

RENDERING AGREEMENT

BETWEEN

UNITED FOOD AND COMMERCIAL WORKERS  
LOCAL 770

and

BAKER COMMODITIES INC.

AUGUST 29, 2016 – to SEPTEMBER 1, 2019

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AGREEMENT

THIS AGREEMENT, made and entered into this 18th day of October, 2016, by and between BAKER COMMODITIES INC., hereinafter referred to as the Employer, and UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL NO. 770, affiliated with UNITED FOOD AND COMMERCIAL WORKERS UNION, hereinafter referred to as the Union. It is in the mutual interest of the Employer and the Union to provide for a schedule of wage rates and working conditions for employees of the Employer within the jurisdiction of the Union.

ARTICLE 1  
Recognition and Union Shop

1.1 For purposes of collective bargaining as to wages, hours and working conditions, the Employer recognizes the Union as the representative of all of the Employer's production workers except as hereinafter set forth. Excluded from the coverage of this Agreement are all other employees in classifications presently represented for purposes of collective bargaining by the International Union of Operating Engineers and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and all office and clerical workers, guards, shift supervisors and supervisory employees.

1.2 It is mutually agreed that only employees doing work that arises under the jurisdiction of the Union shall be allowed to perform work as provided for in this Agreement.

1.3 All employees covered by this Agreement shall, on or immediately following thirty (30) days after their employment or on or immediately following thirty (30) days after the signing of this Agreement, whichever is later, become members of the Union and retain such membership in good standing as a condition of employment. "Membership in good standing" shall mean an employee who tenders the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership. The Union agrees to accept said employees into membership on the same terms and conditions generally applicable to other members.

It shall be the duty of the Employer to notify all new employees that they must become members of the Union on the thirty-first (31st) calendar day after the date of their employment by providing a copy of this agreement to all new employees.

1.4 The Employer agrees to notify the Union of the number and classification of new employees or additional employees needed. The Employer will consider the applicants referred by the Union, together with any other applicants. No applicant will be preferred or discriminated against by the Employer because of membership or non-membership in the Union and the Employer reserves the right to reject any applicant.

1.5 The Employer agrees to notify the Union promptly of all terminations, layoffs, hires,

rehires and other changes in the status of personnel working under the terms of this Agreement, such notice to be forwarded to the office of the Union within one (1) week after the effective date of such change.

- 1.6 A duly authorized representative of the Union shall have the privilege, during working hours, of contacting employees covered by this Agreement. Such representative shall, at all times, carry credentials showing his authority, and these credentials shall be displayed at any time upon request from the Employer. The Union agrees that such representative shall avoid all unnecessary visits, particularly during rush hours, and that in no event shall such representative be permitted to unreasonably interfere with production. The Union agrees further that any duly authorized representative of the Union who visits the plant must check in first with the Front Office and be announced to the Plant Superintendent or his designee before entering the plant.
- 1.7 The Employer agrees to prominently display the Union Shop Card at all times in at least one conspicuous place.
- 1.8 The Employer agrees to deduct from the pay of all employees covered by this Agreement, who furnish to it a written authorization, the dues of the Union and to remit such dues to the Union no later than the end of the calendar month following the month in which the dues are deducted. The Employer shall deduct voluntary political contributions from the paychecks of the employees in accordance with their written authorization and remit the same to the Union as provided above.

The Union shall certify to the Employer in writing each month a list of its members working for the Employer who have furnished to the Employer the required authorization, together with an itemized statement of dues owed and to be deducted for such month from the pay of such members, and the Employer shall deduct such amount from the first pay check following receipt of the statement of certification of the member and remit to the Union in one lump sum.

The Employer shall add to the list submitted by the Union the names of all regular new employees hired since the last list was submitted and delete the names of employees who are no longer employed.

The Union shall indemnify and save the Employer harmless against any and all claims, demands, suits and other forms of liability or loss that shall arise out of or by reason of application of the foregoing check off provisions, including but not limited to attorneys fees and litigation costs.

