

**COLLECTIVE BARGAINING AGREEMENT**

*By and Between*

**NEW HORIZON FOODS, INC.  
(LAKESHORE)**

*and*

**UNITED FOOD AND COMMERCIAL WORKERS UNION  
LOCAL #1189**



**October 1<sup>st</sup>, 2012 to & including September 30<sup>th</sup>, 2013**

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(LAKESHORE)**

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THIS AGREEMENT made on this **first (1<sup>st</sup>)** day of **October 2012**, by and between New Horizon Foods, Inc., hereinafter described as the Employer, and the United Food and Commercial Workers Union, Local #1189, Duluth, Minnesota, chartered by the United Food and Commercial Workers International Union, hereinafter described as the Union.

## UNION MANAGEMENT RELATIONSHIP

In consideration of the mutual promises herein contained and for the purpose of creating a working agreement by and between the Employer and its employees and the Union, the parties hereto mutually covenant and agree to and with each other as follows:

### ARTICLE I RECOGNITION OF UNION

- 1.1 The Employer recognizes the Union as the sole representative and exclusive bargaining agent for all its full-time and part-time employees in the Food Services Department at 4002 London Road, Duluth, Minnesota. It is also the sole representative and exclusive bargaining agency for all employees in the Dietary Department with the exception of supervisory personnel, as defined by the National Labor Relations Act, as amended.
- 1.2 All present employees covered by this Agreement, who on the date of the execution of this instrument, were members of the Union in good standing in accordance with its Constitution and Bylaws, and all present employees covered by this Agreement shall become members after that date, and all new employees covered by this Agreement after thirty-one (31) days of employment shall, as a condition of employment maintain their membership in the Union in good standing for the duration of this Agreement.
- 1.3 Employees covered by this Agreement, on the date of hire, shall complete and sign applications for membership in the Union and authorization for the deduction of Union dues and initiation fees. Such forms are to become valid on the thirty-first (31<sup>st</sup>) calendar day following date of hire. Regular deductions will be made by the Employer from the wages of employees each payroll period and transmitted to the Union by the 15<sup>th</sup> of the month following the month deductions were taken. The Employer and the Union shall, by mutual agreement, be authorized to alter or amend the functional procedures herein, if necessary.
- 1.4 In the event no wages are then due the employee, the deduction for such month shall be made from the first wages next due the employee.

- 1.5 The Employer agrees, under the Contract requirements above, to have each new employee covered by this Agreement complete a Union Membership Card and a Dues Deduction Authorization Card at the time of hire and to remit them with the initial dues deducted to the union office.
- 1.6 The Employer shall provide to the Union a list of new employees with their names, classification and home address when they are hired.

## **ARTICLE II** **MANAGEMENT'S RIGHTS**

- 2.1 It is agreed that the role of Management is to ensure the ongoing proper execution of daily operations and all decisions regarding the same. As such, it is to be expected that management may engage in the following:
  - Food production and service as needed for special events or when no other qualified bargaining unit employees are available for that shift.
  - Participation in kitchen sanitation and upkeep as needed.
  - Training of new employees. New employees to receive a minimum two (2) day orientation-Trainee/Trainer/Supervisor will meet to determine if additional training is needed.
  - Discipline of employees for just cause.
  - **The Employer reserves the right to develop new policies and procedures and to amend or change existing policies and procedures providing the new or changed policies or procedures do not conflict with any provision of the contract. This does not remove the right of the union to object to policies or procedures they find unreasonable.**
  - This list is not inclusive of all potential roles management may need to fill as a result of changing client expectations. Emergencies may require management action to deal with the emergency on a non-precedent setting basis.

## **ARTICLE III** **HOURS OF WORK**

- 3.1 The normal hours of work shall be eight (8) per day and eighty (80) in each two (2) week period. All hours worked in excess of eight (8) hours per day or eighty (80) hours in each two (2) week work period shall be considered overtime and shall be compensated for at time and one-half (1½) rate. All work performed on the seventh (7<sup>th</sup>) consecutive day shall be compensated for at time and one-half (1½) rate. All work performed after seven (7) consecutive days shall be at double time (2x). Whenever possible, the employee shall be scheduled for a work week of five (5) consecutive days, but in no event more than seven (7) days consecutively except in an emergency. Any variation in scheduling must be by agreement of the employee and Employer.

- 3.2 Work schedules for one (1) month shall be posted one week in advance and shall remain posted. Once the schedule is posted, no changes shall be made unless agreed to by the employee.

Employees will find their own replacement except for emergencies or other reasons covered by this Agreement. (ie., Jury Duty) Part-time employees shall be scheduled for all additional hours above their assigned hours by seniority, if they notify the Employer in writing that they want additional hours. A two-week schedule can be used if okayed by management and the Union.

- 3.3 Employees notified to report for work outside their regular work schedule, and with less than eight (8) hours' notice, shall be furnished a meal by the Employer.
- 3.4 If an employee is called in to work with less than one (1) hour's notice, the employee will be allowed up to one (1) hour from the time the employee was called to report for the shift for which called and be paid for the full shift.
- 3.5 An employee reporting for work at their regular scheduled starting time who has not been previously notified not to report for work shall receive a minimum of four (4) hours' work that day or four (4) hours' straight time in lieu thereof. A bona fide attempt by the Employer to contact the employee shall be taken as notice under this provision.
- 3.6 If the employees are assigned by their supervisor to work duties of a higher grade of pay for a period of four (4) hours or longer, they shall receive pay for an eight (8) hour shift at the higher grade of pay; this shall also include vacations.
- 3.7 For the purposes of this section, Time Off shall be defined as time before or after an employees' regular scheduled shift and Day Off shall be defined to mean a calendar day when an employee is not scheduled to work. Employees attending required inservice training on their time off shall be compensated at straight time or overtime rates as provided for in Section 3.1 above.

