

**CITY OF CHICAGO
DEPARTMENT OF AVIATION**

CITY OF CHICAGO DEPARTMENT)	
OF AVIATION,)	
)	
Plaintiff,)	
v.)	Citation No. 99-034607
)	Event No. 171205436
JUSTICE CASTILLO,)	
)	
Defendant.)	

**DEFENDANT CASTILLO’S MOTION TO DISMISS
CITATION ON FIRST AMENDMENT GROUNDS**

Defendant, **JUSTICE CASTILLO**, by and through her attorneys, **THOMAS ANTHONY DURKIN, ROBIN V. WATERS, and PATRICK J. CALIHAN**, respectfully moves, pursuant to the First, Fifth and Fourteenth Amendments to the Constitution of the United States, Article I, Sections 2, 4 & 5 of the Constitution of the State of Illinois, the National Labor Relations Act (“NLRA”) 29 U.S.C. §§151-169, and 725 ILCS § 5/114-1(a)(8), to dismiss the citation on the grounds that: (1) the citation fails to state an offense; and, (2) violates the aforesaid constitutional and statutory provisions.

In further support of this motion, Defendant, though counsel, shows the following:

1. Defendant, Justice Castillo, is a full-time employee of HMS Host, a large food service employer at Chicago O’Hare International Airport (“O’Hare”). Ms. Castillo is twenty-two (22) years old, and also student at Malcom X College. Through her HMS Host employment, Ms. Castillo works as a barista at the Starbucks in Terminal Two at O’Hare. Ms. Castillo is also a member of Unite Here, Local 1 (“Unite Here”), a labor union that represents more than 15,000 hospitality workers in the Chicagoland and Northwest Indiana area. Nationally, Unite Here

represents approximately 300,000 hotel, food service, and gaming workers throughout the United States and Canada.

2. Ms. Castillo holds a valid O'Hare security badge, which permits her entry into the terminal, her place of employment with HMS Host. Terminals are considered "secured areas" of the airport. *See Chicago Municipal Code, 10-36-353(C).*

3. The Collective Bargaining Agreement between HMS Host and Unite Here specifically provides as follows:

The Employer shall make available at any one time up to three (3) full time bargaining unit employees mutually selected by the Employer and the Union to escort Union Representatives while in secured areas of the airport for the purpose of observing Employer units and meeting with Employer's Union members in said units. The Employer shall pay such employees for their time spent in such escort services provided that such services for any such employee shall not cause said employee to work more than forty (40) hours in that workweek.

CBA, § 1.1 (Attached hereto as Exhibit A).

4. Ms. Castillo is one of the three full time bargaining unit employees mutually selected by HMS Host and Unite Here to escort Unite Here officials in secured areas so that the union can communicate with their union membership, observe workplace conditions, and otherwise determine whether HMS Host is abiding by their obligations and promises under the Collective Bargaining Agreement, which is governed by the National Labor Relations Act. More broadly, this union activity is classic political speech protected by the First, Fifth and Fourteenth Amendments to the Constitution of the United States, and Sections 2, 4 & 5 of the Constitution of the State of Illinois.

5. HMS Host's License Agreement with the Chicago Department of Aviation also specifically contemplates employee access to secured areas:

Section 10.3 Airport Security.

(a) This Agreement is expressly subject to the Aviation Security Improvement: Act of 1990 (P .L. 101-604) ("Airport Security Act"), the provisions of which are hereby incorporated by reference, including without limitation Sections 105, 109 and 110, and all rules and regulations promulgated thereunder. In the event that the Licensee, any individual employed by the Licensee, or its Sublicensees or Subcontractors, in the performance of this Agreement, has: (i) unescorted access to secured areas located on or at the Airport; or (ii) capability to allow others to have unescorted access to such secured areas, the Licensee shall be subject to, and further shall conduct with respect to its Sublicensees and Subcontractors and the respective employees of each, such employment investigations, including criminal history record checks, as the Commissioner or the FAA may deem necessary.

....

(b) Further, the Licensee shall comply with, and require compliance by its Subcontractors, suppliers of materials and furnishers of services, employees, and business invitees (other than patrons), with all present and future laws, rules, regulations, or ordinances promulgated by the City, or the FAA, or other governmental agencies to protect the security and integrity of the Airport, and to protect against access by unauthorized persons. Subject to the approval of the FAA and the Commissioner, the Licensee shall adopt procedures to control and limit access to the Airport and the Licensed Areas by the Licensee and its Subcontractors, suppliers of materials and furnishers of services, employees, and business invitees in accordance with all present and future City and FAA laws, rules, regulations, and ordinances. At all times during the Term, Licensee shall have in place and in operation a security program for the Licensed Areas that complies with 14 C.F.R. Part 107 and all other applicable laws and regulations as aforesaid.

HMS Host, City of Chicago Dept. of Aviation Lease (excerpted lease pp.96-98, attached hereto as Exhibit B).

6. On June 30, 2017, the Collective Bargaining Agreement that had been in existence between Unite Here and HMS Host expired.¹ Negotiations regarding a renewed Collective Bargaining Agreement were unsuccessful, and in August and September of 2017, Unite Here members began picketing HMS Host outside O'Hare.

7. On December 7, 2017, Unite Here membership voted to authorize a strike by a majority of eighty-four percent.

¹ When a Collective Bargaining Agreement expires, the provisions of the Agreement remain in full effect unless and until a new agreement is reached, or the Agreement is otherwise cancelled.

8. By the morning of December 21, 2017, negotiations between Unite Here and HMS Host had deteriorated. At 11:30 a.m., Unite Here Local 1 Lead Organizer Ashley Keller sent an e-mail to HMS Host officially declaring that, effectively immediately, the union employees were on strike.

9. Unite Here officials were in Terminal Three at 11:30 a.m. when it was determined that the union would stage a strike and walk-out. Four Unite Here officials were, at that time, lawfully with Ms. Castillo in the terminal (a secured area) pursuant to the Collective Bargaining Agreement and Ms. Castillo's escort privileges. Ms. Castillo escorted the Unite Here officials while they were attempting to communicate with union membership that the strike and walk-out had been declared.

10. At approximately 11:45 a.m./12:00 p.m., Ms. Castillo was standing outside the front entrance of Chili's Too, an HMS restaurant in Terminal Three, with the four Unite Here officials—one of whom began to enter Chili's through the gated entrance door to communicate with members. Ms. Castillo and the union officials were attempting to continue exercising their rights under the Collective Bargaining Agreement and the First Amendment to communicate with their membership regarding the strike and walk-out. Ms. Castillo was confronted by a Chicago Police Department Lieutenant and three or four other uniformed Chicago Police Department officers. The Lieutenant told Ms. Castillo that she was not properly supervising the Unite Here union officials whom she was escorting. At some point, the Lieutenant took Ms. Castillo's security badge, and required that Ms. Castillo and the union officials exit the terminal with him. No attempt whatsoever was made by the Lieutenant, the other police officers, or any other City officials to remedy the purported escort violation so that Ms. Castillo and the union members' rights under the Collective Bargaining Agreement and the First Amendment could be accommodated.

11. Once outside the terminal, Ms. Castillo’s security badge was returned to her, and Chicago Department of Aviation Police Officer Kelly issued her a citation pursuant to Chicago Municipal Ordinance §10-36-353, with the handwritten note: “escort improper failure to maintain.” (Chicago Department of Aviation Police Airfield Citation, Attached hereto as Exhibit C). This allegation can in no way whatsoever be said to allege an offense under § 10-36-353 of the Municipal Code. On this ground itself, the citation should be dismissed.

12. § 10-36-353 is a lengthy ordinance dealing with security badges and access to secured airport areas. Subsection (B)(iv) of § 10-36-353, the only conceivable potential violation the City may be alleging under § 10-36-353, states: “Persons who are authorized to escort others into a secured area must at all times direct and control the movement of the person or persons being escorted while within the secured area.” § 10-36-353(B)(iv). However, even under this section of the ordinance, this citation cannot be said to state an offense. *See* 725 ILCS § 5/114-1(a)(8). As such, it should be dismissed.

13. If the poor drafting of the citation is not somehow a sufficient reason to dismiss this harassing citation, the Constitution also requires its dismissal. The First Amendment ensures the right to free speech and peaceable assembly for the redress of grievances. US Const. Amend. I. “Freedom of speech is protected against censorship or punishment; [and] there is no room under our Constitution for a more restrictive view.” *Cox v. State of Louisiana*, 379 U.S. 536, 552 (1965). As the Supreme Court noted in *Cox*, “the alternative would lead to a standardization of ideas either by legislatures, courts, or dominant political or community groups.” *Id.* (citing, *Terminiello v. City of Chicago*, 337 U.S. 1, 4-5 (1949)).

14. Unions facilitate and strengthen the ability of their membership to exercise core civil liberties and First Amendment rights—including the rights to speech, petition, and

association—and the Supreme Court has long held that this kind of speech is protected by the First Amendment. *See generally Thomas v. Collins*, 323 U.S. 516 (1945); *Hague v. Committee for Indus. Organization*, 307 U.S. 496 (1939).

15. These rights are also protected and codified in the National Labor Relations Act, 29 U.S.C. §§151-169. The “Findings and Declarations” delineated at 29 U.S.C. §151 set forth the important bases for these protections, which are well worth repeating:

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

NLRA, 29 U.S.C. § 151.

16. When a law, on its face *or in its application*, regulates or restricts speech based on viewpoint or content, it violates the First Amendment. *Vergara v. City of Waukegan*, 590 F. Supp. 2d 1024, 1045 (N.D. Ill. 2008)(holding a city’s application of an outdoor assembly ordinance unconstitutional as content-based discrimination when the mayor and police chief applied the ordinance less favorably to the mayor’s political opponents); *see also Forsyth County, Ga. v. Nationalist Movement*, 505 U.S. 123, 132, 112 S.Ct. 2395, 2402, 120 L. Ed. 2d 101 (1992)(holding an assembly and parade ordinance that assessed a fee based on security costs of participants and observers was unconstitutional as a content-based restriction because it necessarily required that

the fee be based on the content of the speech and the amount of hostility it was likely to create); *Hoye v. City of Oakland*, 653 F.3d 835, 854-56 (9th Cir. 2011)(holding a city’s policy for enforcing an ordinance against intentionally approaching an individual seeking entry to a reproductive health clinic was unconstitutional as a content based regulation of speech).

17. Moreover, when a law fails to provide standards regulating the exercise of its discretion, it becomes, as happened here, a “convenient tool for harsh and discriminatory enforcement by local prosecuting officials against particular groups deemed to merit displeasure.” (internal quotation marks omitted). *City of Chicago v. Morales*, 177 Ill. 2d 440, 456 (1997) (citing *Papachristou v. City of Jacksonville*, 405 U.S. 156, 170 (1972). *See also, Cox v. State of Louisiana*, 379 U.S. 536, 556-57 (1965)(permitting “broad discretion in a public official allows him to determine which expressions of view will be permitted and which will not. This thus sanctions a device for the suppression of the communication of ideas and permits the official to act as a censor.”).

18. The fact that the Chicago Department of Aviation Police issued Ms. Castillo’s citation at the height of a contested collective bargaining negotiation and strike—which, rather consequently, occurred during the height of the holiday travel season²—underscores both the insurmountable First Amendment obstacles to this citation, as well as the very instability of the ordinance itself. Not only has the City enforced the ordinance in a view-point discriminatory manner, interfering with protected First Amendment activity—but the poorly drafted citation also demonstrates that the ordinance itself may not pass constitutional muster on vagueness grounds.

² See Samantha Bomkamp, *Some O’Hare restaurant workers walk off the job on peak travel day*, CHICAGO TRIBUNE, December 21, 2017, available at: <http://www.chicagotribune.com/business/ct-biz-ohare-restaurant-strike-20171222-story.html>. (“A small number of workers at O’Hare International Airport’s restaurants, bars and coffee shops walked off the job for several hours Thursday—one of the busiest travel days of the year—to push for higher wages and affordable health care.”).

