



## Company Provides Comprehensive Best Offer to Settle

After many weeks of bargaining virtually with a Federal Mediator and addressing various concerns that the union had on our initial proposals, we provided a Comprehensive Best Offer to Settle to the UFCW Local 400 on October 22, 2020.

It is a strong offer. We are investing more money on you in this contract than we have in the past, including significant investments in your pay while increasing our contributions to help keep your health care coverage affordable for those who qualify and want coverage. In general, here's what our Comprehensive Best Offer to Settle would do:

### Your Pay

- Provides more pay for all associates
- Increases pay for Department Heads, Backups and Leads
- Improves premiums in a number of areas
- Increases night shift premium
- Improves starting wages
- Provides eligible associates with a first-time ratification bonus

### Your Health Care

- Increases company's contributions for your health care benefits
- Keeps your medical and dental the same while improving your vision benefit
- Keeps your contributions the same through 2021
- Increases associate contributions modestly in 2022 and 2023

Your store leader will be providing more details on our Comprehensive Best Offer to Settle in the coming days, including specific information on what our proposed wage increases mean for you and more details on our health care proposal.

You can also go to [www.krogermidatlanticcoba.com](http://www.krogermidatlanticcoba.com) to download and review our Comprehensive Best Offer and wage sheets by classification. We hope you will see that we have worked to ensure that no matter where you are at in the wage scale that you'll see a pay increase and that your health care is still an affordable and exceptional benefit to you. This offer is contingent upon reaching a ratified agreement no later than November 6, 2020 and is subject to change if not successfully ratified by this date.

Thank you for all that you do for our customers and communities.

**Kroger Limited Partnership I Mid-Atlantic Marketing Area  
Best Offer for Settlement  
To UFCW Union Local 400  
West Virginia Charleston Area Stores  
October 27, 2020**

Attached is Kroger Limited Partnership I Mid-Atlantic Marketing Area's ("Kroger's") "Comprehensive Best Offer to Settle." This further-enhanced offer for a successor agreement to the Charleston, West Virginia Area Stores Agreement is part of our best foot forward approach. It must be accepted by the Union in writing, must be fully recommended to the members, and must be ratified on a first vote on or before Wednesday, November 6, 2020 at 5:00 p.m. (EST)

As part of its good faith efforts to secure a new contract with Local 400 for its West Virginia Area retail grocery stores, Kroger has put significant contract improvements on the table—including more than \$20 million in wage increases for our associates. Kroger has done so in connection with its efforts to avoid the multiple uncertainties that come with an unsettled, open agreement.

Despite our best efforts and Kroger's willingness to provide substantial increases and improvements for associates, the parties have been unable to reach a new deal.

Kroger's "Comprehensive Best Offer to Settle" is part of those ongoing efforts to incentivize and secure a new contract promptly, one that will remove the uncertainties and related costs associated with having an open agreement with just seventy-two (72) hours' notice. We prefer to use available resources toward securing a new agreement that directly benefits our associates versus utilizing our resources to prepare fully for a potential work stoppage and to assess what the labor uncertainty may mean for our customers, suppliers, associates, and market share. Kroger, however, cannot delay indefinitely or sit idly by in the face of uncertainty that puts its business interests at risk.

Kroger wants to resolve the successor agreement promptly. Accordingly, the Company is not only willing to continue with prior incentives and offered terms, but also to include additional changes and improvements included in our Comprehensive Best Offer.

These terms must be accepted and ratified by November 6, 2020. If not, Kroger will need to reconsider and adjust its positions, as appropriate, to account for the business uncertainties that have been generated by the parties' continued failure to reach a deal.

The incentives offered do not necessarily account for all of the uncertainties and potential concerns identified above and, as with all of its contract proposals, Kroger reserves the right to modify, add, delete, change, or alter this part or any other proposals when, in the Company's judgment, such modifications are appropriate or warranted. Indeed, as we have agreed, either side may choose to revisit issues or proposals during our negotiations until the parties have reached a final agreement.

The Company remains available to meet and negotiate with the Union at any time between now and November 6, 2020. We hope the Union will accept Kroger's Comprehensive Best Offer and promptly schedule a ratification vote.

Current contract with the following changes:

**1. U-1: ARTICLE 3 – SHOP CONDITION – TA**

Section 3.1a During the first sixty (60) days of employment, a new employee shall be on a trial basis and may be discharged at the discretion of the Employer.

