	S	Off	Off	G	G	G
<b>3<sup>rd</sup> Week</b>							
A	S	S	Off	Off	G	G	G
B	Off	Off	S	S	S	S	S
C	D	D	D	D	D	Off	Off
D	G	G	G	G	Off	D	D
<b>4<sup>th</sup> Week</b>							
A	G	G	G	G	Off	D	D
B	S	S	Off	Off	G	G	G
C	Off	Off	S	S	S	S	S
D	D	D	D	D	D	Off	Off

**Schedule 3**

<u>WEEK</u>	<u>SHIFT</u>	<u>MON</u>	<u>TUE</u>	<u>WED</u>	<u>THR</u>	<u>FRI</u>	<u>SAT</u>	<u>SUN</u>
1 <sup>st</sup>	8:00 A.M.	A	A	A	A	A	B	B
	4:00 P.M.	C	D	D	D	D	D	D
	MIDNIGHT	B	B	B	C	C	C	C
2 <sup>nd</sup>	8:00 A.M.	B	B	B	B	B	C	C
	4:00 P.M.	D	A	A	A	A	A	A
	MIDNIGHT	C	C	C	D	D	D	D
3 <sup>rd</sup>	8:00 A.M.	C	C	C	C	C	D	D
	4:00 P.M.	A	B	B	B	B	B	B
	MIDNIGHT	D	D	D	A	A	A	A
4 <sup>th</sup>	8:00 A.M.	D	D	D	D	D	A	A
	4:00 P.M.	B	C	C	C	C	C	C
	MIDNIGHT	A	A	A	B	B	B	B

## HEALTH CARE OPTIONS

### SCHEDULE 2

Product	Plan A	Plan B
Deductible		
Single	\$0	\$250
Single + 1	N/A	N/A
Family	\$0	\$750
Coinsurance	100%	80%
Out-of Pocket		
Single	\$1,500	\$2,500
Single + 1	N/A	N/A
Family	\$3,000	\$5,000
Preventive Care	100%	100%
Office Visit Copays		
Primary Care Phy	\$25 Copay	\$25 Copay
Specialty Phy	\$25 Copay	\$35 Copay
Urgent Care	\$50 Copay	\$50 Copay
Emergency Room	\$100 Copay	\$100 Copay
Outpatient Hospital	\$250 Copay	Deductible then 80%
Inpatient Hospital	\$250 Copay	Deductible then 80%
Lab & X-Ray	100%	Deductible then 80%
CT/MRI/Pet Scans	\$250 Copay	Deductible then 80%
Accidental Injuries	N/A	N/A
Retail Pharmacy	Express Scripts	Express Scripts
Annual Deductible	\$50 per person	\$50 per person
Generic	\$15 Co-pay	\$15 Co-pay
Brand Formulary	\$25 Co-pay	\$25 Co-pay
Non-Formulary	\$50 Co-pay	\$50 Co-pay
RXs over \$1,000	\$100 Co-pay	\$100 Co-pay
Out-of-Network		
Deductible	N/A	\$500/\$1,500
Coinsurance	N/A	60%
Out-of-Pocket	N/A	\$5,000/\$15,000

This is a summary of benefits. The actual Agreement will control.  
 Provider: Blue Cross.