19. To satisfy due process, “a penal statute [must] define the criminal offense [1] with sufficient definiteness that ordinary people can understand what conduct is prohibited and [2] in a manner that does not encourage arbitrary and discriminatory enforcement.” *Kolender v. Lawson*, 461 U.S. 352, 357 (1983). The constitutional void-for-vagueness doctrine embraces these requirements. The ordinance here, which requires a person to “direct and control the movement of [a] person,” could certainly be said to be lacking in the sufficient definiteness that an ordinary person could understand. For example, the ordinance does not delineate the number of individuals a person can escort at one time. Nor does the ordinance provide guidance regarding the distance the escort must stay in proximity to the individual(s) he or she is escorting. Such vague, ill-defined terms certainly encourage the arbitrary and discriminatory enforcement of law as happened here.

20. Wherefore, counsel respectfully ask this body to dismiss Ms. Castillo’s citation.

Respectfully submitted,

/s/ Thomas Anthony Durkin
THOMAS ANTHONY DURKIN,

/s/ Robin V. Waters
ROBIN V. WATERS,

/s/ Patrick J. Calihan
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CERTIFICATE OF SERVICE

ROBIN V. WATERS, Attorney at Law, hereby certifies that on January 18, 2018, she personally served, or caused to be served, a copy of the above Motion to Dismiss on the City of Chicago, by hand delivery.

/s/ Robin V. Waters

ROBIN V. WATERS,

One of the Attorneys for Defendant.

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EXHIBIT A

COLLECTIVE BARGAINING AGREEMENT

Between

HOST INTERNATIONAL, INC.

AT

O'HARE INTERNATIONAL AIRPORT

and

UNITE HERE LOCAL 1

Effective July 1, 2012

Through June 30, 2017

TABLE OF CONTENTS

	Page
ARTICLE 1 - MANAGEMENT RIGHTS	1
ARTICLE 2 - UNION RECOGNITION	2
ARTICLE 3 - UNION SECURITY	2
ARTICLE 4 - SENIORITY	5
ARTICLE 5 - WORKWEEK, OVERTIME, WAGES	8
ARTICLE 6 - VACATION AND TIME-OFF.....	10
ARTICLE 7 - SICK LEAVE	11
ARTICLE 8 - PERFECT ATTENDANCE.....	12
ARTICLE 9 - IMMIGRATION.....	12
ARTICLE 10 - HOLIDAYS	14
ARTICLE 11 - HEALTH AND WELFARE.....	15
ARTICLE 12 - DISCIPLINE & DISCHARGE.....	16
ARTICLE 13 - GRIEVANCE PROCEDURE.....	18
ARTICLE 14 - NO STRIKE/NO LOCKOUT.....	21
ARTICLE 15 - UNION ACTIVITIES.....	22
ARTICLE 16 - WORK ASSIGNMENTS	23
ARTICLE 17 - LEAVES WITHOUT PAY.....	23
ARTICLE 18 - GENERAL PROVISIONS	25
ARTICLE 19 - SUCCESSORS	27
ARTICLE 20 - SHOPPER SERVICES	28
ARTICLE 21 - GRANDFATHERED PROVISIONS.....	29
ARTICLE 22 - WAGES	29
ARTICLE 23 - LABOR/MANAGEMENT COMMITTEES/TEAMS	31
ARTICLE 24 - DURATION.....	31

AGREEMENT

This Agreement is entered into by and between Host International, Inc, operating the food and beverage outlets at Chicago O'Hare International Airport, hereinafter referred to as the "Employer" and UNITE HERE Local 1, hereinafter referred to as the "Union."

PREAMBLE AND PURPOSE

Whereas, it is the desire of the parties hereto to enter into a collective bargaining agreement for the purpose of maintaining harmonious and peaceful labor conditions with dignity and respect and establishing methods for fair and peaceful adjustment of disputes that may arise between the parties, both parties mutually pledging that they cooperate with each other in good faith in the enforcement of the terms of this Agreement so as to secure uninterrupted operation of the business of the Employer in rendering service to the general public and continuous employment of the employees and general stabilization. NOW, THEREFORE, in consideration of the mutual terms, promises, covenants and conditions herein contained, it is agreed as follows:

ARTICLE 1 - MANAGEMENT RIGHTS

1.1 Employer Prerogatives

The Employer reserves and retains, solely and exclusively all of its inherent rights to manage the business. The sole and exclusive rights of management which are not abridged by this Agreement include, but are not limited to, the right to determine the methods, equipment and processes to be employed; the right to determine qualifications for new employees and to select its employees; to determine the size and composition of its work force; to cross-utilize employees within the bargaining unit; to determine production and work schedules and methods of work and production; to hire, promote, transfer, assign, layoff, and recall employees to work; reprimand, discharge, or otherwise discipline employees, to determine job content and the amount and types of work needed, to determine and make the assignments of work to discontinue all or any part of its business operations; to expand, reduce, alter, combine, transfer, assign or cease any, job, job classification, department or operation; to establish, modify and enforce reasonable rules or regulations, policies and practices; and, otherwise generally manage the operation and direct the work force; the Employer's failure to exercise any function or right in any particular way shall not be deemed a waiver of its rights to exercise such function or right, nor to preclude the Employer from exercising the same, in some other way. However, the exercise of these rights shall not conflict with any other provision of this Agreement.

1.2 Not All Inclusive

The above enumerated rights of management are not all inclusive, but indicate the types of matters which belong to and are retained by the Employer.

1.3 Excess of Minimums

Nothing shall preclude the Employer from paying wages in excess of the minimums provided for within this Agreement, which may include but are not limited to the initiation and discontinuation of programs intended as incentives or positive reinforcement for employees, such as promotions in the area of attendance, safety, or recruiting. The Employer reserves the right to provide merit increases when appropriate based upon job performance.

1.4 Electronic Surveillance & Drug Testing

It is understood that the Employer may conduct only those forms of electronic surveillance and drug testing as are permitted by law.

ARTICLE 2 - UNION RECOGNITION

2.1 Bargaining Unit

The Employer recognizes the Union as the sole collective bargaining agent for all employees covered by this Agreement in the job classifications set forth in Article 22 attached hereto and the Union agrees that the employees shall work for the Employer upon the terms and conditions set forth in this Agreement.

2.2 Performance of Tasks

The purpose of the Employer's business is to make a profit. The Union and its members recognize that it is their primary duty to perform their assigned tasks expeditiously and efficiently to enable the Employer to achieve his purpose of making a profit.

2.3 Harmonious Relations

The Employer and Union agree that they will administer this Agreement in accordance with the true intent of its terms and provisions and to give each other the fullest cooperation to the end that harmonious relations may exist and be maintained in the interest of the Employer, the employees and the Union. It shall be the duty of the Employer and its representatives and the Union and its representatives to comply with and abide by all of the provisions of this Agreement.

2.4 New Classifications

Any classification in the operations of the Employer at O'Hare International Airport hereinafter established by the Employer and not listed in Article 22, where employees perform duties historically performed or substantially performed by employees covered by this Collective Bargaining Agreement, shall be a part of this Agreement at a wage rate to be negotiated by the Union and the Employer.

ARTICLE 3 - UNION SECURITY

3.1 Union Membership

As a condition of continued employment, all present employees covered by this Agreement who are members in good standing on the date of the execution hereof shall remain members in good standing; all such present employees who are not now members of the Union, and all such employees who are hired on or after the date of execution hereof shall on the thirtieth day following the execution of this Agreement or the thirtieth day following commencement of employment, whichever is later, become and remain members in good standing. The standing of any employee as a member of the Union shall be reflected by Union records. For the purpose of this Agreement, "good standing" shall consist of the payment, or tender of payment, of the initiation fee and dues uniformly required by the Union as a condition of membership.

3.2 Failure to Comply

The failure of any employee to become a member of the Union at such required times shall obligate the Employer, upon receipt of written notice from the Union to such effect and with

proper documentation, and to the further effect that Union membership was available to such employee on the same terms and conditions generally available to other members, to forthwith discharge such employee. Further, this failure of any employee to maintain his Union membership in good standing as required herein shall, upon receipt of written notice to the Employer to such effect, obligate the Employer to forthwith discharge such employee.

3.3 Union Dues

(a) The Employer agrees that it will, during the term of this Agreement (or any renewal thereof), deduct from the earnings of employees who have signed an appropriate authorization and filed same with the Employer, Union dues, assessments, initiation fees, and reinstatement fees and remit the total deductions to the Secretary-Treasurer of the Local Union (or to such person as may be designated by the Union). The form of such authorization has been agreed upon and such authorization shall be irrevocable for a period of one (1) year from the date the same is signed or until the termination of the Agreement, whichever occurs sooner, provided that such authorization shall be automatically renewed and shall be irrevocable for the successive periods of one (1) year each or for the period of each succeeding applicable collective bargaining agreement between the parties, whichever shall be shorter, unless written notice is given by the employee to both the Employer and the Union not more than twenty (20) nor less than ten (10) days prior to the expiration of each period of one (1) year or of the expiration of each applicable collective bargaining agreement between the parties, whichever occurs sooner.

(b) The Union will provide the Employer each month a sufficient number of "Representation Authorization/ Dues Check-off" forms in duplicate. The forms will be handed to each employee immediately after hiring and contemporaneously with the execution of the Employer's personnel forms. If the employee signs same, the Employer shall retain one (1) copy, give one (1) copy to the employee, and transmit the original of the application to the Union on the Friday of the week in which the application is signed.

(c) Upon receipt of such written authorization from the employee, the Employer agrees to deduct assessments, initiation fees, reinstatement fees, and monthly dues from the pay from each employee as follows:

1. Dues are payable from the employee's earnings in the first pay period of each month.
2. For new check-offs (those indicating they are applying for Union membership for the first time), if the employee has earnings in the first pay period of the month, then the entire amount of the dues and assessments for that particular month will be deducted. Fifty percent (50%) of the initiation fees shall be deducted from the second pay period earnings and the remaining fifty percent (50%) of the initiation fees shall be deducted from the third pay period earnings.
3. For new hires indicating they are present or past members in the Union, the Employer will deduct one month's dues, and in addition deduct and remit to the Local Union any dues delinquencies or reinstatement fees due upon notice in writing to the Employer by the Union.

(d) Except as set forth below, all such deductions shall be forwarded to the Local Union no later than fifteen (15) days following the date of payment of such earnings to the employee. In regards to the remittance of the "remaining fifty percent (50%) of the initiation fees" described in (c) 2. above, such deductions shall be forwarded no later than thirty (30) days following the date of payment of such earnings.

(e) Monthly Dues Remittance - The Employer shall show on the employee's statement of earnings and withholding the Union fees deducted and remitted to the Union. This statement will serve as the member's dues receipt.

The Employer shall remit each month to the designated financial officer of the Union, the amount of deductions made for that particular month, or for the pay cycles that most closely approximate that month, together with a list of employees and their social security numbers, for whom such deductions have been made. The information shall be in the current computer readable electronic format, unless mutually agreed upon to modify, by both the Company and the Union.

(f) The Employer shall provide the Local Union with a list of newly hired employees by job classification on Friday of each week on a form agreed to by the Union and the Employer.

The Employer shall also forward a copy of any signed dues check-off authorization cards on Friday of each week for each employee who has executed such authorization.

(g) For employees who have been laid-off and recalled, they shall be assessed a defined reinstatement fee and charged union dues for the month in which they are reinstated.

(h) The Union shall indemnify, defend and save the Employer harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of action taken or not taken by the Employer relating to payroll deduction authorization cards submitted to the Employer.

3.4 Employee Information

To permit the Union to properly and efficiently carry out its responsibilities, the Employer shall provide the following information to the Union:

(a) By the tenth (10th) day of each month, a list of all employees hired into the bargaining unit during the preceding month, including each employee's name, social security number, address, phone number, department, job title, hire date, status, sex, and date of birth.

(b) By the tenth (10th) day of each month, a list of all bargaining unit employees terminated (including whether the termination was voluntary or involuntary), placed on leave of absence or transferred out of the bargaining unit, and of all employees transferred into the bargaining unit, during the preceding month, including each employee's name, social security number and the date(s) of such personnel transactions, and the expected date of return for leaves of absence.

(c) The reports described in subsections (a) and (b) shall be sent to the Union in computer-readable format, by fax, mail or e-mail.

(d) The Employer shall furnish the Union with a quarterly list of all employees in the bargaining unit, including each employee's name, social security number, department, job title, date of birth, date of hire and sex. This report shall be in computer-readable format by way of CD-rom, or by way of electronic transmission in Microsoft Excel (.xls or .xlsx) or Comma-Separated-Value (.csv) format.