- 1.9 The Company recognizes the right of the Union to designate shop stewards from the seniority list of its regular employees. The authority of the shop steward so designated by the Union shall include, but not be limited to, the following duties and activities:

- a. The investigation and presentation of grievances in accordance with the provisions of the collective bargaining agreement;
- b. The collection of dues when authorized by appropriate Local Union action;
- c. The transmission of such messages and information which shall originate with, and are authorized by the Local Union or its officers provided such messages and information:
  - (1) Have been reduced to writing, or if not reduced to writing are of a routine nature and do not involve work stoppages, slowdowns, refusal to handle goods, or any other interference with the Company's business;
  - (2) The steward has no authority to take strike action, or any other action interrupting the Company's business, except as authorized by official action of the Union;
  - (3) The Company recognizes these limitations upon the authority of the job steward, and shall not hold the Union liable for any unauthorized acts. The Company in so recognizing such limitations shall have the authority to impose proper discipline, including discharge, in the event the steward has taken unauthorized strike action, slowdown, or work stoppage in violation of this Agreement.

ARTICLE 2  
Strikes and Lockouts

2.1 2.1 During the term of this Agreement, the Union shall not authorize, cause, engage in, sanction or assist in any slow down, work stoppage, refusal to perform services or strike against the Employer, and the Employer shall not cause, permit or engage in any lockout of the employees covered by this Agreement.

2.2 The Employer agrees that it will not require any employee to cross a lawful picket line. The Employer will not discipline, discharge or otherwise discriminate in any way against any employee who refuses to cross a lawful picket line. The Employer will have the ability to temporarily replace employees who refuse to cross a lawful picket line during an economic strike, in accordance with National Labor Relations Board policy.

ARTICLE 3  
Bulletin Board

- 3.1 The Employer shall establish and maintain a bulletin board conveniently accessible to the employees for the posting by the Union, and only by the Union, of official Union notices not of a political character.

ARTICLE 4  
Working Conditions

- 4.1 It shall be the responsibility of each employee covered by this Agreement to notify the Employer of any changes of address and/or phone number within seven (7) calendar days after such change of address is effective. The employer will periodically remind employees of this requirement by putting a notice on the employee's check stub.
- 4.2 The Employer will provide five (5) changes of clothes per week. The employee is responsible for his uniforms and any lost or stolen uniform replacement costs will be paid for by the employee (unless in the case of theft, the uniform was stolen from a secured place for uniforms which the Company had supplied and the employee had used). Employees are not permitted to remove uniforms from Company property.

The Employer will provide \$100 per year for those employees who are required to purchase and wear their own boots and \$50 per year for those employees who are provided rubber boots in the course of their duties (e.g., water plant, star grease, feed fat, etc.). Such allowance will be paid out annually to active employees during the first two weeks of October.

ARTICLE 5  
Paid Sickness and Disability Leave

- 5.1 Computed from his anniversary date of employment, each employee covered by this Agreement shall be eligible for sickness and disability leave benefits solely in accordance with the following:

- (a) Sickness and Non Industrial Accident Eligibility -- After one continuous year of employment.

Payment begins - If an employee has accumulated thirty (30) days of sick leave and has gone for six (6) months without using any sick leave benefits, sick leave benefits shall be payable commencing on the first (1<sup>st</sup>) working day; otherwise, sick leave benefits shall be payable commencing with the second (2<sup>nd</sup>) working day in each instance if satisfactory proof of illness (as defined in Section 5 below) is provided; if not, Third day in each instance

(but first day if employee is hospitalized).

- (b) Industrial Accident Eligibility -- First day of employment but not to exceed six (6) days at any time during the first two (2) years of continuous employment.

Payment begins - First Day in each instance.

- 5.2 An employee shall accumulate six (6) days sickness and disability leave each year and may accumulate his unused sickness and disability leave but in no event shall such accumulated leave exceed a total of forty-two (42) days.
- 5.3 Beginning with the first (1st), second (2nd) or third (3rd) day under Section 5.1 (a) above (whichever is applicable) for sickness and non industrial accident, the amount payable for sickness and non industrial leave shall be the amount the employee would have earned at his straight time rate on his regular shift had he not been sick or disabled, less any amount he received or is entitled to receive from State Disability Insurance, State approved private disability insurance, or Workers' Compensation. However, during any year of employment, an employee's paid sickness and disability leave shall never exceed forty-two (42) days at his straight time rate on his regular shift.