**EXHIBIT A  
SPRECKELS SUGAR COMPANY  
WORK CLASSIFICATIONS AND WAGE SCALE  
BRAWLEY FACTORY**

<b>WORK CLASSIFICATIONS</b>		<b>WAGE PER HOUR</b>				
		<u>1/6/14</u>	<u>1/5/15</u>	<u>1/4/16</u>	<u>1/2/17</u>	<u>1/1/18</u>
<b>MAINTENANCE</b>						
Special Elect/Inst Spec		26.18	26.58	27.13	27.63	28.13
Maint. Spec.		26.18	26.58	27.13	27.63	28.13
Special Elec.		24.07	24.47	24.97	25.47	25.97
Machinist		24.07	24.47	24.97	25.47	25.97
Inst. Tech.		24.07	24.47	24.97	25.47	25.97
Prec. Maint.		24.07	24.47	24.97	25.47	25.97
Tech A-1	House Mech (P&W)***	23.14	23.54	24.04	24.54	25.04
	Pipefitter Welder***	23.14	23.54	24.04	24.54	25.04
Tech A	House Mech (P)****	22.54	22.94	23.44	23.94	24.44
	Equip Mech	22.54	22.94	23.44	23.94	24.44
	Ag Repair Leader	22.54	22.94	23.44	23.94	24.44
	Bldg Maint	22.54	22.94	23.44	23.94	24.44
	Welder	22.54	22.94	23.44	23.94	24.44
<b>TECHNICIANS</b>						
<b>Group A</b>						
Assistant Beet End Leader		22.34	22.69	23.14	23.59	24.04
Boiler House Operator		22.34	22.69	23.14	23.59	24.04
Crane Operator		22.34	22.69	23.14	23.59	24.04
Spray Painter**		22.34	22.69	23.14	23.59	24.04
Storekeeper		22.34	22.69	23.14	23.59	24.04
Sugar Boiler		22.34	22.69	23.14	23.59	24.04
Sugar Warehouse Leader		22.34	22.69	23.14	23.59	24.04
Evaporator and Instrument Controller		22.34	22.69	23.14	23.59	24.04
<b>Group B</b>						
Beet Laboratory Leader		20.07	20.42	20.87	21.32	21.77
Shift Chemist*		20.07	20.42	20.87	21.32	21.77
Yard Leader		20.07	20.42	20.87	21.32	21.77
Packaging Leader		20.07	20.42	20.87	21.32	21.77

**Group C**

Assistant Electrician	18.06	18.41	18.81	19.21	19.61
Centrifugal Operator	18.06	18.41	18.81	19.21	19.61
Extra Station	18.06	18.41	18.81	19.21	19.61
Insulation Leader	18.06	18.41	18.81	19.21	19.61
Kiln Operator (two or more kilns)	18.06	18.41	18.81	19.21	19.61
Lubrication Leader	18.06	18.41	18.81	19.21	19.61
Minor Mechanic and Locomotive Operator (1 <sup>st</sup> year)	18.06	18.41	18.81	19.21	19.61
Tech C      Minor Mech***	18.06	18.41	18.81	19.21	19.61

**STATIONS****Group A-1**

Bulk Bin Operator	14.44	14.69	14.99	15.29	15.59
Mechanic Helper	14.44	14.69	14.99	15.29	15.59

**Group A**

Beet Dump Leader	14.37	14.62	14.92	15.22	15.52
Beet Dump Screening Hauler	14.37	14.62	14.92	15.22	15.52
Coal Handler	14.37	14.62	14.92	15.22	15.52
Crystallizer and Low Raw Stations	14.37	14.62	14.92	15.22	15.52
Diffuser Operator	14.37	14.62	14.92	15.22	15.52
Electrician Helper (entry level)	14.37	14.62	14.92	15.22	15.52
Filter Operator	14.37	14.62	14.92	15.22	15.52
Knife Filer	14.37	14.62	14.92	15.22	15.52
Knife Setter	14.37	14.62	14.92	15.22	15.52
Laboratory Bench	14.37	14.62	14.92	15.22	15.52
Oiler	14.37	14.62	14.92	15.22	15.52
Water Tender	14.37	14.62	14.92	15.22	15.52
Weighperson	14.37	14.62	14.92	15.22	15.52
Station A   Mech Helper (entry level)	14.37	14.62	14.92	15.22	15.52

**Group B-1**

Warehouse General	13.22	13.47	13.77	14.07	14.37
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**Group B**

Assistant Storekeeper	13.17	13.42	13.72	14.02	14.32
Beet Dump Operator	13.17	13.42	13.72	14.02	14.32
Beet Laboratory Bench	13.17	13.42	13.72	14.02	14.32
Granulator	13.17	13.42	13.72	14.02	14.32
Head Flumer	13.17	13.42	13.72	14.02	14.32
Head Sweeper	13.17	13.42	13.72	14.02	14.32
Sampler – Beet Receiving	13.17	13.42	13.72	14.02	14.32
Sewing Room Labor	13.17	13.42	13.72	14.02	14.32
Supply Truck Driver	13.17	13.42	13.72	14.02	14.32
Transport Operator	13.17	13.42	13.72	14.02	14.32
Water Supply and Sewer Tender	13.17	13.42	13.72	14.02	14.32
Pulp Press Attendant	13.17	13.42	13.72	14.02	14.32

**Group C**

Beet Dump Helper	12.21	12.46	12.76	13.06	13.36
Filter Helper (all filters)	12.21	12.46	12.76	13.06	13.36
Flumer (two or more per shift)	12.21	12.46	12.76	13.06	13.36
Knife Station Helper	12.21	12.46	12.76	13.06	13.36
Molasses Loader	12.21	12.46	12.76	13.06	13.36
Sample Carrier	12.21	12.46	12.76	13.06	13.36
Sweeper	12.21	12.46	12.76	13.06	13.36
Yard and Factory Labor	12.21	12.46	12.76	13.06	13.36

\*These rates to be effective as provided in Section XIV.