Employees attending required inservice training on their day off shall be guaranteed two (2) hours' pay or actual time spent at the inservice, whichever is greater, at straight time rates. Any employee who attends a non-mandatory meeting or inservice during their time off or on a day off shall not be paid for time spent at such non-mandatory meeting or inservice.

- 3.8 Weekend Call-Ins: Employees who call in on weekends will be subject to the following weekend call-in policy:

A weekend shall be defined as a period beginning with Saturday day shift and ending with Sunday evening shift.

An employee who has called in on weekends more than one (1) time in a year shall be scheduled within the next two (2) calendar weekends off.

The program is initiated with the second infraction and on succeeding infractions to the end of the calendar year.

The second time you call in on a weekend it becomes your obligation to work open shifts need the following weekend, except full-time employees shall work day shifts only (in reference to weekend call-ins only).

If not needed within two (2) pay periods, there is no obligation for that infraction and no pay unless you have worked.

Scheduling will give as much advance notice to work as possible, with a minimum of forty-eight (48) hours' notice.

- A) One shift (day) equals an infraction.
- B) Working half or more of your shift on weekends equals no infraction.
- C) All absences count as an infraction, except Funeral Leave, Family Leave, Military Leave.
- D) This program runs January 1<sup>st</sup> through December 31<sup>st</sup> of each year.

The consecutive days worked provision in Article III, 3.1 shall not apply in this situation.

- 3.9 The Employer shall be able to schedule less senior part-time employees less than 30.333 hours per pay period, but employees scheduled 17.333 hours or under per pay period shall not be required to pay dues.
- 3.10 Extreme Weather: In the event of extreme weather conditions, employees may be asked to stay beyond their scheduled shifts or may be asked to come in early in order to keep adequate staff on hand to run the department. Accommodations and meals will be provided under these circumstances. It is expected that staff will attempt to make it to work unless roads are closed by the D.O.T.

**ARTICLE IV**  
**SCHEDULE OF WAGES**  
**SEE APPENDIX A**

4.1 Orientation Pay: Employees that are assigned to train in new employees shall receive an additional twenty cents (\$.20) per hour.

4.2 Comparable experience in the preceding five (5) years shall be recognized for wages only on the following basis:

Employees with previous experience as above indicated shall receive as starting rate the wages established for one (1) increment lower than their existing total experience. (i.e., A new hire with five (5) years previous experience shall receive the four (4) year rate of pay until they have worked for one year, then they will advance to the five (5) year rate of pay)

For purposes of definition for this Article, the word "comparable" shall be interpreted as hospital or nursing home dietary experience in the respective classification.

Exceptions to this shall be by mutual agreement between the Union and the Employer.

No employee shall suffer any reduction in wages or loss in working conditions as a result of this Contract.

- 4.3 Payroll Errors: Any payroll errors twenty (\$20) dollars or greater will be corrected within forty-eight (48) hours, excluding weekends, of being brought to the attention of the Food Service Director.

## **ARTICLE V** **HOLIDAYS**

- 5.1 The following days shall be paid holidays: New Year's Day, Easter Sunday, Memorial Day, July Fourth, Labor Day, Thanksgiving Day, Christmas Day, and one (1) floating Holiday.
- 5.2 See APPL for time off.
- 5.3 All employees who work on any of the above holidays or days celebrated as such shall be paid one and one-half (1½) times their regular straight-time pay for all hours worked.
- 5.4 When an employee is scheduled for a holiday, the employee shall be required to work that day. If an employee is scheduled for a holiday and would like that day off with pay, they must notify the Employer by the 15<sup>th</sup> of the previous month. Such employee will be allowed the holiday off with pay provided sufficient qualified employees are available and agree to work the holiday. Any disputes as to who the Employer may allow a paid holiday off, if sufficient qualified employees are available, shall be settled by seniority with the more senior requesters being given preference. First use a 'sign up sheet'; then ask for volunteers; then "force" junior qualified employees to work the shift.
- 5.5 By November 1 of the calendar year, the Employer shall post a list of who has not used their floating holiday.

## **ARTICLE VI** **SENIORITY**

- 6.1 Every employee covered by the terms of this Contract shall have seniority as herein provided from the date of such employee's original date of hire as posted on the seniority list, unless such seniority is broken for reasons specified herein. Such seniority shall apply only to layoffs, rehiring and filling of vacancies of jobs covered by the terms of this Contract.
- 6.2 Employees shall be probationary employees for sixty (60) calendar days of employment and during such period may be discharged by the Employer without cause and without the same causing a breach of this contract or constituting a grievance hereunder. Upon mutual agreement between the Employer and the Union, the probationary period may be extended for a thirty (30) day period. Such extension shall be by a written request to the Union with a copy to the affected employee.
- 6.3 The Employer will, on the first day of April of each calendar year, prepare a seniority list of employees covered by this Agreement and post the same on a bulletin board in the Home. Within fifteen (15) days thereafter, the employees may file with the Employer any objection to such seniority ratings. Within twenty (20) days of such posting, the Union and the Employer shall mutually agree on such correction. After so corrected, such seniority ratings shall be permanent and shall not be subject to change except as to new employees whose names are placed on subsequent seniority postings.