ARTICLE 4 - SENIORITY

4.1 Full & Part Time Employees

A "full time employee" is one who is regularly scheduled for thirty-two (32) or more hours per week. Full time employees shall be eligible for all benefits as provided for in this Agreement. The Employer shall create as many forty (40) hour schedules as possible, and, if there is no longer the ability to create more forty (40) hour positions, the Employer will create as many full-time positions as possible. In the event of hours' reductions, the Employer will utilize the lay-off procedures before reducing any forty (40) hour schedules.

A "part time employee" is one who is regularly scheduled for less than thirty-two (32) hours per week. Part time employees shall be eligible for vacations, holidays, sick pay, and bereavement pay as provided for in this Agreement on a pro rata basis. They shall not be eligible for health insurance or welfare benefits as provided for in this Agreement.

4.2 Seniority Definition

"House" seniority for purposes of establishing eligibility for benefits shall be defined as the employee's length of continuous service from his/her last date of hire (including Carson International). "Job Classification" seniority shall be defined as the employee's length of continuous service from the date the employee began to work in their current job classification.

4.3 Temporary and Permanent Closing; Recall

A. A "planned temporary closing" is one which the Employer has planned in advance to close a store or unit temporarily and plans to reopen the store or unit being closed either for renovation, repair or re-concepting to a different brand. In such an event, affected employees may request vacation, may request a leave of absence or may in the following order bid on open vacancies airport-wide on the basis of their job classification seniority, displace the least senior employee airport-wide on the basis of job classification seniority or then be laid off for the period of the closure. When the facility reopens, all employees shall be recalled to their former positions and schedules if there are no changes, or schedules will be rebid based upon job classification seniority.

B. An "unplanned temporary closing" is one which the Employer has not anticipated, has caused a store or unit to close temporarily and is expected by the Employer to re-open. In the event the temporary closing is three (3) days or less, the employee may choose to utilize vacation, unpaid leave, days-off or the Employer shall place the employee in another position in his/her same job classification by job classification seniority. In the event the temporary closing is greater than three (3) days, the employee shall be laid off in accordance with Section 4.3 A.

C. In the event of a permanent closing of a store or unit or in the event of a reduction in the operations of a store or unit, employees shall be laid off from their regular job classification in accordance with job classification seniority among employees in the store or unit. Employees laid off will be required to first bid on available vacancies airport-wide within their job classification based upon their job classification seniority. If no vacancies are available, the employee being laid-off may choose from among the employees who are the least senior within their classification airport-wide by seniority and displace that employee. Finally, the employee being laid-off may choose an open job (vacancy) in an equal or lower paying classification based on house seniority provided the employee is qualified and capable of performing the job, and, provided further, if the open job is a server position, the employee has prior server experience. Any associate who accepts a position in a lower paying classification shall have his or her pay reduced by the difference between the starting wage rates of the two job classifications, except that no one transferring into a server position shall then have a higher base wage than any other server of comparable house seniority. Within two (2) weeks following relocation of affected employees, schedules in an area where affected employees have relocated shall be re-bid by classification and by brand within a store manager's area of responsibility.

D. When a determination is made that a layoff will occur, at least two (2) weeks notice shall be given to the Union, except in the event of an unplanned temporary closing.

E. Employees shall be recalled to their job classification in accordance with job classification seniority and limited to employees who have been laid off for a period of twelve (12) months or less. The Employer shall notify the employees of the recall by telephone. If the Employer is unable to contact the employee by telephone, the employee may be notified by certified or package-tracked mail (such as Federal Express or Airborne Express). Employees must report for work within one (1) week of the issuance of the recall notice by the Employer. If an employee is unable to report due to a medical reason, he or she shall be eligible for a medical leave of absence on the same terms and conditions as any other employee. It is each employee's responsibility to keep his/her contact information, i.e. telephone numbers and address current with Employer's Human Resource Department.

F. Employees returning to a position from a layoff shall not be required to wait three (3) months before being eligible to transfer out of the position.

G. If an employee is laid off within one (1) year of transferring to a new job classification, the affected employee may displace the least senior employee in his/her former job classification airport-wide.

4.4 Schedule Re-bidding

At least once every twelve (12) calendar months, but not more than three (3) times in any twelve (12) calendar months, schedules shall be re-bid by job classification and by brand within a store manager's area of responsibility, except for bartenders whose schedules shall be re-bid airport-wide. In addition, those bartenders who bid on, and are awarded a vacation relief schedule, will not be permitted to bid out of that schedule until the next airport-wide, bartender re-bid. The foregoing notwithstanding, in the event of circumstances beyond the Employer's control, the Employer may conduct additional re-bids following its meeting with the Union to discuss the extraordinary circumstances regarding such additional re-bids. However, in the event of a new

store opening, scheduling may be re-bid for that particular store without limitation during the first ninety (90) days following the opening of that store. Bids shall be granted based upon job classification seniority. Employees who wish to be scheduled for a thirty-two (32) hour work week must submit their request in writing to their store manager. Requests shall not be unreasonably denied, but are subject to the business needs of the operation. In the event there are more requests for thirty-two (32) hour work weeks than can be reasonably accommodated, seniority within the job classification by brand within a store manager's area of responsibility shall govern.

The Employer shall make a reasonable effort to contact employees on a leave of absence of less than ninety (90) days duration for their participation in a re-bid. If the Employer is not able to contact the employee or the leave is ninety (90) days or greater, upon his/her return the employee shall be given the choice of any remaining shifts airport-wide in his/her job classification.

4.5 Vacancies

The Employer shall simultaneously post all openings for all stores within the store manager's area of responsibility on designated Bulletin Boards and in the Human Resource Department for a period of at least seven (7) days and shall send a copy of the posting to the Union.

(A) When the Employer promotes an employee to another classification, the Employer will consider the employee's seniority and qualifications to perform satisfactorily the work in the other classification. Where qualification to perform the work in the other classification, the senior employee shall be the one promoted.

(B) Employees who sign a posting requesting consideration for any vacancy must accept the position if offered by the Employer.

(C) Employees who sign a posting and are accepted must be put into the new shift no later than two weeks after acceptance.

(D) Employees who sign a posting and are accepted must remain in said position for ninety (90) days before they are eligible for another position.

(E) If the Employer determines within the first ninety (90) days that an employee is not able to perform satisfactorily in a new position, the employee will be allowed to return to his or her former classification, shift and station without loss of seniority. If the employee determines within the first ninety (90) days that he or she is not able to perform satisfactorily in a new classification, the employee will be allowed to return to his or her former classification and fill any available shift and station without loss of seniority. Prior to any such return, the employee and a representative from the Union agree to meet with branch management to discuss the reasons for the move.

Vacancies will be filled in the following order:

1. Employees within the same job classification and brand concept by job classification seniority under the same store manager's area of responsibility.

2. Employees within the same job classification by job classification seniority who have been notified of a scheduled lay-off but not yet laid off.

3. Employees laid off within the same job classification by job classification seniority.
4. Employees airport-wide within the same job classification by job classification seniority.
5. Employees airport-wide outside of their current job classification by House seniority.
6. Applicants not currently employed in the Bargaining Unit.

4.6 Seniority Date & List

For both seasonal and regular employees, seniority begins from the most recent date of hire, notwithstanding exceptions for probationary employees, as provided herein. An up-to-date seniority list will be forwarded to the Union every six months. Ties in seniority will be broken first by date and time of employees original application for employment with Employer and then by the last 4 digits of their social security number, with the lowest number being the most senior (i.e. 0023 would be more senior than 0321).

4.7 Seasonal Employees

The Employer can hire "seasonal" employees when the Employer has a legitimate business need for temporary additions to the workforce to meet the demands of traditionally heavy periods of business. As job openings occur and to the extent that no qualified bargaining unit employees apply for said jobs, these jobs shall be offered to any seasonal workers currently employed on the basis of seniority from the date of hire, so long as said seasonal employees are qualified to do the job. Seasonal employees, including J-1 employees, will be covered by this Agreement.

4.8 Loss of Seniority

Employees will lose seniority when:

- (a) The employee quits (which is stipulated to include two (2) consecutive days of absence without reporting to the Employer, provided an employee has the right to prove to the Employer that said absence was beyond his/her control).
- (b) The employee is discharged for just cause.

ARTICLE 5 - WORKWEEK, OVERTIME, WAGES

5.1 Workweek

The workweek for full time employees shall normally consist of eight hours per day, five days per week. At the option of the Employer, a four day, ten hour workweek may be established, with Union approval on a case-by-case basis. Nothing herein contained shall be deemed a guarantee of weekly wages. Payroll shall be computed and paid weekly. The Employer will provide advance notice of any change in the payroll and, upon request, will discuss the change with the Union.

5.2 Overtime

Overtime shall be paid at the rate of time and one-half for all hours worked over eight hours per day or forty hours in a workweek. No employee shall receive overtime pay unless such overtime

has been authorized by the manager or his representative in charge. There shall be no pyramiding of overtime. With the workweek corresponding to the Employer's pay period, time and one-half shall be paid for time worked by an employee on his or her sixth day and double time shall be paid for time worked by an employee on the seventh working day. No employee shall be mandated to work additional hours beyond their scheduled shift more than once a week, and no employee shall be mandated to work an additional day in a work-week more than once a month.

5.3 Work Schedules

A work schedule shall be posted in a conspicuous place showing the following: the full name and work classification of each employee; the starting time and the finishing time of each shift; and the scheduled days off of each employee. The Employer shall keep such schedule up to date. No change in the work schedule (days of work and days off) shall be considered official unless such change is posted at least forty-eight hours prior to such change in the work schedule. No change in starting times will be considered official unless such change is posted at least twenty-four hours in advance of the scheduled starting time. Employees affected by any changes in the posted schedule will receive prior notice from the Employer. Any employee whose days off fall on the scheduled posting day shall not be affected by the schedule change unless notified prior to the completion of his or her last shift worked. If requested, the Employer shall make available to the Union Representatives copies of schedules. The above limitations shall not apply in cases of circumstances beyond the Employer's control (ie: airline operations, weather, public utility problems, etc).

5.4 Required Overtime

The Employer will post an overtime sign in sheet each week on designated Bulletin Boards within each store manager's area of responsibility. If employees wish to be considered for voluntary overtime work, they are required to sign up weekly on the volunteer overtime sheets. In the event of the need for overtime, volunteers will first be sought from the sheet and selected based upon job classification seniority within each brand concept within the store manager's area of responsibility. In order to be considered for voluntary overtime, it is each employee's obligation to confirm with the Employer that his/her contact information is correct. The Employer will make a reasonable effort in the context of business necessity to contact the employees.

If the overtime cannot be covered by volunteer(s), overtime will be assigned based upon inverse job classification seniority within the brand concept under the store manager's area of responsibility. Except in the case of circumstances beyond the Employer's control, e.g. airline operations, weather, public utility problems, etc., such assigned overtime shall not exceed four (4) hours.

5.5 Reporting Pay

When the Employer or his/her representative orders an employee to report for work, or fails to notify an employee not to report for work as previously scheduled, for any reasons, and said employee is not allowed to work, the Employer shall pay the employee at the employee's regular rate of pay for his/her scheduled shift, provided however that where an employee is sent home because of circumstances beyond the Employer's control (e.g.: airline operations, weather, public utility problems), the employee shall be paid for hours actually worked.

5.6 Days Off

The Employer agrees to continue the practice of offering days off by job classification seniority within each Store or Work Unit. Where possible, the Employer will offer consecutive days off.

ARTICLE 6 - VACATION AND TIME-OFF

6.1 Vacation Time.

- 1 year of service: 1 week (5 working days)
- 2 years through 5 years of service: 2 weeks (10 working days)
- 6 years through 15 years of service: 3 weeks (15 working days)
- 16 or more years of service: 4 weeks (20 working days)

In addition, upon completion of twenty-five (25) years of service, an employee will be eligible for one (1) additional week of vacation in the year in which his or her twenty-fifth anniversary occurs.

In addition, upon completion of thirty (30) years of service, an employee will be eligible for two (2) additional weeks of vacation in the year in which his or her thirtieth anniversary occurs.