~~The probationary period may be extended for an additional thirty (30) days for any employee upon agreement between the Union and the Employer.~~

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**2. U-3: ARTICLE 5 – DISPUTE PROCEDURE - TA**

**Section 5.2** Should any differences, disputes, or complaints arise over the interpretation of the contents of this Agreement, there shall be an earnest effort on the part of both parties to settle such promptly through the following steps when practical.

Step 1. By conference between the aggrieved employee, the shop steward and the manager of the store.

Step 2. If the grievance is not settled in Step 1, proceed to Step 2 with a conference between an official of the Union and/or grievant and the **designated official for the Employer** ~~District Manager or their designee~~ within fourteen (14) ~~working~~ **calendar** days. The basic issue will be reduced to writing for the District Manager. A reply to the appropriate party will be given within three **calendar** (3) days after the above conference is held.

Step 3. If the grievance is not settled in Step 2, proceed to Step 3 with a conference between an official or officials of the Union and the **designated official for the Employer** ~~Division Vice President, a representative of the Division Vice President, or both~~ within fourteen (14) ~~working~~ **calendar** days.

A reply will be given to the appropriate party within ~~three (3)~~ **five (5) calendar** days after the above conference is held.

Within ten (10) calendar days of the date of the notice to arbitrate, the **charging** parties shall request from the Director of Federal Mediation and Conciliation Service a panel of fifteen (15) arbitrators from which an arbitrator shall be chosen by the alternate striking of names. The decision of the arbitrator shall be final and binding upon all parties. The expenses of the arbitrator shall be shared equally by the Union and the Employer. The arbitrator will render his decision within sixty (60) days of the hearing.

### **Section 5.8**

It is agreed by the Employer that all such grievances, when referred to the ~~Division Vice President~~ **designated official for the Employer**, shall be recognized in writing and the disposition of same shall also be made to the Union in writing.

## **3. COMPANY- 4: ARTICLE 7 – WORKING CONDITONS**

### **Section 7.4 - TA**

Part-time employees, excluding Courtesy Clerks, shall be scheduled and work a minimum of fifteen (15) hours in a week unless the employee absents himself from work ~~or is called in to work or is agreed to in writing between the employee and Employer with a copy sent to the Union. on Friday or Saturday and fifteen (15) hours is not available or the employee is called in to replace another employee who is absent. The purpose of Friday and Saturday call-ins is to meet unexpected needs of the business.~~ Employees will be scheduled or if called in to work, a minimum of **five (5) hours per shift. If the employee chooses to return to the fifteen (15) hour minimum, they may do so by expressing their intent in writing to store management with a copy to the Union.**

## **2. UNION -2: ARTICLE 7 - WORKING CONDITIONS**

### **Section 7.13 - TA**

The Employer agrees to furnish all linens and laundry, and to stand the expense of sharpening tools. The Employer will furnish three (3) uniforms to full-time and part-time regular employees, and two (2) uniforms to part-time employees who choose them. The Employer will replace these uniforms as the needs may arise. ~~Where dacron or similar type uniforms are furnished, such uniforms will be laundered by the employee.~~

One heavy parka with hood will be furnished in each store where employees work in walk-in freezer. ~~Two (2) pairs of rubber boots will be furnished in stores where the meat department uses high pressure water cleaning system.~~ **Outerwear One (1) or two (2) raincoats** will be furnished to stores for employees who are required to perform outside duties. Where meat department employees are required to work in the meat cooler on blocking, cutting, grinding, and boning, proper clothing will be provided.

In extremely cold or wet weather, employees working ~~on parcel pick-up~~ **outside** will be rotated **at least** every sixty (60) minutes.

### **Section 7.20 - TA**

Any full-time employee who works more than two (2) nights in any one (1) week past ~~6:30~~ **7:00** p.m. shall be paid overtime at the rate of time and one-half (1&1/2) his straight-time hourly rate for all hours worked past ~~6:30~~ **7:00** p.m. on nights other than the first two (2) nights so worked. This will apply only to the nights when the store is open for business. This paragraph will not apply to night stocking employees during hours worked. Night stocking hours are defined as ~~10:00 p.m. to 6:00 a.m.~~

A night premium of one dollar (\$1.00) per hour shall be paid for work performed between ~~10:00 p.m. and 7:00 a.m.~~ to employees scheduled or called in as part of a night stock crew.