\*\*All painting (other than spray painting) and painting preparation work will be at the employee's regular classification rate.

\*\*\*Rates red circled for current incumbents.

\*\*\*\*Will move to Tech A-1 upon passing welding test.

The rates herein set forth shall remain in effect for the term hereof.

Technicians' rates are subject to the training schedules attached.

1. The intent of this program is to encourage the development of properly trained mechanical personnel when vacancies occur or are foreseen. Posting of vacancies will be controlled solely by the Employer. Selection and continuation in a given classification will be jointly determined using properly qualified personnel in the given skill as advisors to the Qualifications Committee. Progress reviews will be held every six (6) weeks and Helpers and Minors not making satisfactory progress will be dropped from the Program. Advancement from Helper and Minor to full Technician A jobs will be through vacancy posting and job bidding based on the number of Technician A maintenance personnel required. Promotion of Helpers or Minors will not necessarily create vacancies for another Helper or Minor. Full cooperation of all parties will be necessary for the program to work. The Employer reserves the currently existing right to hire properly qualified outside applicants for Technician A maintenance jobs when, for example, no fully qualified bargaining unit applicants are available.

**\*\*\*Definitions:**

**Specialist – Possess at least 2 of the Level I skills**

Level I – Electrician; Machinist; Instruments; Pipefitter/Welder; House Mechanic (must know welding and precision maintenance techniques); Precision Maintenance Specialist

Level II – Welder; House Mechanic (with precision maintenance techniques); Equipment Mechanic; Building Maintenance Technician; Ag Repair Leader

Level III – Minor Mechanic; Ag Repairperson; Entry level or Trainee

*Precision Maintenance Techniques Required:*

- *Alignments and diagnosis of problem*
- *Precision Measurements (shafts, bearings, clearances, etc).*
- *Screw Conveyor Alignment*
- *Precision Assembly Techniques*

“House Mechanics” will receive rate protection (“red-circled”) for the duration of the Agreement (three (3) years) or until they have received the training necessary to gain appropriate skills and either passed or failed the qualifying test. In the event that the Employer cannot provide the training to any House Mechanic during the duration of the contract, the rate protection shall be extended until such time as the training is offered.

Subject to the terms above, employees currently employed in Maintenance Levels I, II, or III will have their current rate of pay grandfathered for the term of this Agreement or until such time as they transfer to a different position.

**EXHIBIT B**  
**SPRECKELS SUGAR COMPANY**  
**TRAINING SCHEDULE**  
**Technicians**

All employees hired directly into Technicians' classifications shall receive the regular rate of pay.

All employees promoted from Station classifications into Technicians' classifications shall spend thirty (30) working days in Group C of Technicians, or forty-five (45) working days in Group B of Technicians, or sixty (60) working days in group A of Technicians, at the rate of their previous job.

Employees promoted into Group B of Technicians from Group C of Technicians shall spend fifteen (15) working days at the Technicians C rate, after which they shall receive the regular rate of pay.

Employees promoted into Group A of Technicians from Group C of Technicians shall spend thirty (30) working days at the Technicians' C rate, after which they shall receive the regular rate of pay.

No employee shall suffer a reduction in pay as a result of an upward reclassification or promotion.

It shall be within the jurisdiction of the Employer to hire a new employee at the regular rate of pay.

For purposes of determining wage rates within a classification, time spent by an employee in the previous year's campaign will be counted.

No employee is to suffer any reduction in pay or remuneration or loss of benefits by reason of this Training Schedule.

It shall be within the right of the Employer to hire an employee as a student at the student classification rate set forth in the Work Classification and Wage Schedule. Such employee shall remain at the student rate until such time as he/she is assigned to a station or deemed competent to operate a station without supervision of another employee.

The problems arising in the application of this training program shall be handled by the Qualifications Committee or through the regular grievance procedure.