6.2 Vacation and Seniority

Vacations shall be taken, with seniority prevailing on the choice of vacation periods, as provided for in section 6.6.

6.3 Accrual and Vesting

Employees begin accruing vacation from the date of employment in accordance with section 6.1 above. Accrued vacation vests for vacation use purposes the following January 1. An employee who is out on a leave of absence due to work-related injury shall accrue vacation benefits, and such time shall be counted as time worked for vacation accrual purposes only.

6.4 Vacation Pay

Vacation pay shall be based on the average hours paid per week during the preceding year prior to the January 1 vesting date up to a maximum of forty (40) hours per week. Vacation pay will normally be included in the regular pay check corresponding to the time period in which the vacation is taken. However, an employee may receive his or her vacation pay prior to the vacation period if a written request is submitted to the Employer at least three (3) weeks prior to taking vacation.

6.5 Vacation Pay Upon Termination

An employee with less than one (1) year of service who terminates his or her employment shall not receive pay for unused vested vacation. An employee with one (1) year or more of service who terminates his or her employment shall receive pay for unused vested vacation.

6.6 Vacation Scheduling

By November 1st of each year, the Employer shall post a vacation schedule with the available vacation times for each Store or Work Unit. Employees in each Store or Work Unit will have until December 1st to request vacation up to the number of weeks the employee will vest that year (for example, if an employee will receive three weeks of vacation on their next anniversary

date, they may request to schedule three weeks vacation). If more than one employee requests the same time off, the senior employee (by "house seniority") will be given preference. After vacations have been scheduled as provided herein, employees may schedule additional weeks of vacation to the extent they have the time available, on a first-come, first-served basis. For the purposes of this Section, all Bartenders within a Terminal will be considered a Work Unit. If an employee is on a leave of absence during the month of November, they may make a written request by December 1st stating their first, second and third choice for vacation times.

6.7 Carry Over

An employee may carry over unused vested vacation from one anniversary year to another, not to exceed 30 days from previous years. This is provided that they will only be allowed to use a maximum of 2 consecutive weeks during the months of June, July, and August.

ARTICLE 7 - SICK LEAVE

7.1 Sick Leave Eligibility & Accrual

(A) Employees Hired Before February 1, 2000

Upon his/her service anniversary date an eligible employee working forty (40) hours per week throughout the year accrues up to the following maximum hours of sick leave according to his/her length of service:

40 Hour Employee Hours Accrued per Year

After 1 year: 16 hours
2 to 10 years: 24 hours
11 to 15 years: 32 hours
15 to 20 years: 40 hours
20 and more years: 48 hours

Eligible employees working less than forty (40) hours per week throughout the year will receive a prorated amount of sick leave.

(B) Employees Hired On or After February 1, 2000

Employees hired on or after February 1, 2000, who have completed one year of service, will accrue sick leave on a prorated basis up to a maximum amounts indicated below:

After one (1) year of service: 2 days (16 hours)
Between two (2) and five (5) years: 3 days (24 hours)
Between six (6) and ten (10) years: 4 days (32 hours)
Over ten (10) years: 5 days (40 hours)

7.2 Sick Leave On Vacation

Sick leave benefits shall not be paid to employees while on vacation unless a medical doctor's proof of illness is provided. Employees may not receive sick pay and vacation pay for the same time. Additional vacation time taken as a result of such illness may not be used to "bump"

another employee from previously selected vacation time and will be granted based on the needs of the business.

7.3 Sick Leave Around Holidays

Sick leave, either immediately before or immediately following a listed legal holiday or vacation leave, will not be paid unless a medical doctor's proof of illness is provided.

7.4 Medical Certificate

The Employer may require written proof of an employee's inability to work for absences of three (3) consecutive days or more or where the history or circumstances suggest a pattern of abuse. If such proof is not provided upon request, sick leave will not be paid.

7.5 Use of Sick Leave

Accrued paid sick leave may be used for the injury, illness or medical appointment of the employee or the employee's spouse, domestic partner or dependent.

7.6 Excused Absence

Paid sick leave (or any paid time not worked) shall not be used as the basis for discipline of any employee.

7.7 Maximum Accrual

An employee may accrue up to thirty days of sick leave.

7.8 Reporting Absence From Work

Employees who are sick and cannot report to work must call the office at least two hours before their scheduled work time, unless the employee is unable to call in at such time because of circumstances beyond his or her control.

ARTICLE 8 - PERFECT ATTENDANCE

8.1 Any employee having perfect attendance during any six (6) months period shall be given one day off with pay. The day off must be scheduled in advance by mutual agreement with the employee's manager so as not to interfere with operational needs.

8.2 No employee is entitled to more than two (2) such days off in any twelve (12) months period.

8.3 It shall be the responsibility of the employee, subject to management verification, to monitor his or her own attendance record to determine whether he or she qualifies for the perfect attendance benefit.

8.4 Perfect attendance for this Article shall be defined as no absences and no more than one (1) instance of tardiness (thirty (30) minutes or less) during any six (6) months period.

ARTICLE 9 - IMMIGRATION

9.1 Union Notification

The Employer shall promptly notify the Union in writing of employees whose right to work in the United States is being questioned or challenged, and shall meet with the Union, upon request; to discuss possible resolution in advance, if possible, of any changes.

9.2 Immigration Procedures

(a) No employee covered by this Agreement shall suffer any loss of seniority, compensation, or benefits due to any changes in the employee's name or social security number. It is understood that falsification by an employee of work history and/or background can be cause for discipline which may include discharge.

(b) Bureau of Citizenship and Immigration Services (CIS) appointments:

1. The Employer shall grant employees excused absences when given one (1) week's prior notice to attend any appointments scheduled by federal immigration officials or the U.S. Department of State with respect to immigration or citizenship status of the employee, spouse, domestic partner, child or parent. The Employer may require proof of the appointment and proof of the family relationship.

2. On the day that any employee is sworn in as a United States citizen, the Employer shall grant that employee a paid day off for that day.

(c) No employee employed continuously since November 6, 1986 (or before, or as amended by Congress) shall be required to document immigration status.

(d) In the event that an employee is not authorized to work in the United States of America following his/her probationary or introductory period, and his/her employment is terminated for this reason, the Employer shall immediately reinstate the employee to a position in his/her former job classification, without loss of prior seniority (i.e., seniority, vacation or other benefits do not continue to accrue during the period of absence) upon the employee providing proper work authorization within twelve (12) months from the date of termination.

(e) If the employee needs additional time, the Employer shall rehire the employee into the next available opening in the employee's former job classification, as a new hire without seniority, upon the employee providing proper work authorization within a maximum of twelve (12) additional months. The parties agree that such employees would be subject to a probationary period in this event.

(f) Upon request of the employee, the Employer shall provide interpreters, where such a person is available, for employees not fluent in English during any investigative interview that may lead to discipline or discharge. The interpreter shall have no connection to the discipline or investigation being discussed. When the Employer is unable to provide an interpreter, the Union may provide an interpreter. In the event an interpreter is not readily available, timeliness for issuance of the disciplinary or discharge notice automatically shall be tolled until an appropriate interpreter is available.

(g) While English is the language of the workplace, the Employer recognizes the right of employees to use the language of their choice when speaking amongst themselves during work hours provided that such conversations are conducted in a manner that is respectful of guests and other employees and is consistent with quality guest service.

(h) For re-verification of status, the Employer shall retain in its files copies of the identity and work authorization documents presented by the Employee. The Employer shall not require or demand proof of immigration status, except as may be required by 8 USC, 1324a (1)(B), and listed on the back of the I-9 form, or as otherwise required by law. In the event of a sale of the business or its assets, or a new operator taking over locations operated by the existing employer, the employer shall offer to transfer the I-9 forms of its employees to the new operator, or, at the Employer's option, to jointly maintain the I-9 forms of its employees with the successor operator for a period of three (3) years, after which the successor shall maintain said forms.

ARTICLE 10 - HOLIDAYS

10.1 Named Holidays

The following shall be considered paid holidays for non-probationary employees hired after the effective date of this Agreement:

New Year's Day, Christmas Day, Independence Day,
Memorial Day, Labor Day, Thanksgiving Day.

10.2 Work On Holidays

Any employee working on a holiday shall receive eight (8) hours of pay at his/her hourly rate of pay in addition to his/her hourly rate of pay for hours actually worked on the holiday, providing he/she works the last scheduled work day preceding the holiday and the first scheduled work day after the holiday, and the holiday itself as scheduled, unless the employee's absence on any of these days has been approved in writing by the Employer.

10.3 Not Working On Holidays

Any regular, full-time employee, with one or more years' of seniority, who does not work on a holiday shall receive the normal shift pay for the holiday, providing he/she works the last scheduled work day preceding the holiday and the first scheduled work day after the holiday, unless the employee's absence on any of these days has been approved in writing by the Employer.

10.4 Holiday Pay and Overtime

The holiday pay shall not be computed as a day worked for weekly overtime purposes.

10.5 Seniority Preference

Employees may request in writing their preference to work or not work on a particular holiday. When schedules are made, as much as practicable, employee preference will be taken into consideration in order of house seniority based upon most recent date of hire.

ARTICLE 11 - HEALTH AND WELFARE

11.1 Available Plans

All full time employees will be eligible to participate in the Employer's following insurance plans:

- *Medical Benefits
- *Dental and Any Supplemental Vision Benefits
- *Group Term Life Insurance
- *Short Term Disability Insurance

The Employer [unless otherwise noted as “the Associate”] will pay the following portion of monthly premiums for eligible employees who elect such coverage in the following medical plans. The Employer agrees that there will neither be any requirement to re-open this section of the agreement, nor any substantial change to the existing plans, noting that any plan change or substitution would be replaced with a similar plan.

PPO Low

Effective Date	Single/ <u>employee cost</u>	Single +1 <u>employee cost</u>	Single + family <u>employee cost</u>
1/1/13	\$4.00 per week	< of 8% or \$14 per week	< of 8% or \$18 per week
1/1/14	\$4.00 per week	< of 8% or \$15.25 per week	< of 8% or \$20.50 per week
1/1/15	\$4.00 per week	< of 8% or \$16.75 per week	< of 8% or \$21.25 per week
1/1/16	\$4.00 per week	Same as 1/1/15	Same as 1/1/15
1/1/17	\$4.00 per week	Same as 1/1/15	Same as 1/1/15

PPO High

Level of Coverage	Employer cost/ life of CBA
Single Only	52%
Single + 1	52%
Single + family	52%

52%

HMO Illinois

Effective Date	Single/ employer cost	Single +1/employer cost	Single + family/ employer cost
1/1/13	83%	75%	80%
1/1/14	84%	76%	81%
1/1/15	85%	77%	82%
1/1/16	86%	78%	83%
1/1/17	87%	79%	84%

AETNA

Level of Coverage	Employer cost/ life of CBA
Single Only	61%
Single +1	60%
Single + family	60%

11.2 Subject to Change

Participation in any of the above Employer plans are subject to the terms of those plans as they may exist at any given time.

11.3 401k Plan

The Employer agrees to offer the Employer 401k Plan, as it may exist at any given time, to full-time employees with one or more years of service.

ARTICLE 12 - DISCIPLINE & DISCHARGE

12.1 Probation

All new employees shall be required to serve a probationary period and may be discharged for any reason during their first ninety days of employment. Employees shall not be entitled to seniority rights until after completion of the probationary period.

12.2 Discipline Notice and Time Limits

Written disciplinary notices issued to employees must specify the reason for which the notice is issued. Except as set forth in Sec. 20.6, any such notices must be issued to employees within five (5) days (excluding Saturday, Sunday and holidays) of the event or action for which the disciplinary notice is issued, or within five (5) days (excluding Saturday, Sunday and holidays) of knowledge of the event or action. If the employee cannot be reached before said five (5) days expire, the Employer shall notify the Union. If the Employer requests a reasonable need for more time to investigate a given case, in writing to the Union, the above shall be extended for one (1) such additional five (5) day period (excluding Saturday, Sunday and holidays).

12.3 Written Copy To Be Issued

A legible copy of any written disciplinary notice shall be given to the employee at the time of issuance. Employees shall only be issued warning notices (exclusive of termination) on-the-job during work time.

12.4 Just Cause

The Employer may only discipline for reasons of just cause.