When a night stock clerk is scheduled to work fifty percent (50%) or more of the scheduled shift between ~~10~~4:00 p.m. and ~~6~~7:00 a.m., the employee will receive the night premium for the entire shift.

**The Company shall pay the negotiated night premium on all qualifying hours, to include those hours paid at time and one-half. It is understood that the night premium will not be used in the calculation of overtime pay.**

Employees other than night stock crew employees who work on a shift between ~~10~~4:00 p.m. and ~~6~~7:00 a.m. will receive a premium of one dollar (\$1.00) per hour for all hours worked between ~~10~~4:00 p.m. and ~~6~~7:00 a.m. When a clerk is scheduled to work fifty percent (50%) or more of the scheduled shift between ~~10~~4:00 p.m. and ~~6~~7:00 a.m., the employee will receive the night premium for the entire shift.

A full-time employee may waive the time and one-half (1&1/2) premium pay for working more than two (2) nights (or three (3) nights as stated below) per week, only if it is agreeable with the employee, the Employer and the Union, provided further that the employee signify these intentions in writing to both the Employer and the Union.

Employees who become full-time after October 8, 1984 who work more than three (3) nights per week past ~~6:30~~ **7:00** p.m. shall be paid overtime at the rate of time and one-half (1&1/2) his straight-time hourly rate for all hours worked past ~~6:30~~ **7:00** p.m. on nights other than the first three (3) nights so worked. This will apply only to the nights when the store is open for business. This paragraph will not apply to night stocking employees during hours worked.

### **Section 7.27 - TA**

In case an employee would lose time from his schedule for a particular week due to an emergency caused by a riot or ~~Act of God~~ **natural disaster**, any arrangement worked out between the Union and the Employer to make up all or part of such lost time shall be valid under this Agreement. When work is offered to an employee under such agreement, he may accept such work or reject it and lose the time. However, in case of a riot, where a store must be closed and the police order the employees to vacate the store, any employee who has not completed his schedule for that day will be paid for the balance of his schedule for that day.

### **Section 7.30 - TA**

A shop steward shall not be assigned to night stocking except in case of emergency or when no other qualified clerk is available for the job **or in the event the associate expresses interest in the position.**

### **Section 7.32 - TA**

An employee will be assigned to relieve an employee in a classified job, when vacant, ~~except Sunday~~, for three (3) full days, or more in any one (1) week and shall receive the rate of pay for the job relieved during the time of relief. The Employer will qualify a replacement in advance. If for any reason, such qualified replacement is unavailable at the time needed for

relief, any dispute over qualification of another employee will be resolved by the ~~District Manager~~ **Company** and Union representative. When more than one (1) employee performs the relief, the senior employee will be paid for all relief hours he/she works, and the junior employee will be paid for the remaining hours up to a maximum of forty (40) hours relief pay for the week. It is the intent that no more than five (5) days of relief will be paid in the week, ~~Monday-Sunday~~ through Saturday when two (2) or more employees conduct the relief. An employee who relieves a department head or classified job for five (5) days or more will receive the higher rate for all hours worked that week. In the event no employee is assigned to do the relief work, the senior employee will be paid the rate for the period of the vacancy.

### **Section 7.33**

~~Proven and comparable retail experience will be granted for new hire employees in determining starting hourly rates of pay. Previous experience must be stated at the time of employment and shown on the application for employment, otherwise the employee forfeits any claim under this provision. Maximum allowable non-Kroger experience credit will be five years. Employees shall receive all previous Kroger experience worked if there is less than a three year break in service.~~

~~Claims of proven comparable retail experience pay rate adjustments must be filed in writing within ninety (90) days from date of employment, otherwise the employee forfeits any claim under this provision. Claims of proven comparable ability pay rate adjustments will be addressed between the Company and the Union.~~

~~When an employee departs this bargaining unit and then later returns, the Employer will use the employee's most recent continuous employment date with Kroger, for determining rates of pay and benefits.~~

## **4. COMPANY 5: ARTICLE 8 – SENIORITY**

### **Section 8.3 - TA**

The Employer shall maintain seniority lists and shall furnish the Union copies of such lists, in electronic format, each ~~six (6) months~~ period. As the result of elimination of seniority area lines, employees that have lost seniority due to the crossing of UFCW Local #400 seniority lines and do not have a break in service with UFCW Local #400, will be given back their original hire date seniority.