**EXHIBIT C  
PENSION AGREEMENT**

THIS AGREEMENT, made and entered into this 1<sup>ST</sup> day of January, 2014, by and between THE UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 135 (hereinafter referred to as the "Union") and SPRECKELS SUGAR COMPANY, INC. (hereinafter referred to as "Employer").

**WITNESSETH**

WHEREAS, the Employer and the Union desire to further extend the Pension Agreements as last extended, amended, supplemented and reaffirmed as aforesaid, and as presently in effect between the parties, until December 31, 2018;

NOW THEREFORE, in consideration of the respective promises, covenants and agreements of the parties hereto, it is hereby agreed as follows:

1. The Employer hereby does affirm the hereinabove mentioned existing pension agreements for year-round employees with the Union, subject to the exceptions and amendments provided below.
2. Said Pension Agreement, as amended, supplemented and reaffirmed as aforesaid and as presently in effect, is hereby further extended in accordance with the terms hereof and without change until December 31, 2018.

<b>Average Gross Earnings For The Highest Consecutive Five (5) Calendar Years of Employment</b>	<b>Monthly Benefit Unit</b>
Greater than \$40,000	\$38
37,000 to 39,999	37
34,000 to 36,999	36
31,000 to 33,999	35
28,000 to 30,999	34
25,000 to 27,999	33
22,000 to 24,999	29
19,000 to 21,999	27
0 to 18,999	24

1. Unless otherwise herein specifically provided, this Agreement shall be interpreted and administered as between the Employer and the Union.
2. This Agreement is in full settlement of the Union's proposal for a new Pension Agreement.
3. This Pension Agreement shall not be openable for any purpose or in any manner prior to its date of expiration as hereby extended.
4. This Pension Agreement may be renewed after December 31, 2018, for periods of one (1) year, either in the form as it then exists or with changes or amendments in the manner following:

a) If neither party of this Agreement, prior to sixty (60) days before the expiration of the term in existence, notifies the other party in writing of its desire to terminate or make any changes or amendments in said Agreement, then said Agreement shall be automatically extended and renewed for the following year.

b) In the event that either party is desirous of the renewal of this Agreement with any change or amendment, the party desiring such change or amendment shall give notice of the same to the other party not less than sixty (60) days before the expiration of the term then in existence. In the event such change or amendment is agreed to by both parties hereto, before the expiration date of the term then in existence, it shall be incorporated into and made a part of this Agreement, but in the event said parties cannot mutually agree to the acceptance of said change or amendment, or any other change or amendment to take the place of that proposed, this Agreement shall not be renewed for another year, and shall terminate and become null and void upon the expiration of the term then in existence, unless the parties hereto agree to continue negotiations, or to submit the matter in controversy to arbitration. In such instances, this Agreement shall continue in full force and effect pending the negotiations or arbitration.

## **EXHIBIT D SUBSTANCE ABUSE**

### **I. POLICY**

The Employer is concerned about the use of alcohol and drugs in or affecting the work environment. Use, or being under the influence, of alcohol or drugs on the job adversely affects an employee's efficiency, safety, and health, and therefore seriously impairs his/her value as an employee. In addition, it constitutes a potential danger to the welfare of other employees, and exposes the Employer to risks of property loss or damage and of injury to other persons.

### **II. DEFINITIONS**

For purposes of this section:

A. "illegal drugs or other controlled substances" includes drug paraphernalia and includes any drug or substance which:

1. is not legally obtainable; or
2. is legally obtainable but has not been legally obtained.

B. "legal drugs" means **any** drug, including prescription drugs and over-the-counter drugs, which is legally obtainable and has been legally obtained.

C. "alcohol" means the intoxicating agent or drug in fermented or distill liquors, and includes alcoholic beverages of all kinds and any other substance containing alcohol.

D. "under the influence" of alcohol or drugs means that an employee is affected by any drug and/or alcohol in any observable or detectable manner, or tests positive for drugs or alcohol as provided in this policy.

E. "reasonable suspicion" includes a suspicion that is based on an employee's manner, disposition, muscular movement, appearance, behavior, speech or breath odor; information provided to management by an employee, by law enforcement officials, by a security service, or by other persons; or a suspicion that is based on other surrounding circumstances. "Reasonable suspicion" shall be deemed to exist where an employee has been involved in an occupational accident or where the employee has reported with a potential industrial injury.