12.5 Progressive Discipline Time Limits

Disciplinary or corrective counseling notices may not be considered as a step in progressive discipline if they were written more than one year prior to the date of a new disciplinary or corrective counseling action. Such documents more than one year old may only be used as evidence that an employee was aware of a rule or policy, or to show past corrective measures taken, or as evidence of a pattern of behavior (such as a history of racially discriminatory actions or sexual harassment, etc).

12.6 Suspension Pending Investigation

No employee shall be placed in a "suspended pending investigation" status for longer than five (5) days (excluding Saturday, Sunday and holidays). Within this period the Employer shall either take disciplinary action against or reinstate the employee. If the Employer is unable to contact a suspended employee, the employee may be notified by certified or package-tracked mail (such as Federal Express or Airborne Express) after the completion of the suspension pending investigation.

12.7 Failure to Ring Sales

All associates will be subject to discipline, up to and including termination, for failure to ring sales.

12.8 Discharge

The Employer reserves and has the right to discharge any employee for just cause, but it is further agreed that no employee shall be discharged for Union activities which are not in violation of this Agreement, the Employer's policies and procedures or applicable laws. For the purpose of this Agreement just cause for immediate discharge shall include but not be limited to the following:

- (a) Theft, removal from the premises, or unauthorized possession, of Employer's property or the property of a customer or another employee.
- (b) Possession of a lethal weapon on airport premises.
- (c) Willful damage to Employer's property.
- (d) Gambling on Employer's premises.
- (e) Violation of any Employer policy following the completion of Progressive Discipline.
- (f) Willful falsification of company records including but not limited to employment applications, payroll, financial reports, etc.
- (g) Hitting, pushing or otherwise striking another person.
- (h) Possession or consumption of alcoholic beverages or illegal drugs or being under the influence of alcohol or illegal drugs on Employer time or premises.

- (i) Failure to carry out a reasonable job assignment or job request of management after being warned that failure to do so can result in termination.
- (j) Gross misconduct.
- (k) Conviction of a felony.
- (l) Any violation of the No Strike/No Lockout Article.
- (m) The employee is absent exceeding the period of an authorized leave of absence, or is employed elsewhere during the leave.
- (n) The employee is absent, due to injury or illness sustained during the course of employment, exceeding the period for which statutory, temporary, total disability payments are payable under the State Industrial Insurance System.
- (o) The employee is absent because of layoff exceeding twelve (12) months or the employee's length of continuous service, whichever is less.
- (p) The employee is absent in excess of twelve (12) months because of illness or injury not compensable under the State Industrial Insurance System.

12.9 Reasonable Notice

The Employer will make every reasonable effort to notify the employee as soon as practicable that discipline is anticipated.

12.10 Union Representative Present

Employees who so request have the right to the presence of a Union representative in any meeting with management in which it is reasonable to conclude that disciplinary action is likely to result. After such request is made, the Employer will not prohibit the Union representative from being present at such meeting.

ARTICLE 13 - GRIEVANCE PROCEDURE

13.1 Disputes Resolution Procedures

Any grievance or dispute involving a violation, interpretation or application of this Agreement will utilize this Dispute Resolution Procedure, regardless of whether the grievance is initiated by the employee, the Union or the Employer. The failure of the employee, the Union or the Employer to meet the prescribed time period applicable to it as set forth in this Article shall result in the grievance or dispute being settled in favor of the opposing party, except as noted below. Time periods prescribed shall not include Saturdays, Sundays or Holidays. In the event of an employee discharge, the process shall commence with Step Two.

13.2 Employee/Union Grievances

In the case of grievances initiated by an employee or the Union, the following procedure shall be followed:

Step 1: The employee and a Shop Steward or a union member designated by the employee shall discuss the grievance informally with the store manager within his area of responsibility (or the store manager's designee) within seven (7) days after the affected employee should reasonably have become aware of the conditions giving rise to the grievance. The store manager or his/her designee shall not refuse a request for a Step One discussion; provided that such a meeting does not interfere with the efficiency of the Employer's business operations.

Step 2: If not resolved in Step 1 or in the event of an employee discharge, the grievance shall first be put in writing by the Union with a request for a meeting to consider the matter among the concerned employee, a designated representative of the Union and Manager(s) from the Human Resources Department. This written grievance shall be submitted to the Employer's Human Resource Department within seven (7) days following the date of the Step One discussion or the date of the employee's discharge. The Human Resource Manager shall provide a written response to the Union and employee within seven (7) days following the date of the meeting. In the event a Step Two grievance meeting does not occur within thirty (30) calendar days following receipt of the grievance, the grievance may proceed to Step Three.

Step 3: If not resolved in Step Two, the Union may appeal the Human Resource Manager's response by submitting the appeal in writing to the Employer's Human Resource Department within seven (7) days following the date the Human Resource Manager's response under Step Two is received by the Union. The Union President or his/her designee(s) and the Sr. Director of Operations or his/her designee(s) shall meet within seven (7) days following the date the Employer receives the appeal submission. Parties shall bring all relevant information to this meeting. The Sr. Director of Operations or his/her designee shall provide a written response regarding the appeal to the Union within seven (7) days following the Step Three meeting. Both the Union and the Employer shall make reasonable efforts to make themselves available for a variety of dates and times so all parties can schedule to meet to discuss the appeal within the time period. In the event a Step Three grievance meeting does not occur within thirty (30) calendar days following the receipt of the appeal, the grievance may proceed to arbitration.

13.3 Employer Grievances

In the case of grievances submitted by the Employer, the grievance shall be submitted in writing directly to the Union by the Sr. Director of Operations. The Union shall respond in writing within seven (7) days after receipt of the grievance, after which the Employer has ten (10) days to submit the grievance to arbitration.

13.4 Arbitration

Failing satisfactory agreement in Step Three or in the event of an Employer grievance under Section 13.3 above, the Employer or the Union (not any individual employee) may submit the grievance to arbitration by notifying the FMCS (with a copy to the other party) within ten (10) days of the conclusion of Step Three or, as the case may be, Section 13.3 above.

13.5 Selection of Arbitrator

The party desiring arbitration in its notification to the FMCS shall request that the FMCS provide a list of seven (7) local arbitrators immediately to both the Union and the Employer. The two parties shall then alternatively strike names within ten (10) days of receipt of said FMCS list, with the party desiring arbitration striking first, and the last name remaining shall be the Arbitrator. An arbitration shall then be conducted as soon as possible in accordance with the Arbitrator's schedule and in accordance with the labor arbitration rules of the FMCS. Both

parties shall present their entire case at the arbitration hearing and there shall be no further evidence of any type presented thereafter.

13.6 Arbitration Procedures

The cost of arbitration shall be borne equally by the Employer and the Union. The Arbitrator is to render his/her decision as soon as possible, preferably at the conclusion of the arbitration hearing. The function of the Arbitrator shall be of a judicial rather than a legislative nature. The Arbitrator shall not have the authority to add to, ignore or modify any of the terms or provisions of this Agreement. The Arbitrator shall not decide issues which are not directly involved in the case submitted to him/her, and no decision of the Arbitrator shall require the payment of a wage rate or wage basis different from, or the payment of any wages in addition to, those expressly set forth in this Agreement. Subject to the foregoing qualifications and limitations, the Arbitrator's award shall be final and binding upon the Employer, the Union and the aggrieved employee(s).

13.7 Parties to the Arbitration

Only the Union (as opposed to the employees) and the Employer shall have the right to pursue grievances and/or arbitrations under this Agreement. If the Union fails, refuses or declines to pursue a grievance and/or an arbitration on behalf of an employee, or if the Employer and the Union settle any grievance on behalf of an employee hereunder, the employee who has filed such grievance or on whose behalf it has been filed shall be conclusively bound thereby.

13.8 Written Extensions Only

The time limits set forth herein may be extended in writing by mutual agreement between the Employer and the Union. E-mail sent between both parties is an acceptable means of communication to use in this regard.

13.9 Timelines

Failure of the parties to meet and discuss a grievance within the seven (7) days provided in Step 2 and/or Step 3 shall not be deemed to be a violation of the procedure.

13.10 Mediation

If the Grievance is not resolved after the procedures in Step Three have been completed, the parties, by mutual agreement, may refer the matter to non-binding mediation. Such referrals shall occur within thirty (30) days after the Union receives the written response from the Sr. Director of Operations. The mediator must issue a written decision within fifteen (15) days. The Grievance Mediation shall consist of at least one (1) Employer representative and at least one (1) Union representative plus a neutral mediator who shall act as Chairman and mediate the dispute in an attempt to have the parties reach a settlement. In the event the Employer and the Union cannot agree upon a mediator, either or both parties may apply to the Federal Mediation and Conciliation Service (FMCS) to submit a list of five (5) names. Each party shall alternate in striking the list, beginning with the Employer on the first occurrence. The person whose name is not stricken shall be the mediator. Such procedure shall apply in each case. Mediation of grievances shall be governed by the following rules:

The grievant shall have the right to be present at the Grievance Mediation;

1. Each party shall have 1 principal spokesperson;
2. Outside attorneys shall not participate in Grievance Mediation;
3. Any documents presented to the mediator shall be returned to the respective parties at the conclusion of the hearing;
4. Proceedings shall be informal in nature and are non-binding on the parties;
5. Rules of Evidence shall not apply and no formal record of the Grievance Mediation shall be made; and,
6. The mediator shall have the authority to meet separately with any person or persons but will not have the authority to compel a resolution of the grievance

In the event that a grievance which has been mediated subsequently goes to arbitration, no person serving as a mediator between the parties may serve as the arbitrator. Nothing said or done by the mediator may be referred to at arbitration.

ARTICLE 14 - NO STRIKE/NO LOCKOUT

14.1 No Curtailment Of Work

During the term of this Agreement the Union and its officers and/or agents and Employer's employees covered by this Agreement agree that there shall be no strikes, work stoppages, slowdowns, interruptions, sympathy strikes or delays or other curtailment of work of any nature or restriction of production, whether in protest of matters or actions covered by the Agreement, or matters or actions not referable thereto and not within the normal bargaining relationship between the parties, and whether or not based upon alleged violations of State or Federal law, for any purpose whatsoever. No officer or representative or agent of the Union shall authorize, instigate, aid or condone any such activities.

14.2 No Lockout

The Employer agrees that there shall be no lockout.

14.3 Subject To Termination

If any employee should participate in, authorize, or sanction, or cause to take part in, any strike; sit down, stay-in, slowdown, work stoppage, sympathy strike, delay or other curtailment of work of any nature or restriction of production or interference with the work in or about the Employer's facilities or outside of said facilities or while serving its customers or strike of any kind or engage in any activities that would cause an interruption of the Employer's operations and/or harm to its customers or to any entity or person that performs a service for the Employer during the terms of this Agreement, the Employer will terminate said employee.

14.4 Hot Cargo

It is further understood and agreed, that any refusal by any employee to perform his duties because such duties, as the Employer in its sole discretion shall provide, require him to handle or be connected with the handling, loading or unloading of goods being transported to or from any operation wherein the employees are on strike or involved in any type of work stoppage, such

cargo being generally referred to as "hot cargo", or any other refusal to perform said duties in order to support any other union activity, shall be considered a work stoppage or slowdown in violation of this Article and this Agreement.

14.5 Affirmative Step

Furthermore, the Union agrees to use its best efforts to end any of the above-mentioned types of strike. It will take affirmative steps to end any of the above-mentioned types of strike. The Union agrees that it will actively discourage and endeavor to prevent or terminate such interruptions of work.

ARTICLE 15 - UNION ACTIVITIES

15.1 Union Visitation

The duly authorized Union Representatives shall, upon notifying the manager of the location, have the right to visit the premises of the Employer. This right shall be exercised only at reasonable times and when making such visits, Union representatives, including Shop Stewards, shall not interfere with the orderly operation of the business of the Employer.

15.2 Bulletin Board

The Employer will provide the Union with a bulletin board in each full-service restaurant and non-full-service unit wherever possible, and not in the view of customers, on which the Union may post official Local 1 notices. A copy of all such notices shall be provided to the Employer. No material that is derogatory shall be posted.

15.3 Union Buttons

Employees shall be permitted to wear the official Local 1 membership button on their uniforms, not to exceed one and one-half inches in diameter.