### **Section 8.7 - TA**

At the end of each Kroger four (4) week period, a senior part-time employee may request a transfer to another store in the bargaining unit, provided a younger employee in his classification in such store has been working more hours during the four (4) week period. Such request must be made by Wednesday of the week following the four (4) week period, with the transfer effective the following week. An employee requesting such a transfer must be available to work the hours being worked by the ~~younger~~ **less senior** employee. The ~~younger~~

**less senior** employee may in turn replace any part-time employee in the bargaining unit on the same basis or change places with the transferring employee.

### **Section 8.8 - TA**

In case a full-time employee is involuntarily reduced, he shall be entitled to claim up to any eight (8) hour shift of a younger **less senior** employee, full-time or part-time in his store. In case a full-time employee would be laid off or reduced below forty (40) hours for more than one (1) week, he shall have the right to displace a less senior full-time employee in his classification in the bargaining unit. The full-time employee who is thus displaced shall have the right to displace a less senior full-time employee in his classification on the same basis. This will be limited to three (3) bumps. The Union and the Company agree to discuss the possible transfer of effected full-time employees to fill full-time jobs in accordance with the needs of the business in an effort to maintain the employee's full-time status. Effected full-time employees will have the option to bump or transfer.

### **Section 8.9 - TA**

When the Employer contemplates major changes in working conditions which will result in large scale layoffs or ~~large scale~~ **large-scale** reductions in hours, the Employer agrees to discuss such changes with the Union before putting such changes into effect.

### **Section 8.10 - TA**

Before any voluntary or involuntary reduction of a person holding a department head job or a classified job can take place, the Company will meet with a Union representative in an effort to assist in helping the department head or classified person to maintain their present position. Every reasonable method of helping such person shall be effectuated, including further training. However, any clerk in a back-up, classified or department head position who voluntarily gives up or is removed from that position will not be permitted to **bid sign for a classified position** ~~on the position they vacated~~ for twelve (12) months, **unless a shorter period is mutually agreed to by the parties-Union and Employer in writing**. They will also not be able to laterally **sign for a job opening notice bid to in** another department for twelve (12) months, unless a shorter period is mutually agreed to by the ~~parties-Union and Employer~~ **Union and Employer** in writing. After twelve (12) months they will be able to ~~laterally bid into a different job~~ **sign for open job postings**.

### **Section 8.13 – TA**

When an opening for a Head Meat Cutter, Customer Service ~~Department Head~~ **Manager**, Head Deli Clerk, Head Produce Clerk, Head Grocery Clerk, Head Non-Foods Clerk, Head Dairy Clerk, Head Frozen Food Clerk, and Head Night Stock Clerk Position occurs a job opening notice for that Department Head **or Manager** position will be posted in every store within the bargaining unit **and filled in accordance with Section 8.1**. ~~The back-up in that department, who signed the job opening notice, will be awarded the position in accordance with Section 8.1. If no back-up in that department accepts the position, the position will be filled by the clerk who has their request filed in accordance with Section 8.1~~ **If Back-ups with one (1), or more, years in their current role fail to sign the job opening notice for the Department Head position in his home store when it becomes vacant, they will be removed from the Back-up position. If the Back-up has less than one (1) year in their current Back-up**

**position the employee may choose to sign the job opening notice. Should a Back-up with less than one (1) year in their current role choose not to sign the job opening notice, they will not be removed from their current position.** ~~The back-up list will be kept current and sent to the Union office once each period in electronic format. When an opening for a back-up Head Meat Cutter, Customer Service Department Head, Head Produce Clerk, Head Grocery Clerk, Head Non-Foods Clerk, Head Deli Clerk, Head Dairy Clerk, and Head Frozen Food Clerk occurs, a job opening notice for the back-up department head position will be posted in every store within the bargaining unit. These positions will be filled in accordance with Section 8.1. by employees that have signed the appropriate department letter. Department heads displaced as a result of a store closing will be placed on the back-up list for future promotions, by seniority to Department Head positions. Those employees who are awarded these back up positions, will be required to work in the department for which they are performing back-up responsibility, if not already assigned to that department.~~

~~If a back-up fails to bid the department head position in his home store when it becomes vacant, they will be removed from the back-up position.~~

#### **Section 8.14 - TA**

It is understood that signing a job opening notice, ~~and/or a job bid~~, is acknowledgment by the employee that if awarded the position, the employee must accept the position.