- 6.4 All job vacancies and new positions, which the Employer wishes to fill, shall be posted within seventy-two (72) hours after management receives notification that a vacancy will exist (a four [4] day posting period). Employees, if qualified, shall be given preference according to seniority in filling such vacancy.  
The Employer during such four (4) day posting period may assign temporarily any employee to such vacancy. The Employer shall notify the Union, in writing, of any position they intend to eliminate.
- 6.5 An employee's seniority for any purpose shall be broken and terminated by:
- A. Voluntarily quitting employment.
  - B. Discharge for cause.
  - C. Failing within one (1) calendar week to report for work after layoff upon receipt of notice by Registered or Certified Mail.
  - D. Employment by any other employer during a leave of absence.
  - E. Layoff which continues for more than two (2) years.
  - F. Absence from work because of personal illness or injury for more than one (1) year.
  - G. Voluntarily reducing to on-call status and does to work any hours in a ninety (90) day period.
- 6.6 An employee may be temporarily transferred from one classification to another when vacancies or requirements of work, as determined by management, requires such transfers; provided, however, that if the job to which such employee is transferred pays a higher rate of pay than their scheduled employment, then such employee shall receive such higher rate during the time when they are so employed in such higher rated job.
- 6.7 No employee may be permanently transferred without the employee's consent. A permanently transferred employee shall, however, for the first thirty (30) days that they are employed in the new classification, be considered a temporary employee on probation in that classification; and during the thirty (30) day period, at the employee's own request, an employee may be transferred to their original classification, or if the employee is not qualified, the Employer may re-transfer that employee to their original classification. The employee shall be restored with full seniority and pay in the employee's former position.
- 6.8 Employees transferred from one wage grade to another shall commence work in the wage grade to which they are transferred at the same wage increment step they are at. If the wage grade to which they are transferred has a higher rate of pay, the employee shall receive the higher rate of pay.
- 6.9 Employees transferring from one job to another in the same wage grade shall not suffer any reduction in increment steps, but shall continue with the same increments as in their former job.
- 6.10 When possible to do so, a full-time vacancy shall be filled by a full-time employee.
- 6.11 LAYOFFS: When it becomes necessary to reduce staff to adjust to the census or for other reasons, the steps for such reduction shall be in the following order:



1. The Employer will have the needed reduction of hours for employees worked out for fluctuating census needs within 3 days or 72 hours.
2. The Employer shall ask all current employees if they are interested in voluntary reduction or lay off.
3. The most senior employee shall be given the first opportunity to bump for hours on the new schedule, up to the number of hours they currently hold. Then the second most senior and so on until no hours remain available.
4. After no hours remain available, the remaining employees shall be laid off and will retain their recall rights for two (2) years.
5. The Employer shall not use any temporary employees prior to offering available work to employees on layoff.
6. In a case where employee(s) request to bump into a position because of the reduction of staffing, and that position is significantly different than their current position, the following stand shall apply:

The employee who is bumping will be allowed a reasonable period of time (5 days) to demonstrate that they can become proficient in that position.

The Employer shall retain the executive right to determine the question of proficiency.

- 6.12 If any dispute arises because of the interpretation of any provision of this Section, such dispute shall be determined by the provisions of the Section on Grievance Procedure, provided, however, that no retroactive pay shall be awarded any grievant, who may be awarded a position with higher pay, unless the arbitrator shall determine that the Employer's decision is malicious or willful.
- 6.13 All seniority lists and job vacancies, as provided for in this Section, will be posted upon such bulletin boards as may be mutually agreed upon by the parties hereto.
- 6.14 REDUCTION OF HOURS: When it becomes necessary to reduce hours in the department, the Employer shall first ask if anyone wants to voluntarily reduce their hours. If more reductions are necessary, the least senior employee shall have their hours reduced first.

## **ARTICLE VII** **TERMINATION OF EMPLOYMENT**

- 7.1 Employees covered by this contract electing to resign or quit their employment will give the Employer two (2) weeks (fourteen [14] days) written notice. The employee may leave sooner when a qualified replacement can be made by the Employer. The Employer is to furnish printed forms for such resignations.
- 7.2 Employees who give proper notice of termination (two (2) weeks/14 days) and complete and sign a resignation form provided by the Employer shall receive all earned and accrued unused APPL hours.
- 7.3 Any new employee shall be subject to discharge at the option of the Employer during the first sixty (60) days or ninety (90) if given a thirty (30) day extension of probation. No employee shall be suspended, demoted or dismissed without sufficient cause.

If, after proper investigation, it is found that an employee has been disciplined unjustly, they will be reinstated with full rights and compensated in full for time lost, provided, however, that no claim for compensation for time lost shall be paid unless the claim is presented to the Employer in writing within ten (10) days upon return to employment after the suspension, demotion or dismissal in question is found to be unjust. This section shall in no way limit an Arbitrator's ability to fashion an appropriate remedy.

7.4 Reasons for discharge shall include but not be limited to:

- A. Dishonesty.
- B. Incompetence.
- C. Racial intolerance.
- D. Failure to obey reasonable instructions not in conflict with this contract.
- E. Reporting to work intoxicated or drinking on the job.
- F. Failure to notify the Employers or managers to be excused from work.
- G. Abuse of Vulnerable Adults as defined by the Vulnerable Adults Statute.

7.5 If the employee fails to report to work as scheduled, or to furnish the Employer with a justifiable excuse within forty-eight (48) hours thereof, such failure to report to work shall be conclusively presumed to be a resignation from the service of the Employer, and termination of such employee's seniority and employment.