15.4 Shop Stewards

The Union shall notify the Employer on a timely basis of duly designated Shop Stewards. Shop Stewards shall be granted time off without pay for Shop Steward training, Union meetings and conventions, provided reasonable advance notice is given to management and provided further that the Employer's business needs permit. Requests for such leaves shall not be unreasonably denied.

15.5 Union Orientation

During orientation meetings for groups of new employees conducted by the Employer, the Union will be given a fifteen minute opportunity to make a presentation and distribute literature, limited to a business-like and non-controversial introduction to union membership. The Employer reserves the right to schedule the time and place for such Union orientation.

15.6 Political Deduction

The Employer shall deduct and transmit to the Treasurer of UNITE HERE TIP Campaign Committee the amount of contributions specified for each payroll period or other designated period worked from the wages of those employees who voluntarily authorize such contribution at least seven (7) days prior to the next scheduled pay period, on the form provided for that purpose by the UNITE HERE TIP Campaign Committee. These transmittals shall occur no later than the thirtieth (30th) day of the following month, and shall be accompanied by a list setting forth as to

each contributing employee his/her name, address, occupation, rate of PAC payroll deduction by payroll or other designated period and contribution amount. The parties acknowledge that the Employer's costs of administration of this PAC payroll deduction have been taken into account by the parties in their negotiation of this Agreement and have been incorporated in the wages, salary and benefits provision of this Agreement. The Employer shall send these transmittals and the list to: Treasurer, UNITE HERE TIP Campaign Committee, 275 Seventh Avenue, New York, NY 10001. In recognition of the administrative impact on the Employer for the deducting and remittal of political contributions, deductions shall not be changed more often than once every ninety (90) days.

15.7 Union Activities

The Employer and the Union agree there shall be no discrimination, interference with, restraint, coercion of, or intimidation against any employee because of participation or non-participation in Union activities which are not in violation of this Agreement, the Employer's rules and procedures, or applicable laws.

15.8 Union Escorts

The Employer shall make available at any one time up to three (3) full time bargaining unit employees mutually selected by the Employer and the Union to escort Union Representatives while in secured areas of the airport for the purpose of observing Employer units and meeting with Employer's Union members in said units. The Employer shall pay such employees for their time spent in such escort services provided that such services for any such employee shall not cause said employee to work more than forty (40) hours in that workweek.

ARTICLE 16 - WORK ASSIGNMENTS

16.1 Relief Work

It is agreed and understood that employees may be called upon to substitute for other employees in other positions covered by this Agreement.

16.2 Work At Higher Pay

However, the Employer does agree that where any employee is required to work in a higher rate classification, employees working in a higher rate classification shall receive the higher classification rate for such hours worked.

16.3 Temporary Transfers

In the event of an emergency, the Employer may transfer an employee from his/her location, for one (1) day only, without the employee's consent. In the event of business necessity, the Employer may transfer the least senior employee by job classification from his/her location, but not for more than two (2) weeks, without the employee's consent.

ARTICLE 17 - LEAVES WITHOUT PAY

17.1 Medical Leave

Medical leaves of absence, without loss of seniority (of up to twelve (12) months, or lengths of service, whichever is less), shall be granted by the Employer upon a reasonable showing by the employee of medical necessity. A medical leave of absence, whether due to occupational or non-occupational injury or illness, may not exceed the period of time the employee is certifiable

as being medically disabled from resuming work. In the event an employee medically able to return to work desires to extend the leave of absence, the employee shall notify the Employer and apply for a personal leave of absence in accordance with the requirements of this Article for personal leaves of absence.

For employees taking a medical leave of absence (including maternity leave) which is supported by a physician's statement verifying the medical need for the leave, upon showing of reasonable cause, an employee at any time may be requested to submit to a medical examination at Employer expense and upon reasonable notice. At the option of the employee, the examination may be made by a physician of his/her own choosing. In this event, the employee shall bear the expense of the examination by the physician of his/her own choosing. The results must be made available to a physician of the Employer's choosing for evaluation.

The continuation of insurance and the division of premium expense for insurance coverage during medical leave is controlled by the guidelines of the Family and Medical Leave Act.

17.2 Personal Leave

After one (1) year of employment, a leave of absence without pay for up to sixty (60) days for personal reasons may be granted by the Employer.

17.3 Approval of Leaves

Employees shall make requests for leaves of absence in writing and submit them to the Human Resources Department. Granting of such leaves of absence shall be subject to the approval of the Human Resource Department. Such leaves of absence shall not affect the employee's seniority or other rights under this Agreement.

17.4 Family Illness

Leaves of absence without pay shall also be granted for reasonable periods, not to exceed ninety (90) days, for serious illness in the employee's immediate family (spouse, domestic partner, child, parent, grandparent, brother or sister). Leaves of absence without pay shall be granted for the rearing of employee's children for up to sixty (60) days following the birth of a child, provided proof of the child's birth is presented.

17.5 Return from Leave of Absence

Employees returning from an approved leave of absence will be returned to their regular job classification if returning within ninety days and to the first available position for which they are qualified if returning after ninety days.

17.6 FMLA

Employees shall be eligible for leaves of absence as provided by the Family and Medical Leave Act of 1993.

17.7 Leave For Union Work

The Employer shall grant no more than four (4) employees at any one time unpaid leaves of absence of up to two (2) years, upon two (2) weeks' written notice for the purpose of working for the Union. The Employer shall extend the Union leave of absence upon request in thirty (30) day increments, so long as it does not unduly burden the Employer's business operations. Seniority

shall continue to accrue during such leave, and employees shall be permitted to return to their former job and job classification.

ARTICLE 18 - GENERAL PROVISIONS

18.1 Rest and Meal Periods

Employees working four (4) or more hours will be allowed a thirty (30) minute unpaid lunch period. Employees working five (5) hours or more will be allowed a fifteen (15) minute paid rest period. Employees working six (6) hours or more will be allowed an additional fifteen (15) minute paid rest period. Employees working five (5) hours or more will be allowed to combine their rest period(s) with their lunch period. It is intended that rest breaks not be directed to be taken within the first or the last hour of the shift. Employees who wish to do so may volunteer for the break at such times and their request shall not be unreasonably denied. Please refer to the side letter at the end of this agreement for specifics regarding the meal allowance, available locations, and procedures.

18.2 Jury Duty

An employee who is called for jury duty, and does in fact subsequently serve on the jury, will receive the difference in pay between his normal regularly scheduled daily rate and what he receives for serving on the jury for each work day missed due to jury service. Such pay will be up to a maximum of twenty (20) days of jury duty service.

18.3 Bereavement Pay

When there is death in the immediate family, the Company will give non-probationary employees up to three regularly scheduled days off with pay, provided this is used for attending the funeral or memorial service and the days paid are for regularly scheduled work days. The immediate family shall consist of designated spouse, domestic partner, parent, step-parent, child, brother, sister, grandparent or grandchild. An employee may receive one day's pay to attend the funeral or memorial service of their aunt, uncle, niece, nephew, spouse's brother, spouse's sister, spouse's parent, sister's husband or brother's wife.

18.4 Uniforms

When employees are required to wear a uniform, the Employer shall furnish such uniform in an appropriate size to each employee without cost to the employee. The Employer will provide each employee with two uniforms upon hire and will provide one additional uniform each six months thereafter.

18.5 Locker Facilities

Secure locker facilities for employees shall be provided without charge by the Employer to the extent possible. If a locker becomes available it shall be provided to employees on a first come, first serve basis. Section 18.16 shall apply to existing locker holders. Employees' lockers shall be inspected with an employee or Shop Steward present.

18.6 Written Amendments

This Agreement cannot be modified, amended, added to, or subtracted from, except by an instrument in writing signed by the Employer and the Union of equal formality with this instrument.

18.7 Savings Clause

Should any part hereto of any provision of this Agreement be rendered or declared invalid by reason of any existing or subsequently enacted legislation or by any decree by a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof and they shall remain in full force and effect. Upon such invalidation, the parties agree immediately to meet to negotiate substitute provisions for such parts or provisions rendered or declared invalid.

18.8 No Conflict

The Employer agrees not to enter into any agreement or contract with its employees, individually or collectively, which in any way conflicts with the terms and provisions of this Agreement.

18.9 Rules & Regulations

The Employer, if it desires, will make and/or promulgate rules and regulations that are not inconsistent with the Agreement.

18.10 Gender Neutral

Whenever in this Agreement the masculine gender is used, it shall be deemed to include the feminine gender.

18.11 Equal Opportunity

The Employer and the Union recognize they are required by law not to discriminate against any person with respect to employment because of his or her race, religion, color, sex, sexual orientation, age (over 40), disability, national origin or ancestry and hereby declare their acceptance and support of such laws. The Employer and the Union agree that with the enactment of the Americans with Disabilities Act (ADA) which became effective on July 26, 1992, the Employer may face conflicting obligations under ADA and this Agreement, as the ADA prohibits the Employer from discriminating against a disabled person who, with or without reasonable accommodation, is qualified to perform the essential functions of a bargaining unit job. Therefore, the parties agree that anything to the contrary contained in this Agreement notwithstanding, the Employer may make reassignments and other accommodations necessary to comply with the ADA and such will not be interpreted as a violation of this Agreement.

18.12 No Reduction

Except as otherwise provided by a specific term of this Agreement, no employee shall suffer a reduction in salary, adverse change in working conditions, or loss of any benefit now enjoyed by him or her as the result of the labor agreement. The years of service at Carson International will be applied to the employee's years of service.

18.13 Job Descriptions

The Employer agrees to provide copies of job descriptions to the Union and shall also provide copies to the Union when such job descriptions are from time to time amended. Reasonable advance notice shall be given to the Union of such amendments and, upon request, the Employer will meet and discuss such amendments with the Union.

18.14 Credit Union

The Employer agrees to make deductions from the wages of employees to enable them to participate in a Credit Union, subject to change and as said facility may exist and be available at any given time.

18.15 Parking

Employees who do not have an airport parking pass as of 1/12/00, who subsequently request such a pass, must authorize a \$7.50 per month payroll deduction toward the cost of said parking. The employee cost shall be reduced to \$5.00 per month effective January 2007.

18.16 Maintenance of Existing Privileges

No employee shall, as a result of the signing of this Agreement, suffer a reduction in his or her wages nor be deprived of any established and recognized benefits or privileges in excess of, or more advantageous than, the contract provisions.

18.17 Management Performing Bargaining Unit Work

Managers may perform the work of the bargaining unit employees only in emergency situations or to train members of the bargaining unit. This section shall not be used to replace bargaining unit employees or to cover shifts except in extenuating circumstances.

18.18 Cash-Handling Policy

The Employer shall track discipline for violations of the Employer's cash-handling policies separately from violations of other of the Employer's policies.

18.19 Shortages/Breakages

Employees shall not have involuntary payroll deductions made from their paychecks for shortages, breakage or customer walk-outs.

18.20 Clock-in and Clock-out

Employees will not receive discipline for clocking-in within six [6] minutes of their scheduled start of shift.

ARTICLE 19 - SUCCESSORS

19.1 Change Of Ownership

In the event that the Employer sells or assigns his/her business, or in the event that there is a change in the form of ownership, the Employer shall give the Union reasonable advance notice thereof in writing and shall make all payments which are due or shall be due as of the date of transfer of the business for wages and health and welfare for employees covered by this Agreement. In addition, the Employer shall be responsible for accrued vacation payments for each employee covered by this Agreement. In the event of the sale of the Employer's business as an ongoing operation at O'Hare Airport providing the same types of services and products, the contract of sale shall provide for the hiring of bargaining unit employees and the assumption of this Agreement.

19.2 Binding On Successors

This Agreement shall be binding upon the successors and assigns of the parties hereto. No provisions, terms or obligations herein contained shall be affected, altered or changed in any

respect whatsoever by the consolidation, merger, transfer or assignment of the Employer's interest or any part thereof, in any establishment covered by this Agreement.

19.3 Subcontracting

A. The Union recognizes that the Employer is subject to requirements imposed by the Department of Transportation, through the Airport, to subcontract to businesses owned by socially and economically disadvantaged individuals (DBEs). The Employer agrees that it will subcontract only to DBEs as defined by the DOT in 29 CFR Part 26, and section 26.67 thereof in particular, and only to the extent actually required by the Airport in order to meet the Airport's overall goal set pursuant to 29 CFR Part 26, and section 26.41 thereof in particular.