### **5. COMPANY 6: ARTICLE 9 – VACATIONS - TA**

#### **Section 9.4**

Employees with three (3) weeks of vacation may elect to take one (1) week (five (5) days), one day at a time (up to three (3) days in a week). Employees with four (4) or more weeks of vacation may elect to take two (2) weeks ten (10) days, one day at a time (up to three (3) days in a week).

1. The intent must be declared when vacations are selected.
2. The employee must give the Store Manager two (2) ~~weeks notice~~ **weeks' notice**.
3. The day selected must be agreeable to the Store Manager.
4. In a week when a Department Head exercises this option, no more than five (5) days relief will be paid to replace that Department Head.

**Night premium pay will be included in the vacation pay for regular night stocking crew employees. Employees must be regular night stocking crew employees at year's end to be eligible. - TA**

### **6. UNION 7: ARTICLE 12 – LEAVE OF ABSENCE - TA**

Section 12.2 Leaves of absence because of sickness or injury not to exceed ninety (90) days shall be granted to an employee upon request supported by a physician statement certifying that the employee is unable to work. ~~Effective November 7, 2011, e~~Extensions will be granted up to ninety (90) days at a time for a cumulative total of twelve (12) months, except Worker's Compensation, if requested and granted in writing supported by proper medical

evidence prior to each expiration, but sick leaves may be extended for one (1) additional ninety (90) day period if

**7. COMPANY 7: ARTICLE 12 – LEAVE OF ABSENCE - TA**

**Section 12.6**

Employees selected for training in the management training program:

1. Will not work more than forty (450) hours per week in the store and will punch the clock.

2. Internal candidates who were bargaining unit members will continue to pay dues while in the training program.

3. ~~—Will remain in training program no longer than six (6) months.~~ **Will be permitted to return to the bargaining unit within six (6) months after entrance into the training program.**

~~If a back-up fails to bid the department head position in his home store when it becomes vacant, they will be removed from the back-up position.~~

**8. ARTICLE 13 – HEALTH AND WELFARE**

See Attachment “A”

**9. COMPANY 9: ARTICLE 16 – MISCELLANEOUS - TA**

**Section 16.5**

~~Employees are required to sign their time sheets each week.~~

**Section 16.10 - TA**

**The Employer agrees to encourage participation and include at least one (1) union steward on the Store Safety team.**

**10. COMPANY 10: ARTICLE 17 – STORE CLOSING - TA**

**Section 17.5**

No benefits shall accrue under the terms of this Article unless the Employer makes a business decision to close or sell the stores. This Article is not applicable if store closings are caused by ~~Acts of God~~ **a natural disaster**. The Employer agrees to provide a reasonable notice of store closings, but in no case less than sixty (60) days notification of said closing.

**11. COMPANY 11: ARTICLE 19 – EXPIRATION**

**Section 19.1**

This Agreement shall continue in effect from **August 30, 2020 to February 24, 2024** ~~October 8, 2017 to August 29, 2020~~, and shall automatically be renewed from year to year thereafter unless either party serves notice in writing to the other party sixty (60) days prior to the expiration of a desire for termination or for changes in this Agreement.

## Section 19.2

This contract represents the entire Agreement between the Employer and the Union. All verbal agreements or any other understanding, written or verbal, which is not contained in this contract or attached here to, shall be null and void.

IN WITNESS WHEREOF the said parties have caused duplicate copies hereof to be executed by their duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, ~~2018~~**2020**.

## **12. SCHEDULE "A" – WAGES**

See Attachment "B"

## **13. COMPANY 12: MISCELLANEOUS NOTE – SCHEDULE "A" - TA**

~~5. Effective 1/1/95, add a new classification in selected meat departments, titled "Meat Cutter Clerk". The Employer will agree to meet with the Union to discuss which stores have a need for this in the future. Additional stores may be added to this classification in the future. Job opening notices will be sent to all stores in the seniority area to fill these full-time jobs by the senior person who signs the bid. The classified position of Meat Cutter Clerk will receive a premium of one dollar (\$1.00) per hour over their regular hourly rate of pay after satisfactory completion of the training program. , the rate of pay for this classification shall be the appropriate full-time rate, based upon length of service, plus one dollar (\$1.00) per hour premium.~~

## **14. COMPANY 13: SCHEDULE "B" FUEL CENTER AGREEMENT - TA**

**Delete and remove fuel center clerk classification.**

## **15. COMPANY 14: SCHEDULE "C" – PHARMACY TECHNICIAN LETTER – TA**

1. Per Miscellaneous Note - Schedule "A", 15. of the collective bargaining agreement, Kroger in consultation with the Union may change the starting or top rate steps of the wage scale at a location(s).