The forty-eight (48) hour period may be waived for a period of two (2) weeks in the event the employee is physically unable to report a justifiable excuse.

7.6 Employees must call in a minimum two (2) hours prior to the start of the shift. Calls must be made to the manager and the employee calling in must speak to a person. Calls before the kitchen opens shall be made directly to the unit manager. Calling in to a co-worker's cell phone is not acceptable. Leaving a voicemail will not be considered a legitimate call in. Failure to follow this policy will result in disciplinary action as delineated under "Discharge" in ARTICLE VIII.

7.7 Failure to call in for three (3) consecutive workdays will be treated as job abandonment and the employee will be terminated.

### **ARTICLE VIII** **DISCHARGE**

8.1 The Employer shall not discharge nor suspend any employee without just cause. In respect to discharge, the Employer shall give at least:

- 1. Verbal warning notice.
- 2. Written warning notice of the complaint against such employee to the employee in writing and a copy of the same to the Union.
- 3. Three (3) days suspension.
- 4. Termination.

No warning notice needs to be given to an employee where they are discharged, if the cause for such discharge is dishonesty, drunkenness or drinking on the job, abuse of vulnerable adults, as defined by the Vulnerable Adult Statute, and/or theft or abuse

(defined as improper use or treatment) of property belonging to a resident, the Employer or another employee.

Employees shall be notified within one (1) week after management determines that an incident should result in disciplinary action. In addition, no warning notice need be given in the instance of a suspension which is defined as a removal from the payroll for a period of time with the right to be reinstated without loss of seniority at the end of said period of time. A warning notice as herein provided shall not remain in effect for a period of more than twelve (12) months from the date of the warning notice.

An employee may terminate a meeting with a supervisor or request the presence of a Union Steward/Representative if such meeting turns to discipline of the employee. If the employee calls a Steward and the Steward attends the meeting, the meeting may continue; however, if the employee is denied representation, such employee may elect to terminate the meeting until such time as a Steward can be present.

- 8.2 All discharges must be by proper written notice to the employee and the Union, and shall state the specific reason for discharge. Any employee may request an investigation as to prove that an injustice has been done an employee. If the injustice is verified they shall be reinstated and compensated at their usual rate of pay for the period of time they were out of work.
- 8.3 Appeal from discharge or suspension must be taken within ten (10) days of written notice and a decision reached within fifteen (15) days from the date of discharge or suspension. If no decision has been rendered within fifteen (15) days, the case will be taken up as provided for in the grievance procedure of this Agreement.

## **ARTICLE IX** **ARBITRATION**

- 9.1 Any grievance or dispute regarding the interpretation or application of the provisions of this Contract must be submitted for settlement by the aggrieved employee or employees, or by the Union on its own behalf under the procedure as herein provided, or by the Employer. This procedure shall be the sole and exclusive method for settlement of such disputes:

STEP 1. Any employee or employees who believe there has been a violation of the terms or conditions of this contract in relation to their employment shall immediately and promptly take such complaint to the immediate supervisor. Such employee or employees and supervisor shall attempt to resolve said complaint. No complaint will be considered by any supervisor or representative of the Employer unless it is brought to the attention of the supervisor or representative of the Employer within seven (7) days of its alleged occurrence, except as hereinafter provided as to wages.

STEP 2. If said employee or employees and supervisor cannot resolve said complaint within such seven (7) day period, the employee or employees shall reduce the complaint to writing which shall be considered a grievance. The grievance shall be so reduced to writing and submitted within fourteen (14) days after the occurrence of the alleged violation of this Contract to the Administrator; provided, however, that complaints and grievances as to the amount of money due and payable to any employee for wages, hours worked, vacation allowances and days off may be filed and furnished to the

Administrator within thirty (30) days after the first regular pay day following the occurrence of such alleged violation relating to such wages.

Failure to give any such notice of any grievance arising under the terms and conditions of this contract shall constitute a permanent waiver and bar of the grievance and the employee or employees shall be forever foreclosed from raising any complaint or grievance in regard thereto in any manner whatsoever. The representatives of the Employer and the Union shall immediately after the submission of such grievance, in writing, by mutual negotiations, attempt to arrive at a satisfactory settlement thereof.

After such grievance is reduced to and submitted in writing, the employee or employees shall be represented by the Business Agent of the Union or such other persons as may be designated by the Union to represent such employee or employees, not exceeding, however, three (3) in number. The Employer may be represented by such representation as it shall select.

**STEP 3.** If such grievance cannot be settled promptly between the parties within seven (7) calendar days after the delivery of written notice of the grievance, the matter may be submitted to any arbitrator by either party. Such an appeal to arbitration shall be in writing and served on the other party.

A representative of the Employer and a representative of the Union may request State Conciliation Service or Federal Mediation Service to submit a list of five (5) names from which the arbitrator shall be selected by elimination, first strike to be determined by chance. The decision or award of said arbitrator shall be final and binding upon the parties and employee or employees affected. The arbitrator shall not add to, alter, amend, or vary the terms of this Agreement.

9.2 The expense and remuneration of the arbitrator shall be borne by the parties equally.

9.3 The Union will not authorize, assist or support a strike or stoppage of work, and the employees agree that they will not individually or concertedly engage in, assist, or support any strike, slowdown or any other stoppage of work because of any matter covered by this Agreement for which procedure for settlement herein provided is available but has not been utilized. Participation in any strike, slowdown, sitdown or stoppage of work brought about either action of individuals or groups without Union authority shall be just cause for dismissal or discipline by the Employer (subject to the grievance procedure herein provided). It shall not be construed a violation of this contract for employees to refuse to cross a picket line of Local #1189.