B. The Employer shall give the Union at least 30 days written notice of any sale, lease, concession agreement, or any other type of contractual arrangement, including the name and address of the other party to the arrangement and will otherwise comply with any legal obligation to advise the Union concerning such transaction. Employees who are impacted by such a decision will be subject to the procedures in Article 4.3 in the case of a permanent closing.

C. Upon the expiration of the current term of lease or other contract between the Employer and any current non-DBE operator of restaurants in the Airport, or if sooner, upon termination of the lease or other contract by either the Employer or any current non-DBE operator, the restaurants will revert to the bargaining unit and coverage of this Agreement. The Employer shall not renew the contract or lease with any current non-DBE operator unless the lease or the contract provides that (a) all non-supervisory work shall be performed only by employees in the bargaining unit covered by this Agreement, and (b) the Employer shall at all times hold and exercise full control of the terms and conditions of the employment of all such employees pursuant to the term of this Agreement. Upon reversion, the Employer may operate the restaurants directly or as a joint employer with a restaurant operator. This section applies to food and beverage operations using any part of the space presently occupied by any current non-DBE operator, regardless of the configuration, equipment, nature, theme, menu or name of such operations(s).

ARTICLE 20 - SHOPPER SERVICES

20.1 Concept of Shopper Services

The Union recognizes that the Employer employs shopping investigators or "shoppers" in its operations. The Employer's purpose for using shoppers is to ensure quality of customer service, to ensure that proper procedure is being followed in cash handling, and to ensure the integrity of cash transactions. The Union and Employer agree on the following rules for the Employer's use of shoppers and shoppers reports:

20.2 Training Notification

Employees shall be informed during their training of the Employer's use of shoppers. Employees shall also be informed of these rules with regard to the use of shoppers and of shoppers reports. The Employer shall issue a copy of these rules to new employees in their new hire packets.

20.3 Factual Reports

Shoppers shall provide factual reports of their observations of customer service situations and cash handling transactions. Shoppers shall not use methods which would intimidate or confuse employees. The Employer shall not employ shopping services which receive an additional fee for generating negative reports or pay their employees a fee or bonus for negative reports.

20.4 Access to Reports in Personnel Files

Employees shall be shown copies of any reports which are retained in the employee's personnel file.

20.5 Copies Used for Discipline

When shopper reports are used for disciplinary purposes, the Employer shall provide copies of the reports to the employee. The Employer shall supply a copy of such report to the Union upon request.

20.6 Timely Notification of Report

Management shall inform the employee as soon as possible, but in no event later than ten (10) days (excluding Saturday, Sunday and holidays) after the General Manager's receipt of the shopper's report regarding any irregularity in a shopper's report that may result in disciplinary action to an employee. In the event the employee cannot be reached before the time limit expires, the Employer shall notify the Union.

20.7 Counseling Preference

The Employer agrees that, in general, counseling and re-training are preferable to disciplinary action in correcting problems that arise in shopper reports.

ARTICLE 21 - GRANDFATHERED PROVISIONS

21.1 Grandfathered Holiday Provisions

The provisions of Article 10 - Holidays of the Agreement notwithstanding, employees on the payroll as of November 18, 1992, shall be eligible for an "Employee Birthday" holiday to be granted by mutual agreement between the Employer and the employee.

The provisions of Article 10 - Holidays of the Agreement notwithstanding, employees on the payroll as of November 18, 1992, shall be paid triple time for work performed on a holiday.

21.2 Grandfathered Sick Pay

The provisions of Article 7 - Sick Pay of the Agreement notwithstanding, employees on the payroll as of January 31, 2000 who were eligible for forty hours of Sick Pay per year shall continue to maintain such eligibility despite changes to the Agreement that may affect them to the contrary.

ARTICLE 22 - WAGES

22.1 Starting Wage Scales

To review this new section regarding the wage scales for each non-tipped and tipped classification, please refer to the addendum section in the back of the agreement.

For the purposes of this Article 22, "tipped employees" include bartenders and servers. "Non-tipped employees" will include all other employees.

22.2 Wage Increases

Non-probationary employees will receive the following increases to their base hourly wage rate on the dates indicated below (retroactive increases will be given only to eligible employees still on the payroll as of the date of ratification of this Agreement). The following increases will be given first. Employees still below the minimums following such increases will then be adjusted to the minimums. It is understood that the initial across-the-board increase is retroactive to 7/1/12.

	<u>Non-Tipped</u>	<u>Tipped</u>
7/1/12	0.30	0.10
1/1/13	0.30	0.10
7/1/13	0.30	0.10
1/1/14	0.30	0.10
7/1/14	0.30	0.10
1/1/15	0.30	0.10
7/1/15	0.30	0.10
1/1/16	0.30	0.10
7/1/16	0.30	0.10
1/1/17	0.30	0.10

22.3 Training Pay

Any employee, except a Team Leader, who is assigned by the Employer to formally train a new employee for an entire shift (exclusive of incidental assistance given) shall receive a premium of one dollar per hour (\$1.00/hr) for all time so assigned.

22.4 Team Leaders

Team Leaders, if any are appointed by management, will receive Company designated bonus plan. Team Leaders positions will be posted, but selection is at the Employer's discretion.

22.5 Shift Premium

Employees who begin work between 10:00 p.m. and 4:00 a.m. shall be paid a \$2.00 per shift premium.

22.6 Benefit Rate For Tipped Employees

Tipped employees shall be paid their hourly contract rate, the minimum wage rate, or the benefit rate [whichever is highest] for paid time not worked, including trainings and meetings. The benefit rate is as follows:

Effective 11/2/12: \$8.50 per hour
Effective 1/1/14: \$8.75 per hour
Effective 1/1/16: \$9.00 per hour

22.7 Gratuities

The Employer agrees to add the phrase, "Gratuity not Included", under the 'total' line on guest checks. This will appear in bold print and will be available in English and Spanish. Additionally, parties of six (6) or more guests will have an automatic 18% gratuity added to their check.

ARTICLE 23 - LABOR/MANAGEMENT COMMITTEES/TEAMS

23.1 Labor/Management Committee

A Labor/Management Committee shall be established to discuss matters of mutual concern to the Employer and the Union. The Committee shall consist of representatives of the Employer and of not more than five (5) bargaining unit employees from the Union and three (3) Union Representatives. The Employer shall pay its employees for their time spent in such meetings provided that such meetings for any such employee shall not cause said employee to work more than forty (40) hours in that workweek. The results of such meetings shall neither alter the provisions of this Agreement nor be construed as continued negotiations over the terms and conditions set out in this Agreement. This Committee shall meet at the request of either party, not to exceed once per month, unless mutually agreed to otherwise by the Employer and the Union.

23.2 Health and Safety Team

The Employer and the Union recognize the importance of the health and safety of Employees. To that end, a Health and Safety Team shall be established, consisting of eight (8) members; the Employer shall appoint four (4) and the Union shall appoint four (4) employees.

The Employer shall pay such employees for their time spent providing such services provided that such services for any such employee shall not cause said employee to work more than forty (40) hours in that workweek.

The Employer and the Union shall each appoint a Co-Chair of the Team who jointly shall be responsible for preparing agendas for the meetings, ensuring follow-up and chairing Team meetings. The Team shall meet at its discretion, but not less than quarterly.

The Health and Safety Team shall be notified of all accidents occurring on-site and shall also review potential on-site safety hazards. The Team shall suggest ways to improve the general safety of the workplace.

The results of such meetings shall neither alter the provisions of this Agreement nor be construed as continued negotiations over the terms and conditions set out in this Agreement.

ARTICLE 24 - DURATION

24.1 Termination of this Agreement

This Agreement shall be effective July 1, 2012, and shall remain in full force and effect through and including June 30, 2017. This Agreement shall continue from year to year thereafter unless either party gives written notice of such party's intention to reopen or modify the Agreement by registered mail, return receipt, to the other party and to the Federal Mediation & Conciliation

Services, to be received no less than sixty (60) days prior to the initial expiration date or any yearly anniversary date of this Agreement thereafter.

Host Incorporated, Inc.

UNITE HERE Local 1

By:

By:

Harry Lu

Chuck Hendricks

Date

Date

SIDE LETTER TO COLLECTIVE BARGAINING AGREEMENT- MEALS

We are pleased to offer our associates a meal allowance of \$14.45, effective 7/1/12, as a benefit of employment. This allowance will be increased by the same percent as airport –approved menu pricing increases during the life of this Collective Bargaining Agreement. As concepts are changed out or new concepts are introduced, the Company agrees to meet with representatives from the Union to discuss any impact on Employees.

Employees will be allowed one meal of their choice per shift worked.

The meal choice is available at all locations other than full service restaurants, Beaudevin, Bubbles, Prairie Tap, and Frontera. Employees may obtain a meal from the To-Go coolers at full-service restaurants if offered. An Employee Meal should include wholesome food choices along with a beverage; however, snack items, with the exception of chips, are not included in this benefit.

-
- Associates are responsible to pay any amount over the current \$14.45 benefit amount.
 - All hourly associates **MUST** present their clock –out slip (obtain when clocking out for a break from the Micros when ordering a meal.
 - The cashier ringing up the meal will attach the clock-out slip to the receipt and keep it in the drawer. Associates need to present their Micros card to the cashier in order to obtain their meal.
 - Associates may not ring their own meal
 - Associates are entitled to one meal allowance per shift while on break. If an associate works a double shift, they will be entitled to a second meal for the day.
 - **Associates may not use their meal allowance for take-home orders. All meals are to be consumed in the airport. Any associate found to be taking any products home will be subject to disciplinary action, up to and including termination.**
 - **Your meal benefit is for you and is NOT transferable to anyone else.**

The meal program is intended to provide a break and is a benefit to associates while working. Any associate who fails to follow the terms of the policy, which are stated above, will be subject to disciplinary action, up to and including termination.

PRINT ASSOCIATE NAME

Associate Signature & Acknowledgement Date

PRINT MANAGER NAME

Manager Signature Date

ADDENDUM—STARTING WAGE SCALES—

Current Rates [eff 2/1/12]

Bartender	\$7.95
Server	\$5.30
Utility	\$9.20
Cashier	\$9.20
Driver	\$10.15
Expediter	\$10.15
Host/Hostess/To Go	\$9.20
Line Cook	\$11.20
Maintenance	\$10.65
Prep	\$9.20
Sautee Cook	\$13.15
Tournade Cook	\$13.15
Sushi Cook	\$11.20
Barista	\$9.40
Short Order Cook	\$10.15
Storeroom	\$9.20

Classification	2013 New Hire Rate	Year 1	Year 2	Year 3
Bartender	7.95	7.95	7.95	8.05
Server	5.30	5.30	5.30	5.40
Utility	9.50	9.80	10.20	10.70
Cashier	9.50	9.80	10.20	10.70
Driver	10.45	10.75	11.15	11.65
Expediter	10.45	10.75	11.15	11.65
Host/Hostess/To Go	9.50	9.80	10.20	10.70
Line Cook	11.50	11.80	12.20	12.70
Maintenance	10.95	11.25	11.65	12.15
Prep	9.50	9.80	10.20	10.70
Sautee Cook	13.45	13.75	14.15	14.65
Tournade Cook	13.45	13.75	14.15	14.65
Sushi Cook	11.50	11.80	12.20	12.70
Barista	9.70	10.00	10.40	10.70
Short Order Cook	10.45	10.75	11.15	11.65
Storeroom	9.50	9.80	10.20	10.70

Classification	2014 New Hire Rate	Year 1	Year 2	Year 3
Bartender	8.05	8.05	8.05	8.15
Server	5.40	5.40	5.40	5.50
Utility	9.80	10.10	10.50	11.00
Cashier	9.80	10.10	10.50	11.00
Driver	10.75	11.05	11.45	11.95
Expediter	10.75	11.05	11.45	11.95
Host/Hostess/To Go	9.80	10.10	10.50	11.00
Line Cook	11.80	12.10	12.50	13.00
Maintenance	11.25	11.55	11.95	12.45
Prep	9.80	10.10	10.50	11.00
Sautee Cook	13.75	14.05	14.45	14.95
Tournade Cook	13.75	14.05	14.45	14.95
Sushi Cook	11.80	12.10	12.50	13.00
Barista	10.00	10.30	10.70	11.20
Short Order Cook	10.75	11.05	11.45	11.95
Storeroom	9.80	10.10	10.50	11.00