~~2. Due to staffing problems with regards to Pharmacy Technicians, temporary starting wage rates will be implemented effective March 3, 2019.~~

~~3. Effective March 3, 2019, the applicable language in Schedule "C" Pharmacy Technicians Letter will change to read as attached.~~

~~4. All existing Pharmacy Technicians who are currently below this wage rate will be increased to the new minimum and have their date of next increase (DNI) reset.~~

5. ~~Effective March 3, 2019, and in~~ **In** accordance with Miscellaneous Note - Schedule "A" 14., the employer will appoint a lead Pharmacy Technician clerk. This position will receive a premium of ~~fifty cents (\$.50) per hour~~ in addition to their regular rate of pay, **as provided for in "Appendix B", Wages.**

~~6. This letter will be in effect until the expiration of the Collective Bargaining Agreement which expires on August 29, 2020.~~

~~Pharmacy Technicians' wages will begin at the rate of ten dollars (\$10.00) per hour. Additional wages per hour worked for individuals assigned as a Pharmacy Technician in training as well as national Board Certified Pharmacy Technicians.~~

- Pharmacy Technicians required to complete all of the Orientation modules, no more than thirty (30) days from date of hire, as well as register with the West Virginia Board of Pharmacy as a Technician Trainee.
- Pharmacy Technician in training who passes both the Kroger Mid-Atlantic Intermediate Quiz on ACT online, as well as the Kroger Mid-Atlantic Advance Quiz on ACT online, will receive an additional one dollar and twenty-five cents (\$1.25) per hour (additional one dollar and twenty-five cents per hour over personal rate). (Requires completion of both the Intermediate Quiz and Advance Quiz within one hundred and eighty (180) days of hire in order to progress towards West Virginia state law regarding PTCB certification.)
- Upon ratification, for those Pharmacy Technicians in training who have passed the Kroger Mid-Atlantic Intermediate Quiz but not the Kroger Mid-Atlantic Advance Quiz on ACT online, they will receive an additional seventy-five cents (\$0.75) per hour (additional seventy-five cents per hour over personal rate) when the Advance Quiz is complete. (Requires completion of Advanced Quiz within one hundred and eighty (180) days of hire in order to progress towards West Virginia state law regarding PTCB certification.)
- National Board Certified Pharmacy Technician (PTCB) - \$1.00/hr. (additional one dollar per hour over personal rate). (Requires Successful Completion of PTCB within 365 days of hire in order to be compliant with WV state law regarding PTCB certification.) Pharmacy Technicians are encouraged to take the exam within 210 days from hire date due to the mandatory sixty (60) day waiting period for failed attempts. No extensions will be given beyond the three hundred sixty-five (365) days due to West Virginia state law regarding PTCB certification.
- Maximum total amount additional per hour over personal rate for National Board Certified Pharmacy Technician is \$2.25/hr. (two dollars and twenty-five cents per hour)
- ~~Effective March 3, 2019, and in accordance with Miscellaneous Note Schedule "A" 14., the employer will appoint a lead Pharmacy Technician clerk. This position will receive a premium of fifty cents (\$.50) per hour in addition to their regular rate of pay.~~

~~Also, with respect to Section 7.33 of the Labor Agreement, experience credit for National Board Certified Pharmacy Technicians will be extended for employment in Board Certified Pharmacy's other than "nationally or regionally recognized chain food stores", or for employment within the medical field at the discretion of the Employer.~~

Should a Pharmacy Technician in training or national Certified Pharmacy Technician voluntarily or involuntarily no longer conduct pharmacy work, then their rate of pay will be changed to the appropriate clerk scale progression rate.

#### **16. SCHEDULE F – LETTER OF UNDERSTANDING PICKUP - TA**

**Whereas**, the parties referenced above being signatories to Collective Bargaining Agreements (CBAs) currently in force recognize that no language exists in said agreements relative to a new retail approach called ‘~~ClickList~~’ **‘Pickup’**, **and;**

**Whereas**, the parties desire to work together to bring the concept to the Mid-Atlantic Division Stores in such a manner consistent with a good labor-management working relationship, **and;**

**Whereas**, the parties are empowered between contract negotiation periods to enter into such agreements or understandings that are for the mutual need and benefit of the parties.