## **ARTICLE X**

### **ALL PURPOSE PAID LEAVE**

10.1 Policy. The Employer will establish a program for paid time off. This program is designated as All Purpose Paid Leave (APPL).

10.2 APPL is designed to provide compensation at an employee's regular rate of pay for days away from the job for reasons of holidays, vacations, sick leave, personal illness, family illness, funeral leave or for any other pre-approved reason. This is the exclusive manner in which employees may be paid for time not worked, except for jury duty, or other instances as specified in this CBA or provided for by city, state, or federal law. APPL hours shall be counted as hours worked excluding calculation of overtime.

- 10.3 Employees will earn APPL at the rates below based on length of service with the Employer for hours paid and awarded.

For full-time employees hired on or after December 15, 1991:

CALCULATION PERIOD	HOURS PAID/AWARDED	APPL AWARD HOURS
0-4159 Hours	Each 14	1
4160 - 6240 Hours	Each 10	1
6241 - 10400 Hours	Each 8.5	1
10401 - 20800 Hours	Each 7	1
Thereafter, each period	Each 6	1

For part-time employees hired on or after December 15, 1991 who work a minimum of 1000 hours per year:

CALCULATION PERIOD	HOURS PAID/AWARDED	APPL AWARD HOURS
0-4159 Hours	Each 17	1
4160 - 6240 Hours	Each 11.5	1
6241 - 10400 Hours	Each 11	1
10401 - 20800 Hours	Each 8.5	1
Thereafter, each period	Each 7	1

- 10.4 The Personnel/Payroll department will calculate the number of All Purpose Paid Leave hours each employee is to be awarded as of each calculation date. These calculations shall be made and all APPL awarded only on a semi-annual basis, as of either of the calculation dates, April 30 and/or October 31 of each year. APPL is not awarded to an employee's APPL bank between calculation dates.
- 10.5 An employee may be awarded and have a balance in their bank of All Purpose Paid Leave hours up to, but not exceeding two hundred twenty-five (225) hours. This means that as of either of the calculation dates, April 30<sup>th</sup> and/or October 31<sup>st</sup>, of each calendar year the maximum number of hours that any employee may have as a balance in his/her bank shall be two hundred twenty-five (225) hours. Any hours awarded in excess of that amount will be lost.
- 10.6 An employee may elect to receive payment of all APPL hours in their bank and that election will be honored with the next pay period immediately following such request. The payment for APPL hours banked under this provision shall be at seventy-five percent (75%) of the employee's regular rate of pay.
- 10.7 Upon termination of employment, an hourly employee may elect to be paid for any unused APPL hours in their bank. Any unused, banked APPL hours will be paid at a rate of one-hundred percent (100%) of the employee's actual rate of pay.

Any employee terminated for gross misconduct will not be eligible for APPL.

- 10.8 An employee must request APPL time off and payments in advance except in the case of illness or emergency. Requests should be received and approved prior to the posting of the schedule that reflects work requirements for the time desired. The Employer shall approve requests before posting schedules. Payment for APPL under this provision will be at one hundred percent (100%) of the employee's regular rate of pay.
- 10.9 An employee may request time off without payment of accumulated APPL hours that are banked.
- 10.10 To receive payment, an employee must indicate on their "time register" the number of average number of hours worked to receive APPL hours they want deducted from their bank.
- 10.11 The number of banked hours an employee has, or how they are determined shall be subject to the grievance and arbitration provisions of this Agreement.
- 10.12 Vacations will be scheduled by seniority for May 1<sup>st</sup> through April 30<sup>th</sup>, of the succeeding year. After April 30<sup>th</sup>, vacations shall be scheduled on a first-come, first-served basis. While every effort will be made to meet the requests of the employees, seniority and adequate staffing will be taken into consideration. The Employer reserves the right to cancel an employees' vacation due to unforeseen circumstances up to thirty (30) days before the date of commencement of the vacation.
- 10.13 Part-time employees who have worked for the Employer for over one (1) year but did not work one thousand (1,000) hours or more will receive two (2) paid days off per year. This pay will be at the employees' normal number of hours of work and pay.
- 10.14 The correct APPL calculations shall be noted on the paychecks. If APPL is not correct on the paycheck, the employee shall notify their supervisor, who shall ensure that the corrected amount appears on the next check. Incorrect APPL calculations are subject to the grievance and arbitration procedure.

## **ARTICLE XI**

### **REST PERIODS AND LUNCH PERIODS**

- 11.1 There shall be two (2) rest periods of fifteen (15) minutes' duration during each eight (8) hour shift, and lunch periods during each shift of thirty (30) minutes' duration. All employees who work more than six (6) hours in any day shall be entitled to both the rest periods and the lunch period. Employees, who work six (6) hours or less, shall be entitled to one (1) fifteen (15) minute the rest period. Employees who work more than five (5) hours, but six (6) hours or less, shall be entitled to a lunch period. An employee that volunteers to work in excess of eight (8) hours shall receive a fifteen (15) minute rest period at the end of their normal shift. Rest periods of the individual employee shall be scheduled by the Employer so as not to interfere with the operation of Nursing Home. Any employee who works a shift less than four (4) hours will not be entitled to a paid fifteen (15) minute break.