The provision for the integration of sick leave pay with unemployment compensation, disability benefits and Workers' Compensation temporary disability benefits shall mean that the sum of the daily sick leave allowance hereunder and the aforesaid state disability daily benefits, exclusive of daily hospital benefits which may be payable to an employee, shall equal 100% of the employee's regular daily wage at straight time. If the sick leave allowable to an employee when so combined with State benefits exceeds 100% of his regular daily rate at straight time for any one day, then such sick leave pay allowance not received by the employee by reason of any such reduction shall be retained in the employee's sick leave pay account as part of his sick leave pay credits.

It shall be the responsibility of an employee who is absent for any period in excess of one (1) day to inform the Employer one (1) working day in advance of his intended return. It shall be the responsibility of an employee absent in excess of one (1) week to inform the Employer of his intent to return on the Thursday preceding his return.

- 5.4 Paid sickness and disability leave is not convertible to a cash bonus but is solely for the purpose of providing sickness or disability benefits; except that, if, after accumulating forty-two (42) days of unused sickness and disability leave, an employee does not use any paid sickness and disability leave in the next year, so that he then has forty-eight (48) days of unused sickness and disability leave, he shall be paid in cash for six (6) of those days at his then straight time rate of pay and shall retain forty-two (42) of those days as accumulated sickness and disability leave; and further excepted that if an employee retires from the company

such that he leaves the company's employment and immediately commences drawing his pension, he shall be entitled to receive upon such retirement 75% of his accumulated sick leave as a cash bonus, provided that the cash bonus shall be increased to 100% if the employee has the maximum accrual (forty-two (42) days) of sick leave at any time within the six months prior to retirement.

- 5.5 The Employer may request any employee who has been absent for more than 3 days to submit reasonable proof of sickness or disability. "Reasonable proof" may take the following form: (1) a certificate brought from the employee's own doctor stating the fact of the visit and a return to work date; or (2) a certificate mailed to the Company by the employee's own doctor stating that he received a call from the employee and the employee's return to work date; or (3) a certification by the employee on a form supplied by the Company on which he affirms that he was ill but did not consult with or see any doctor. Any fraudulent use of sickness or disability leave shall be considered sufficient cause for discharge.
- 5.6 In the case of an industrial accident where the Employer directs the employee to visit the doctor on the date of the injury, and the doctor advises such employee that he should not return to work on such day, then and in such event such employee shall be paid for the balance of such day not worked at his regular straight-time hourly rate of pay, such pay not to be charged to sick leave.

## ARTICLE 6 Health and Welfare

- 6.1 Employees and their dependents shall be covered by the Western Alliance Trust Fund, which shall provide benefits through Kaiser for medical, MIDA for dental and Davis for vision. Effective October 1, 2016, employees and their dependents shall remain on the Kaiser \$20 office visit co-pay plan at a monthly cost of \$1,089.15, which is sufficient to cover 100% of the H & W benefits at the date of this agreement. Said amount shall be paid by the Employer. H & W benefits for new employees shall be effective as of the first of the month following 60 days (90 days if allowed by federal and state law) of employment.
- 6.2 It is the expressed intent of the parties to this Agreement that no retiree Health and Welfare benefits be created by the language contained in this Agreement. If any such benefits are created, they are only for the term of this Agreement. It is also the intent of the parties that in no event shall any employee, former employee or retiree obtain any vested right to future Health and Welfare benefits as a result of this Agreement.
- 6.3 The parties hereby instruct the Trustees of the Trust to amend all plan documents and any other materials distributed to employees, former employees or retirees by inserting the language of Section 6.2 of this Article.
- 6.4 The Employer's payments to said Trust shall be made on or before the fifteenth



(15) day of the month following any month for which payments are due, and such payments shall be for the purpose of providing insurance and welfare benefits for employees covered by this Agreement and their dependents. Any failure by the Employer to make the above specified payments when due shall constitute a material breach of this Agreement.