**Therefore be it RESOLVED**, that this document shall serve to enact an ~~trial~~ arrangement in stores represented by UFCW Local 400 in accordance with the following terms:

This Letter of Understanding (LOU) summarizes the key elements associated with the establishment of new retail format known as ‘~~ClickList~~’ **‘Pickup’** and specifically how the ~~trial~~ program will be integrated into the business format within current retail stores. These elements will be in place until such time as the Company discusses new or modified elements with the appropriate Union representatives or the Company elects to discontinue any or all of the same. The summary of the key elements are as follows:

- Current store associates will have the opportunity to apply for available ~~ClickList~~ **‘Pickup’** positions along with other external applicants for the required positions. The current positions include **Pickup Clerk** ~~Order Selector, Customer Attendant,~~ and Leads. The number of positions in any classification will be at the discretion of management based on order volume and workload, which may vary by store and location.
- Internal applicants for the available positions ~~of Order Selector and Customer Attendant~~ will be considered based upon a review of the applicant’s work history/records, relevant aptitudes required for the position, a review of a written application, and an interview by management. Internal candidates will be considered along with external applicants. The candidate(s) will be selected based upon the overall qualifications for the position(s) as defined by the job description for the position.
- The associate(s) selected for the available positions will be assigned to the ~~ClickList~~ **‘Pickup’** business format based upon the work schedule as determined by management. It is understood that associates selected for the ~~ClickList~~ **‘Pickup’** business format may be utilized for other store work with his/her primary assignment being ~~ClickList~~ **‘Pickup’**.

• During this ~~trial period~~ agreement, and until otherwise agreed by the parties, associates selected for the ClickList **'Pickup'** business format in the following positions will be compensated the following rates of pay:

- ~~Order Selector Clerk~~ **Pickup Clerk**..... Clerk Rate
- ~~Order Attendant Clerk~~..... ~~Clerk Rate~~
- Order Selector/Attendant Pickup** Lead... \$.50/hour premium for all hours over clerk rate.

• The associate(s) selected for the available positions will be periodically reviewed based upon his/her performance to the required duties, responsibilities and accountabilities, and other criteria as required in the appropriate job description. If it is determined that an associate is not meeting the overall performance expectations for the position, then the associate will be provided feedback regarding areas to be corrected and/or improved. Continued identified issues regarding performance will result in the associate being disqualified from the position. It is understood that behaviors associated with significant misconduct will continue to result in discipline, up to and including termination of employment with the company.

• Benefits, such as paid time off, health care coverage and retirement benefits will be the same as contained in the current Collective Bargaining Agreement.

### Micro Pickup Departments

- **Promote one (1) Pickup Lead to Micro Pickup Departments under the Charleston, WV CBA that have averaged over twelve (12) orders per day for previous twelve (12) weeks.**
- **It is understood that if a Micro Pickup Department averages twelve (12) or less orders per day for a rolling twelve (12) weeks, the Pickup Lead role will be removed. The daily average will be assessed each quarter to determine if the Pickup Department continues to meet the requirements stated above.**

The items contained in this LOU have been agreed to by the parties:

AGREED to this \_\_\_\_\_ day of May, 2016 \_\_\_\_\_ 2020 by the authorized representatives of the Employer and Union as signatures executed hereto as follows:

#### **17. SIDE LETTERS**

See Attachment "C"

#### **18. UNION 10: MISCELLANEOUS NOTES – SCHEDULE "A" - TA**

15. Kroger in consultation with the Union may change the starting or top rate steps of the wage scale at a location(s), provided:

- a)** All current employees at the location who are below the new rate are increased to the new rate with no reset of their DNI.
  - i. If the minimum wage is raised above starting step, employees will receive the increase with no reset of their DNI.
- b)** All current employees at the location who are below such new top rate will be permitted to progress to the new stated top rate.
- ~~**c)** Experience credit step placement will be applied based upon the starting step in the store for which they are hired.~~
- d)** In the event the starting step or top rate is decreased, no employee currently on the payroll or step may be harmed.
- e)** The Company will notify the Union of the new starting rate and employees from other stores will be considered for available openings if they apply for transfer.