## **ARTICLE XII**

### **LEAVES OF ABSENCE, JURY DUTY AND SICK LEAVE**

12.1 JURY DUTY: A full-time or part-time employee who is called to serve on jury duty shall be paid for actual hours worked for the company. If this pay, together with their jury duty pay, does not equal their regular weekly pay, the Employer will make up the difference for a maximum period of two (2) weeks, provided the employee works such hours as they are available during the hours when court is not in session. The above shall apply to petit jury duty only. An employee receiving full pay from their Employer, while serving on a jury, will be required to turn in to their Employer the jury duty pay for the period they served on the jury, not to exceed two (2) weeks. Part-time employees shall be paid for the average number of hours they have worked during the last six (6) months

12.2 LEAVE of ABSENCE:

- (A) An employee shall be granted a leave of absence (including Maternity Leave) in accordance with all applicable state and federal laws, including, but not limited to the Family Medical Leave Act (FMLA) the Uniformed Services Employment and reemployment Rights Act, (USERRA), and the Minnesota Parental Leave Act. (MPLA)
- (B) A leave of absence for any other reason may be granted at the discretion of the Manager for a period not to exceed six (6) months.
- (C) All requests for leave of absence must be in writing.
- (D) Employees on leave shall participate in fringe benefits at their own expense, and shall not be entitled to holiday pay. However, the Employer shall continue to pay their portion of the health insurance for three (3) months while employees are on a medical leave of absence, in accordance with state and federal law.
- (E) Upon return from a Leave of Absence, the employee shall return to the same position and shift that they had before going on Leave of Absence.

12.3 FUNERAL LEAVES: Regular full-time and part-time employees (forty [40] hours per pay period or more) shall be granted a leave up to a maximum of three (3) days off [five [5] days for spouse, mother, father, or child) to attend the funeral of such employee's immediate family. For the purpose of this provision, immediate family is defined to be limited to the employee's spouse, brothers, sisters, children, stepchildren, father, mother, grandfather, grandmother, grandchild, sisters-in-law, and brothers-in-law. Father and mother, as herein used, shall mean parent of the employee or the spouse of the employee, whether such parent is the natural parent or a stepparent.

12.4 SICK LEAVE:

See APPL

12.5 OTHER LEAVE: In the event of serious illness or injury of the employee's mate, which requires absence from work, an employee may use accumulated APPL for illness or injury. Employees may use APPL for children in accordance with State Law see Section 12.3 (F) (Family Medical Leave Act of 1993). The Employer may require verification of illness or injury.

12.6 Any employee may be awarded and have a balance in their bank of All Purpose Paid Leave hours up to, but not exceeding two hundred fifty (250) hours. This means that as of either of the calculation dates, April 30<sup>th</sup> and/or October 31<sup>st</sup>, of each calendar year, the maximum number of hours that any employee may have as a balance in his/her bank

shall be two hundred fifty (250) hours. Any hour awarded in excess of that amount will be lost.

### **ARTICLE XIII MISCELLANEOUS**

13.1

1. All Employers who are or become signatory or bound by the Agreement agree to be bound by the Agreement and Declarations of Trust, as amended, establishing the Northern Minnesota-Wisconsin Area Retail Food Pension Fund, copies of which all parties agree have been furnished to and read by all employers bound hereby prior to the execution of the Agreement.

It is mutually agreed that the provisions of said Agreements and Declarations of Trust and any rules, regulations or plans adopted by the Trustees pursuant thereto shall become a part of this Agreement as though fully written herein.

All employers bound hereby irrevocably designate the Employer Trustees of said fund and their successors as their representatives for the purposes set forth in said Agreements and Declarations of Trust.

Now therefore, New Horizons Foods - Lakeshore and United Food and Commercial Worker's Union Local #1189 have adopted into the Collective Bargaining Agreement, the Pension Rehabilitation Plan "Preferred" Schedule for the Northern Minnesota-Wisconsin Area Retail Clerks Pension Plan (as stated detailed below).

- Pension Rehabilitation Plan "Preferred" Schedule ( per Mercer)
  - Effective January 1<sup>st</sup>, 2010
  - \$ 0.16 cents per hour Pension contribution rate increase (all hours):
  - 1% multiplier
  - Elimination of all early retirement subsidies
2. Pension Contributions: Effective with the March 2008 hours, the Employer agrees to increase the contribution from eighty cents (\$.80) per hour to ninety cents (\$.90) per hour to the Pension Fund for each hour worked by each eligible employee.
  3. The Employer shall start paying pension payments on all full-time employees as defined in Article XIII, Section 13.8 "A". Probationary employees and high school students are excluded from the pension plan.
  4. For the purpose of this section, "hours worked" shall mean all hours worked not in excess of forty (40) hours in any one week by any regularly scheduled employee and shall include, pursuant to said forty (40) hour limitation, any holiday for which any said employee of the Employer is entitled to pay under the terms of this Agreement. Hours to be calculated by pay periods.
  5. APPL hours shall be counted as "hours worked."
  6. It is understood that the said Pension Trust and benefits to be provided from the Pension Trust shall conform in all respects to the requirements of the Treasury Department, Bureau of Internal Revenue, and to any other applicable state and federal laws and regulations.



7. Contributions to the Trust Fund shall be due and payable fifteen (15) days following the end of the preceding month for all employees for whom contributions are required.

The failure of an employer to pay all amounts due within thirty days following the due date, whether willful or otherwise, shall subject the delinquent employer to a payment of liquidated damages in such amount as adopted by the Trustees. Payments and liquidated damages unpaid by the first day of the following month shall be subject to an interest charge on the payments and liquidated damages equal to the prime rate of the bank with which the Fund does its business.