- 6.5 Should it be actuarially determined by the Trustees of the Trust that additional contributions are necessary to maintain the level of benefits and the quality of providers that existed on the date of ratification of this agreement, the employer agrees to increase its monthly contribution up to \$1133.81 per month for calendar year 2017, \$1,246.80 for calendar year 2018 and \$1,346.54 for the balance of the contract term in order to maintain benefits. Any unused MOB from any year will be carried forward to the next year. Any unused MOB at the end of the contract term will be carried forward to the next contract term to be used to cover future increases in excess of provided rate caps. In the event of an increase in the cost of Health and Welfare benefits in excess of the MOB agreed to by the Employer (including any carry forward from prior years), the employees shall pay excess cost of maintaining such benefits; provided however, the employer shall establish a \$1,000 Excess MOB Fund for each employee which will be used to cover any required employee contributions until such fund is exhausted. If any money remains in the Excess MOB Fund at the end of the contract term, 50% of the remainder will be paid to the employees and 50% will be refunded to the Employer. New hires shall be credited with the Excess MOB Fund balance of the other employees on the new hire's date of employment. Terminated employees shall not be entitled to any distribution at the end of the contract term.
- 6.6 **ACCEPTANCE OF TRUST:** The parties hereby agree to accept, and to be bound by, the terms of the existing Declaration of Trust providing for the Western Alliance Trust Fund, required to accomplish the provisions of this Collective Bargaining Agreement, together with any amendments which may be made from time to time to the Trust, and to become parties to the Trust. The parties hereby agree to sign the appropriate Trust Acceptance Agreement in order to implement this article.
- 6.7 **EMPLOYER CONTRIBUTIONS:** The Employer hereby agrees to contribute to the Western Alliance Trust, for purpose of providing Medical, Dental, Vision and Life and Accidental Death & Dismemberment coverage for each full-time employee and their eligible dependents. Contributions shall be payable to the Western Alliance Trust on or before the 20th of the month preceding the month of coverage and shall be deemed delinquent if not received before the 1st day of the month for which coverage is provided.
- 6.8 **ENROLLMENT:** Employer is responsible for the timely enrollment and reporting of all eligible Employees, in accordance with the effective date of coverage. The Employer is responsible for the full contribution for any un-enrolled Employee, just as the Employer would be responsible for the full contribution for an Employee who properly enrolled.

- 6.9 **ELIGIBLE EMPLOYEE:** For purposes of this Agreement a regular full-time employee is defined as a full-time employee who is on the payroll on the first (1st) day of the month and who has completed at least 60 days (90 days if allowed by federal and state law) of continuous employment. Eligible employees shall enroll in the plans offered in accordance with the rules of the Trust. All eligible full time employees shall be covered, unless a Trust Fund waiver of benefits is in effect as provided below in Section 4.
- 6.10 **WAIVER OF COVERAGE:** Eligible employees may waive their Group Health & Welfare benefits based on having met the following three (3) conditions:
1. Employee is required to make a premium contribution;
  2. Employee must submit a completed Trust Waiver form;
  3. Employee must submit proof of other group health coverage.
- For purposes of this Waiver of Benefits, and in accordance with Trust Fund rules, Life and Accidental Death & Dismemberment coverage in excess of the basic \$2,000 offered as part of the medical may not be waived. Each full-time employee must be covered for the Term Life Benefit, including a spouse in the same employment covered by this Agreement.
- 6.11 **MAINTENANCE OF BENEFITS:** If the costs of benefits are increased during the term of this Agreement, as determined by the Trustees of the Trust, the Company agrees to pay one-hundred percent (100%) of said cost, less any the Employee Contribution.
- 6.12 **EMPLOYEE CONTRIBUTION:** Employee shall pay, through payroll deduction, their share of contributions each month, for coverage, as provided herein.
- 6.13 **COMPLIANCE AUDITS:** Employer acknowledges that the Trust may conduct compliance audits of the Employer and that the Employer has an obligation to cooperate with the Trust's representatives in connection with such compliance audits. Employer further acknowledges and understands that in the event a Trust audit results in a finding that Employer has failed to remit any required contributions, the Employer will be required to immediately remit any delinquent contributions, plus any applicable interest and/or liquidated damages assessed pursuant the Trust Agreement and/or Rules and Regulations. In addition the Employer could be responsible to reimburse the Trust for the cost of the audit, legal, administrative and other fees incurred or imposed by the Trust in connection with the audit.
- 6.14 **AFFORDABLE CARE ACT COMPLIANCE:** The Union hereby confirms, now and at all times during this agreement, that the Western Alliance Trust Fund (or any other fund chosen by the Union) offers medical benefits which comply with the requirements of the Patient Protection and Affordable Care Act ("ACA"), including, but not limited to: (a) coverage within 90 days of commencement of employment, (b) at least one plan option which meets or exceeds the ACA's

Minimum Essential Coverage Actuarial Value requirement (i.e., covers at least 60% of the employee's health benefits), and (c) coverage that meets the ACA's Affordability Requirement (i.e., the employee's contribution for a single coverage option is no greater than 9.5% of their household income).