F. "employer equipment" includes all property, tangible or intangible" that is owned, leased, or used by the Employer or otherwise under the control of the Employer.

G. "employer property" includes all premises and locations owned or leased by the Employer or under the control of the Employer, including parking lots, lockers, and storage areas: all premises and locations at which work is performed by the employer or any of its employees; and Employer vehicles, including both Employer-owned vehicles and private conveyances under circumstances where reimbursement is permissible under Employer policies.

H. “possession” includes both actual and constructive possession:

1. An employee has “actual possession” of a substance if he/she knowingly has direct physical control over it:
2. An employee has “constructive possession” of a substance if he/she has both the power and intention to exercise dominion or control over it either directly or through another person.

### III. PROHIBITED CONDUCT

A. The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol or any illegal drug or other controlled substance, or being under the influence of alcohol or any illegal drug or other controlled substance, while on Employer property, or while conducting or performing Employer business regardless of location, or when operating or responsible for the operation or care of Employer equipment, or when responsible for the safety of other employees or other persons is prohibited and will result in discharge.

B. The abuse of any legal drug, as well as the purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal drug in a manner inconsistent with law while on Employer property, or while conducting or performing Employer business regardless of location, or when operating or responsible for the operation or care of Employer equipment, or when responsible for the safety of other employees or other persons is prohibited and will result in discharge.

### IV. TESTING FOR DRUGS AND ALCOHOL

A. **Testing Based Upon Reasonable Suspicion.** In cases where the Employer has reasonable suspicion to believe that an employee has violated this Policy, the Employer may require that the employee provide a urine and/or blood specimen for laboratory testing. The Employer also may require the employee to provide a breath specimen for laboratory testing.

B. **Return to Work Testing.** An employee not actively employed for a period of thirty (30) or more consecutive days shall be required to submit to drug testing upon returning to work, where the employee’s absence was due to reasons other than worker’s compensation leave, pregnancy leave or other leave provided by statute. Return to work testing shall be conducted within fourteen (14) calendar days of the employee’s return to work.

C. **Applicant Testing.** The Employer may require that applicants for employment submit to a laboratory testing for drugs and alcohol as a condition of obtaining employment. A positive result on such tests will disqualify the applicant from employment.

#### D. General Guidelines.

1. Applicants and employees who are requested to provide urine, breath or blood specimens pursuant to this section will be requested to sign appropriate forms by which they will (1) consent to the test and (2) authorize the testing laboratory to release the test results to the Employer.

2. A request that an employee provide a specimen for laboratory testing pursuant to this section should be withdrawn whenever the employee, before providing the specimen, voluntarily resigns employment or admits that he/she has used or is under the influence of a drug or alcohol in violation of this Policy.
3. The employee's failure to provide a specimen and enable information concerning the specimen to be released to the Employer creates an irrebuttable presumption of being under the influence, and will result in discharge.
4. Any employee who, in response to a request made pursuant to this section, submits a specimen that is not his/her own specimen or who submits an altered or adulterated specimen will be discharged.
5. The blood or urine samples obtained pursuant to this section shall be handled in a manner that will reasonable ensure the reliability of the results of the laboratory testing.

**E. Positive Test Results.** If the result of any initial drug screening test that is conducted pursuant to this section, whether for applicants or employees, is positive, the test will be confirmed by gas chromatography/mass spectrometry.

**F. Action Based Upon Test Results.**

1. A positive test for prohibited drugs will conclusively establish a violation of this Policy and will result in discharge.
2. If the test results show a blood/alcohol concentration equal to or exceeding 0.05 percent, the employee shall be discharged.
3. No disciplinary action imposed under this Policy that is based upon positive test results may be challenged on the ground that the drug or alcohol detected was ingested off the job.
4. No disciplinary action imposed under this Policy that is based upon positive test results may be challenged on the ground that "reasonable suspicion" did not exist for the test.

**G. Confirmatory Test.** If an employee tests positive for any illegal drugs or other controlled substances, the employee may within seventy-two (72) hours of receiving notification of the initial test result, request, at his/her expense, confirmatory retest. The employee shall pay the cost of the confirmatory test in advance. In the event the confirmatory test produced a negative result, the Employer will reimburse the employee for the cost of the confirmatory test. The results of the confirmatory test shall control.