8. If legal action is taken to recover the amount due the Fund, the delinquent employer shall also be required to pay all court costs, including reasonable attorney's fees. In addition to the other provisions, as herein set forth, any employer who is delinquent in his payments to the Fund shall make such employer primarily liable and responsible to its employees, beneficiaries or employee's estates which would otherwise be due from the Fund. The payment of any and all claims shall not operate to relieve such employer from his liability to make the payments due the Fund, including the liquidated damage payment.
9. Any employer who on more than one occasion during any one year becomes delinquent in its payments to the Fund shall be required to post a bond with the Trustees in an amount equivalent to the total contributions which it was obligated to make during the preceding calendar year.
10. In no event shall the provisions relating to Pension set forth herein be subject to or suitable for grievance and arbitration under the terms of this Agreement.
11. The above paragraphs shall not be applicable when, in the judgment of the Trustees, the delinquency results from a clerical error or a bona fide difference or dispute concerning eligibility.
12. The Employer agrees that applicable payroll records be made available for audit to employees of the Pension Fund as directed by action of the Board of Trustees of the Fund.
13. All benefits to be derived from the Pension Plan shall be for the benefit of the employee or the employee's beneficiaries.
14. All terms and regulation of the Pension Plan shall be complied with and all eligible employees shall be informed of the benefits and conditions of the Pension Plan.

- 13.2 HOSPITALIZATION: The Employer agrees to maintain the current Health Insurance contribution rates for the duration of this Agreement, effective October 1<sup>st</sup>, **2012**.

The Employer agrees to pay, for all full-time employees one hundred percent (100%) of the single coverage premium at the new rate of \$435.00 for the Medical Plan, Dental Plan and the Life Insurance and A.D. & D. Plan for the term of this Agreement via the Health and Welfare Plan of the Union.

The Employer's contribution for Health and Welfare contributions shall be the single rate established by the Trustees of the Plan. (Health Insurance contribution increase of fifteen dollars (\$15.00) per month effective 1/1/09; it is also understood that the single coverage will increase fifteen dollars (\$15.00) per month effective 1/1/10 and 1/1/11.)

- 13.3 PAYDAYS: Employees shall be paid twice per month; on the 10<sup>th</sup> and 25<sup>th</sup> of each month. If a payday falls on a Saturday the employee will be paid on Friday. If it falls on a Sunday, then the employee will be paid on Monday.
- 13.4 UNIFORMS: Employees hired after 4/01/06:
- A. Full-time Employees will be reimbursed for uniform expenses up to \$250 each calendar year, unless the Employer changes the uniform policy during the calendar year, in which case, the \$250 will reset and employees will be able to purchase new uniforms per the new uniform policy.  
Employees will be required to submit receipts for the uniforms and will be reimbursed by separate check in their next payroll check. This does include footwear.
  - B. Part-time Employees will be reimbursed for uniform expenses up to \$175 each calendar year, unless the Employer changes the uniform policy during the calendar year, in which case, the \$175 will reset and employees will be able to purchase new uniforms per the new uniform policy. Employees will be required to submit receipts for the uniforms and will be reimbursed by separate check in their next payroll check. This does include footwear.
  - C. Chef's coats and aprons are the responsibility of the company to provide.
  - D. It is the responsibility of the employee to keep their uniforms neat and in good condition.
  - E. Management agrees to purchase the employee's initial nametag and replace broken tags.
- 13.5 Time Off for Union and Community Activities: The Employer encourages the employees to participate in Union affairs and endeavors and encourages employees to participate in community affairs, and whenever possible will grant time off with pay, provided such time off will not interfere with the operation of the business.
- 13.6 Labor-Management Meetings: A Labor-Management Committee shall meet regularly every other month, or more frequently, if needed, to discuss and attempt to resolve Union-Management problems as they occur.
- 13.7 Mantoux Tests: Mantoux tests that are required by the Employer or any State or Federal Regulation shall be paid for by the Employer.
- 13.8 DEFINITIONS OF EMPLOYEES
- A. Permanent Full-Time: An employee holding a schedule of 69.333 hours or more per payroll period. Employees who work 69.333 hours per pay period qualify for fringe benefits.
  - B. Permanent Part-Time: An employee holding a schedule of a minimum of 30.333 hours per pay period, but less than 69.333 per pay period.
  - C. Temporary Full-Time: A summertime vacation relief person whose employment must not extend beyond three (3) calendar months. They are not to displace a regular employee. Temporary employees do not qualify for permanent full-time employee fringe benefits such as health, life or dental insurance or the Lay Pension Plan.

D. Temporary Part-Time: Same as Temporary Full-time.

E. Casual Employee Definition: A Casual employee is not regularly scheduled but works on an intermittent basis. Casual employees shall not be required to pay union dues. Casual employees do not qualify for permanent, full-time employee benefits; e.g., health, dental or life insurance, pension benefits.

A regularly scheduled casual employee, who over a three (3) month period, works an average number of hours at a level higher than that which the employee is designated (ie, if employee is casual, but is consistently working full-time hours), may upon the request of the employee have his/her hours evaluated for an increase to the level worked.

The manager shall compare the employee's shifts per payroll period with documented factors such as the number of concurrent leaves of absence, census trends, and the viability of resultant unfilled positions. If the request appears appropriate, the manager will increase the employee's level per contract. Any level which is increased by reason of the provisions of this article need not be posted nor will normal posting procedures have application.