## ARTICLE 7 Pension Plan

- 7.1 Effective January 1, 1986 and continuing for the term of this agreement, pension benefits for the Employees shall be provided by the Baker Commodities Inc. Hourly Pension Plan.
- 7.2 Effective September 1, 1998, the Employees shall be entitled to a unit benefit of \$60 for all service after December 31, 1985. Those employee who retired before September 1, 1998 shall be entitled to a \$40 unit benefit for all service after January 1, 1986 and before January 1, 1992 and a \$50 unit benefit for all service after December 31, 1991 and before September 1, 1998. Effective August 1, 2001, the pension unit benefit shall be increased from \$60 to \$70 for all service after December 31, 1985. Effective September 1, 2010, for all employees hired after such date the pension unit benefit will be \$50 per month per year of service; provided however, that this provision shall not apply to employees hired prior to such effective date.
- 7.3 For vesting purposes, the Employees shall receive credited vesting service for all service with the company.
- 7.4 Effective September 1, 2013, past pension accruals for bargaining unit members in the Baker Commodities Hourly Pension Plan shall be frozen and future accruals from the Baker Commodities Hourly Pension Plan will cease. For employees who are not fully vested in the Pension Plan, vesting service (but not service credit) will continue to accrue as long as they continue employment until such time as they become fully vested.
- 7.5 Effective September 1, 2013, the Employer will participate in the UFCW International Union-Industry Pension Fund at a contribution rate of \$100 per month for each bargaining unit employee who works 25 hours or more in the month. Effective September 1, 2016, the Employer will increase the contribution rate to \$130 per month for each bargaining unit employee who works 25 hours or more in the month.
- 7.6 Effective September 1, 2013, or as soon thereafter as feasible, the Employer will allow bargaining unit employees to participate in the Baker Commodities 401(k) Retirement Plan.

## ARTICLE 8

## Seniority

- 8.1 Plant seniority shall be measured from an employee's most recent date of hire. Employees shall acquire plant seniority only upon satisfactory completion of the probationary period provided for in Article 11, at which time their plant seniority shall date from their most recent date of hire.
- 8.2 Classification seniority shall be measured from the employee's most recent date of entering into the classification.
- 8.2 On layoff and recall, assuming ability to satisfactorily perform the work, employees shall be laid off and recalled in order of their plant seniority, the most junior employee to be the first laid off and the most senior employee on layoff to be the first recalled. In any layoff situation, an employee shall be deemed "able to satisfactorily perform the work" of the position he holds on the date of layoff or any other lower bracket position.
- 8.3 A permanent vacancy in a job classification shall be posted by the Employer on its plant bulletin board for a period of twenty-four (24) hours and any employee within such classification may, within such twenty-four (24) hour period, submit written application on a form supplied by Employer and thereby be considered for such vacancy. Notwithstanding the foregoing, no employee may bid on or be eligible for promotion or assignment to a vacancy unless he has worked on his current job for at least one (1) calendar year or obtains the express permission of the Employer, provided, however, an employee may bid on an opening in his same job classification on another shift. In any case where no employee within the classification has applied to fill a permanent vacancy, the opening shall be reposted by the Employer on its plant bulletin board for a period of twenty-four (24) hours and any employee may, within such twenty-four (24) hour period, submit written application on a form supplied by Employer and thereby be considered for such vacancy. In the event no employee bids on the reposting the employer reserves the right to assign either the least senior qualified employee to the position or to hire a new employee for the position. In situations involving plant or classification seniority, assuming ability and aptitude are relatively equal, preference will be given to the applicant with the greatest seniority. If two or more equally qualified applicants have the same seniority, the employee whose clock time is earlier on his seniority starting date shall be given preference. If such clock time is identical, the determination shall be made by toss of a coin. For the purpose of this Section 8.3, a permanent vacancy in a job classification shall mean a vacancy of more than three (3) months' duration. The Employer and the Union shall meet to formulate a comprehensive cross-training program in order to facilitate promotion and recall rights based upon seniority.
- 8.4 Assuming ability and aptitude are relatively equal; employees with the greatest classification seniority will be given preference in shift assignment and in filling a temporary vacancy in a job classification. For the purpose of this Section 8.4, a temporary vacancy in a job classification shall mean a vacancy of three (3)