Classification	2015 New Hire Rate	Year 1	Year 2	Year 3
Bartender	8.15	8.15	8.15	8.25
Server	5.50	5.50	5.50	5.60
Utility	10.10	10.40	10.80	11.30
Cashier	10.10	10.40	10.80	11.30
Driver	11.05	11.35	11.75	12.25
Expediter	11.05	11.35	11.75	12.25
Host/Hostess/To Go	10.10	10.40	10.80	11.30
Line Cook	12.10	12.40	12.80	13.30
Maintenance	11.55	11.85	12.25	12.75
Prep	10.10	10.40	10.80	11.30
Sautee Cook	14.05	14.35	14.75	15.25
Tournade Cook	14.05	14.35	14.75	15.25
Sushi Cook	12.10	12.40	12.80	13.30
Barista	10.30	10.60	11.00	11.50
Short Order Cook	11.05	11.35	11.75	12.25
Storeroom	10.10	10.40	10.80	11.30

Classification	2016 New Hire Rate	Year 1	Year 2	Year 3
Bartender	8.25	8.25	8.25	8.35
Server	5.60	5.60	5.60	5.70
Utility	10.40	10.70	11.10	11.60
Cashier	10.40	10.70	11.10	11.60
Driver	11.35	11.65	12.05	12.55
Expediter	11.35	11.65	12.05	12.55
Host/Hostess/To Go	10.40	10.70	11.10	11.60
Line Cook	12.40	12.70	13.10	13.60
Maintenance	11.85	12.15	12.55	13.05
Prep	10.40	10.70	11.10	11.60
Sautee Cook	14.35	14.65	15.05	15.55
Tournade Cook	14.35	14.65	15.05	15.55
Sushi Cook	12.40	12.70	13.10	13.60
Barista	10.60	10.90	11.30	11.80
Short Order Cook	11.35	11.65	12.05	12.55
Storeroom	10.40	10.70	11.10	11.60

Classification	2017 New Hire Rate	Year 1	Year 2	Year 3
Bartender	8.35	8.35	8.35	8.45
Server	5.70	5.70	5.70	5.80
Utility	10.70	11.00	11.40	11.90
Cashier	10.70	11.00	11.40	11.90
Driver	11.65	11.95	12.35	12.85
Expediter	11.65	11.95	12.35	12.85
Host/Hostess/ToGo	10.70	11.00	11.40	11.90
Line Cook	12.70	13.00	13.40	13.90
Maintenance	12.15	12.45	12.85	13.35
Prep	10.70	11.00	11.40	11.90
Sautee Cook	14.65	14.95	15.35	15.85
Tournade Cook	14.65	14.95	15.35	15.85
Sushi Cook	12.70	13.00	13.40	13.90
Barista	10.90	11.20	11.60	12.10
Short Order Cook	11.65	11.95	12.35	12.85
Storeroom	10.70	11.00	11.40	11.50

EXHIBIT B

allowing any property to be moved into or out of the Domestic Terminals or the Licensed Areas;

(f) To establish controls for the purpose of regulating all property and packages, both personal and otherwise, and for purposes of public safety or otherwise, to be moved into or out of the Domestic Terminals and the Licensed Areas;

(g) In addition to the provisions of Section 10.8, to regulate delivery and service of supplies and the usage of the apron area, loading docks, receiving areas and freight elevators and to designate the times within which, and the locations at which, deliveries may be made to or by the Licensee;

(h) To show the Licensed Areas to prospective licensees and sublicensees at reasonable times and, if vacated or abandoned, to prepare the Licensed Areas for re-occupancy;

(i) To erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances thereto, in and through the Licensed Areas at reasonable locations;

(j) To enter the Licensed Areas for the purpose of periodic inspection for fire protection, maintenance and compliance with the terms of this Agreement and to exercise any rights granted to it in this Agreement;

(k) To grant to any person the exclusive right to conduct any business or render any service in or to the Domestic Terminals or the Airport, provided that such grant does not conflict with the terms of this Agreement; and

(l) To promulgate from time to time rules and regulations regarding the operations of the Airport, which do not, except where required for the Airport's Best Interest, materially adversely affect the Licensee's Concession Operations.

Section 10.3 Airport Security.

(a) This Agreement is expressly subject to the Aviation Security Improvement Act of 1990 (P.L. 101-604) ("Airport Security Act"), the provisions of which are hereby incorporated by reference, including without limitation Sections 105, 109 and 110, and all rules and regulations promulgated thereunder. In the event that the Licensee, any individual employed by the Licensee, or its Sublicensees or Subcontractors, in the performance of this Agreement, has: (i) unescorted access to secured areas located on or at the Airport; or (ii) capability to allow others to have unescorted access to such secured areas, the Licensee shall be

subject to, and further shall conduct with respect to its Sublicensees and Subcontractors and the respective employees of each, such employment investigations, including criminal history record checks, as the Commissioner or the FAA may deem necessary. Further, in the event of any threat to civil aviation, as defined in the Airport Security Act, the Licensee shall promptly report any information in accordance with those regulations promulgated by the Secretary of the United States Department of Transportation and by the City. The Licensee shall, notwithstanding anything contained herein to the contrary, at no additional cost to the City, perform under this Agreement in compliance with those guidelines developed by the City and the FAA with the objective of maximum security enhancement. The drawings, plans, and specifications provided by the Licensee under this Agreement shall comply with those guidelines for airport security developed by the City and the FAA and in effect at the time of the submission thereof.

(b) Further, the Licensee shall comply with, and require compliance by its Subcontractors, suppliers of materials and furnishers of services, employees, and business invitees (other than patrons), with all present and future laws, rules, regulations, or ordinances promulgated by the City, or the FAA, or other governmental agencies to protect the security and integrity of the Airport, and to protect against access by unauthorized persons. Subject to the approval of the FAA and the Commissioner, the Licensee shall adopt procedures to control and limit access to the Airport and the Licensed Areas by the Licensee and its Subcontractors, suppliers of materials and furnishers of services, employees, and business invitees in accordance with all present and future City and FAA laws, rules, regulations, and ordinances. At all times during the Term, Licensee shall have in place and in operation a security program for the Licensed Areas that complies with 14 C.F.R. Part 107 and all other applicable laws and regulations as aforesaid.

(c) Gates and doors located on the Licensed Areas that permit entry into restricted areas at the Airport shall be kept locked by Licensee at all times when not in use or under Licensee's constant security surveillance. Gate or door malfunctions shall be reported to the Commissioner or his designee without delay and shall be kept under constant surveillance by Licensee until the malfunction is remedied.

(d) In connection with the implementation of its security program, the Licensee may receive, gain access to or otherwise obtain certain knowledge and information related to the City's overall Airport security program. The Licensee acknowledges that all such knowledge and information is of a highly confidential nature. The Licensee covenants and agrees that no person shall be

permitted to gain access to such knowledge and information, unless such person has been approved by the City or the Commissioner in advance in writing. The Licensee further agrees to indemnify, hold harmless and defend the City and other users of the Airport from and against any and all claims, costs, expenses, damages and liabilities, including but not limited to all attorneys' fees and costs, resulting directly or indirectly from the breach of Licensee's covenants and agreements as set forth in this Section.

Section 10.4 Licenses and Permits. The Licensee shall bear responsibility for, and in a timely manner consistent with its obligations under this Agreement, shall secure and maintain, or cause to be secured and maintained at its expense, such permits, licenses, authorizations and approvals as are necessary under Federal, state or local law for the Licensee to construct, operate, use and maintain the Licensed Areas and otherwise to comply with the terms of this Agreement and the privileges granted hereunder, and Licensee shall require each Subcontractor to do so as to the Licensed Areas. The Licensee shall promptly provide copies thereof to the Commissioner and to the City Management Representative.

Section 10.5 Confidentiality.

(a) Except as may be performed in the ordinary course of the Licensee's business or as may be required by law or New York Stock Exchange requirements during or after the performance of this Agreement, the Licensee will not publicly disseminate any non-public information regarding this Agreement or the Concession Operations without the prior written consent of the Commissioner, which will not be unreasonably withheld or delayed. In the event the Licensee is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any documents which may be in its possession by reason of this Agreement, the Licensee shall immediately give notice to the Corporation Counsel. The City may contest such process by any means available to it before such records or documents are submitted to a court or other third party; provided, however, that the Licensee shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended. The Licensee shall require each prospective Subcontractor to abide by such restrictions in connection with their respective Subcontracts.

(b) Except as may otherwise be required by any federal, state or local law, statute, ordinance, or regulation (including without limitation the Freedom of Information Act), or the order of any court of competent jurisdiction, the City will use reasonable efforts to maintain the confidentiality of the Licensee's

EXHIBIT C

CHICAGO DEPARTMENT OF AVIATION POLICE AIRFIELD CITATION
 The Chicago Department of Aviation Police state that:

EVENT #

CITATION # **99-034607**

171205436

NAME: Last First MI
CASTILLO JUSTICE N

ACCESS BADGE #
607863

EMPLOYED BY: **HMS HOST**

BADGE EXPIRATION DATE
25 SEP 2018

On (day of week)	Month	Date	Year	Time	While driving a vehicle (Make)
THURS	12	21	17	10:05 AM	NA

License: **N/A**
 RECIPIENT'S SIGNATURE: **REFUSED**

While on the Air Operations Area, a restricted area regulated by the Federal Government at O'Hare Int'l Airport Midway Airport, was found in violation of City of Chicago Ordinance pertaining to:
 Motor Vehicle Operational regulations 10-36-357
 Access Control Badge Display Regulation 10-36-353
 Proper Wearing of Safety Equipment 10-36-350

All violation hearings will be held in the ID Badging Office, located in Terminal 3 Lower Level. Citations may be pre-paid at Badging/Compliance Office in lower level, T3 in the form of Credit Card, Certified Check or Money Order ONLY. NO Personal Checks or Cash will be accepted. Any questions call Compliance at 773-686-3020

By (Description of Violation)	Location
IMPROPER FAILURE TO MAINTAIN	Concess Area T3 CONCOURSE

Officer's Name / Badge #	Officer's / Complainant's Signature
MIKE KELLY 286	[Signature]

Date: **JAN 18 2018 2:50 PM**
 Time: **2:50 PM**
 Location: **1 D BNDLINK**
 Per Sticker

Chicago Department of Aviation Airfield Citation Violations

Municipal Ordinance 10-36-353

Department of Aviation Issued Identification Badges

Any person who seeks to enter a secured area, or to remain in such area, shall at all times, prominently display a security badge issued by the Commissioner of Aviation or a badge approved by the Federal Aviation Administration.

Such security badge shall be displayed above the waist on the wearers outermost garment. No person shall allow the use of any security badge required herein by anyone other than the person to whom the badge is issued.

Persons who have access to the secured area can enter secured areas only at authorized portals and in such manner designated by the Commissioner. Any Person to whom a security badge is issued shall immediately report to the Department of Aviation the presence of any person not properly displaying identification in a restricted area.

No person entering a secured area shall allow any other person access to such area. Persons authorized to escort others in the secured area must at all times direct and control movement of persons under escort in that area.

Municipal Ordinance 10-36-357

Airport Motor Vehicle Operating Regulations/Runway Incursions

The Commissioner of Aviation may promulgate regulations relating to the operation of ground equipment and vehicles within secured areas of the airport as defined in section 10-36-360 of the Chicago Municipal Code. Penalties for violations of these regulations authorized herein shall be as set forth in section 10-36-356. Any person cited for violations of these regulations and ordinances shall be afforded the opportunity to contest an issued citation at an Administrative Hearing as set forth in section 10-36-356.

Hearing officers may impose fines for the above ordinance violations.

1st Offense	Not more than \$100
2nd Offense	Not more than \$200
3rd & each subsequent offense	Not more than \$500

Failure to pay imposed fines may result in the revocation of Department of Aviation issued identification. For information on waiving an ordinance violation hearing please call 773-686-2662 for citations issued at O'Hare International Airport and 773-838-0668 for citations issued at Midway Airport.

** The recipient's signature on this citation is not to be construed as an admission of the violation cited, rather it is an acknowledgement of the receipt of the citation.