13.9 The Employer agrees to allow unpaid time off for attendance at Union events, given proper notice, and so far as it does not negatively impact the schedule. Available APPL may be used for this time off.

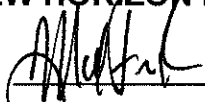
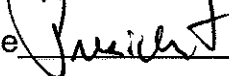
For scheduled negotiations, Union Stewards and negotiating committee members shall be allowed to attend negotiations meetings if the negotiations occur during the employee's scheduled shift. For scheduled grievance meetings the grievant and any one Steward from that shift shall be allowed to attend the grievance meeting if the meeting is during the grievant's or Stewards scheduled shift. Interim negotiating meetings may be attended by members of the negotiating committee with twenty-four hours notice to the Employer. For other scheduled Union meetings a seven (7) days' written notice shall be given to the Employer. The notice for interim negotiating meetings and other scheduled Union meetings shall include the date and time of meeting, who needs to attend the meeting and an estimate of the duration of the meeting. For unscheduled meetings which are defined as other meetings with less than seven (7) days notice Stewards shall be released at the convenience of the Employer.

13.10 The Employer will notify the Union of any policy changes or new policies seven (7) days prior to the effective date.

13.11 Termination: Except as otherwise provided herein, the period of this Agreement shall be from **October 1<sup>st</sup>, 2012**, to and including **September 30<sup>th</sup>, 2013**, and shall automatically renew each year thereafter unless ninety (90) days prior to the anniversary date either party gives notice to the other of its intention to amend or terminate this Agreement.


IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

**NEW HORIZON FOODS, INC.**

By   
Title 

Date 5/15/15

**UNITED FOOD AND COMMERCIAL WORKERS UNION  
LOCAL #1189  
Duluth, Minnesota**

By   
Title Union Rep.

Date 5-8-13

## Appendix A

All **steps** frozen until further notice  
**2012-2013: 3% wage increase, all brackets, both on and off scale**

The following shall constitute the minimum scale of wages for Employees hired before July 1, 2004 in the following classifications:

### Dietary Aide

	Start	60 Days	6 months	1 year	2 years	3 years	4 years	5 years
10/1/2010	8.49	8.64	8.80	9.72	10.63	11.68	12.60	13.71
New wage for 2012-2013	<b>8.74</b>	<b>8.87</b>	<b>9.06</b>	<b>10.01</b>	<b>10.95</b>	<b>12.03</b>	<b>12.98</b>	<b>14.12</b>

### Diet Cook, Prep Cook, and Cook Assistant

	Start	60 Days	6 months	1 year	2 years	3 years	4 years	5 years
10/1/2010	8.60	8.79	8.95	9.86	10.79	11.82	12.85	13.85
New wage for 2012-2013	<b>8.86</b>	<b>9.05</b>	<b>9.22</b>	<b>10.15</b>	<b>11.11</b>	<b>12.17</b>	<b>13.23</b>	<b>14.26</b>

### Head Cook

	Start	60 Days	6 months	1 year	2 years	3 years	4 years	5 years
10/1/2010	9.26	9.39	9.55	10.64	11.54	12.61	13.67	14.59
New wage for 2012-2013	<b>9.54</b>	<b>9.67</b>	<b>9.84</b>	<b>10.96</b>	<b>11.89</b>	<b>12.99</b>	<b>14.08</b>	<b>15.03</b>

**Wage Rates continued on page 21**

The following shall constitute the minimum scale of wages for Employees hired after June 30, 2004:

Dietary Aide

	Start	60 Days	6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	6 Years	7 Years	8 Years
10/1/2010	8.49	8.65	8.87	9.50	10.13	10.76	11.40	12.04	12.61	13.30	13.92
New wage for 2012-2013	<b>8.74</b>	<b>8.91</b>	<b>9.14</b>	<b>9.78</b>	<b>10.43</b>	<b>11.08</b>	<b>11.74</b>	<b>12.40</b>	<b>12.99</b>	<b>13.70</b>	<b>14.34</b>

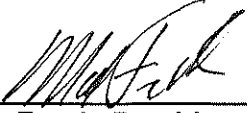
Diet Cook, Prep Cook and Cook Assistant

	Start	60 Days	6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	6 Years	7 Years	8 Years
10/1/2010	8.59	8.76	8.98	9.60	10.23	10.87	11.51	12.13	12.77	13.40	14.05
New wage for 2012-2013	<b>8.85</b>	<b>9.02</b>	<b>9.25</b>	<b>9.89</b>	<b>10.54</b>	<b>11.20</b>	<b>11.85</b>	<b>12.49</b>	<b>13.15</b>	<b>13.80</b>	<b>14.47</b>

Head Cook

	Start	60 Days	6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	6 Years	7 Years	8 Years
10/1/2010	9.29	9.37	9.65	10.28	10.93	11.56	12.20	12.82	13.46	14.10	14.72
New wage for 2012-2013	<b>9.57</b>	<b>9.65</b>	<b>9.94</b>	<b>10.59</b>	<b>11.26</b>	<b>11.91</b>	<b>12.57</b>	<b>13.20</b>	<b>13.86</b>	<b>14.52</b>	<b>15.17</b>

**FOR NEW HORIZON FOODS, INC.  
LAKESHORE**

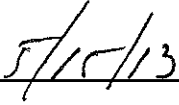


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Mark Frank, President

**FOR UNITED FOOD & COMMERCIAL  
WORKERS LOCAL #1189**



\_\_\_\_\_  
Tamara Jones - Union Representative



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Dated



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Dated