months' or less duration.

8.5 An employee promoted or advanced to a higher paying job classification shall receive the rate of such higher paying classification. If, within thirty (30) days, an employee fails to fulfill the requirements of a new job classification, (or if an employee has been replacing another employee absent for more than three (3) months on sickness or disability leave or other authorized leave of absence), such employee in the new job classification (or such replacement employee) shall be returned to his previously held job classification without loss of seniority and his pay rate shall be adjusted to the rate of the classification in which he is working. In addition, any employee who bids for a job in a lower paying job classification shall have his pay rate adjusted to the rate of the classification in which he is working.

8.6 Seniority shall be lost for the following reasons only:

- (a) Voluntary quitting.
- (b) Discharge for just and sufficient cause.
- (c) Failure to report to work within three (3) working days following recovery from sickness or disability or after an authorized leave.
- (d) Failure to report to the Employer for reinstatement after layoff within five (5) working days after being advised by telephone, telegram or registered letter to report for work; or failure to keep the Company and the Union advised, while on recall status, of an address where the employee can be contacted for purposes of recall.
- (e) Absence due to:
  - (1) Layoff for a period of more than one (1) year.
  - (2) Leave of absence for non industrial sickness or accident for a period of more than six (6) months; provided that at the end of that period, the Company and the Union shall review the condition of the employee and an extension of the leave shall be granted if the parties determine that there is a reasonable likelihood that the employee will be fully able to return to his regular job at the end of the extension.
  - (3) Leave of absence due to industrial illness or accident for a period of more than one (1) year, subject to the same review and extension rights, at the end of that one year period, as are provided in (2) above.

ARTICLE 9  
Leaves of Absence

- 9.1 For good and sufficient cause, the Employer may grant unpaid leaves of absence for a reasonable period, and the Employer agrees not to withhold such permission unreasonably. All such authorized leaves of absence shall be in writing with a copy for the employee and the Union.
- 9.2 An unpaid leave of absence may be extended if the Employer's written permission for an extension is secured, and the Employer agrees not to withhold such permission unreasonably.
- 9.3 Any employee, who accepts other employment while on a leave of absence pursuant to this Article, or while on sickness or disability leave pursuant to Article 5, may be terminated and discharged by the Employer.
- 9.4 The Employer agrees to grant a six (6) month leave of absence, to not more than one (1) employee during the term of this agreement, for the purpose of working for the Union as an union organizer.

ARTICLE 10  
Funeral Leave

- 10.1 If necessary for an employee to lose time from work because of death in the immediate family of such employee, he shall be entitled to three (3) days paid leave of absence, (eight [8] hours per day straight time). If necessary, such employee shall be entitled to an additional two (2) days' leave of absence without pay. "Immediate family" is defined to mean an employee's father, mother, current father-in-law, current mother-in-law, spouse, sister, brother or children (including legally adopted children), and grandparents. The Employer may require the employee to provide reasonable proof of death as a condition to receiving the paid leave of absence.

ARTICLE 11  
Probationary Employees

- 11.1 A new employee shall be on probation during the first ninety (90) days worked for the Employer, during which period, if his performance is not satisfactory to the Employer, he may be terminated. Such a termination during said probationary period shall not be subject to review through the grievance and arbitration procedure provided for in Article 12. However, if the employee continues working past the completion of his probationary period his seniority shall commence as of the first day of employment.

ARTICLE 12  
Grievance and Arbitration Procedure

- 12.1 A grievance shall be defined as any dispute between the Employer and the Union or between the Employer and an employee concerning the interpretation or application of any of the terms of this Agreement, and all grievances must be filed in writing with the Plant Superintendent and processed in accordance with the procedure hereinafter set forth.
- 12.2 Grievances concerning alleged improper discharge must be presented within five (5) working days after the employee has received notice of discharge. Other grievances shall be without effect unless presented within six (6) working days from the date of the act or omission which is the basis of the grievance, unless it is impossible to know of such act or omission within said six (6) working days, in which event the grievance must be presented within six (6) working days after notice of such act or omission is first obtained by either the Union or the aggrieved employee. Also within said six (6) working days, in the case of grievances not concerning alleged improper discharge, the aggrieved employee, individually or through his Union Steward, shall discuss the grievance with the Plant Superintendent, or the latter's designated representative.
- 12.3 Grievances concerning alleged improper discharge and other grievances not settled under Section 12.2 of this Article, shall be discussed between the aggrieved employee individually or the Business Agent of the Union and the Union Steward involved, or their designated representative, representing the Union, and the Plant Superintendent or his designated representative, representing the Employer. Each discussion shall take place within the five (5) working days presentation period provided for in Section 12.2 of this Article in the case of grievances concerning alleged improper discharge, and such discussion shall take place within six (6) working days after failure to reach a settlement in the case of other grievances not settled under Section 12.2 of this Article.
- 12.4 If no settlement is reached under Section 12.3 of this Article, then within ten (10) working days thereafter, the Union may file with the employer a written notice of appeal to arbitration, and thereupon the parties shall enter into a submission agreement that shall clearly state the arbitrable issue or issues to be decided. If the parties are unable to agree on a joint statement of arbitrable issues, this submission shall contain the Union's or employee's statement of issues and the Employer's statement of issues, with the notation that the parties could not agree thereon.
- 12.5 If a notice of appeal to arbitration is filed within ten (10) working days after failure to reach a settlement under Section 12.3 of this Article, then also within said ten (10) working days the parties shall meet for the purpose of selecting an arbitrator. If at such meeting the parties are unable to agree upon an arbitrator, an arbitrator shall be selected from a panel of arbitrators submitted by the Federal Mediation and Conciliation Service by alternate striking of names until one (1) remains. The party who strikes the first name shall be determined by lot.

- 12.6 The decision of the arbitrator, subject to any remedies of the parties at law, shall be final and binding on the parties, and such shall be within the scope and terms of this Agreement, and shall not add to, subtract from, alter or change the scope and terms of this Agreement. The decision of the arbitrator must be made within thirty (30) days after hearing and the submission of briefs, if any.
- 12.7 In any arbitration involving a claim for retroactive pay, the Employer shall not be liable for retroactive pay for any periods of extension or delay (during the grievance and arbitration proceedings), requested formally or informally, by the Union or the employee.
- 12.8 The arbitrator shall be empowered to determine the time and place of hearing, if the parties cannot agree. During the hearing before the arbitrator, each party shall have full opportunity to present evidence and argument, both oral and documentary.
- 12.9 Subject to the provisions of Section 12.7, whatever amount of retroactive pay, if any, an employee may be found entitled to receive, shall be based upon the average number of hours, whether eight (8) or less or more per day, worked by the employee who replaced the discharge employee during the period to which such retroactive pay is applied.
- 12.10 Except as provided in Section 12.13 below, the grievance and arbitration procedure set forth in this Article shall constitute the sole and exclusive method of adjustment and settlement between the parties of any and all grievances as herein defined.
- 12.11 The time limits specified in this Article may be extended in writing by mutual agreement between the Employer and the Union.
- 12.12 All expenses, including the fees and expenses of the arbitrator, and all other expenses deemed necessary by the arbitrator for the proper conduct of the proceedings, including the cost of transcript if necessary, shall be borne by and divided equally between the parties to the arbitration. Any expenses connected with the calling of any witness shall be borne by the party calling the witness.
- 12.13 In case of a dispute between the parties with respect to contagious diseases, the appropriate City or County Health Officer shall be the final authority in determining the physical fitness of any employee or employees.

ARTICLE 13  
Discharge and Discipline

- 13.1 No employee shall be disciplined, discharged or discriminated against by reason of his activities in or representation of the Union.