

**AGREEMENT**

**between**

**ELDER SERVICES OF CAPE COD AND THE ISLANDS, INC.**

**and**

**LOCAL 509, SERVICE EMPLOYEES INTERNATIONAL UNION**

**July 1, 2008 – June 30, 2011**

E.S.C.C. &amp; I.

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PREAMBLE AND PURPOSE OF AGREEMENT

This Agreement is made and entered into this 1<sup>st</sup> day of July, 2008, by and between Elder Services of Cape Cod and the Islands, Inc. (hereinafter referred to as the “Employer,” or the “Agency,”), and Local 509, Service Employees International Union (hereinafter referred to as the “Union”).

The purpose of this Agreement is to promote the dignity of all employees in the bargaining unit, and to assure proper mutual respect and dignity to all parties. To that end, this Agreement is intended to promote and further harmonious labor-management relations; quality client care; efficiency and responsibility at all levels; just and speedy means for the settling of grievances; and improvement in the quality of the workplace, including communications and cooperation between all employees and management.

ARTICLE I – RECOGNITION

Section 1.

The Employer recognizes the bargaining unit employees as professional employees, and recognizes the Union as the sole and exclusive bargaining agent, pursuant to the certification of the National Labor Relations Board issued on September 23, 1985, in Case #1-RC-18, 547, for the following unit, as amended by the parties:

.All full-time and regular part-time Care Managers, Specialized Care Managers, Protective Service Workers, and Registered Nurses (RNs), employed by the Employer at its various locations in Barnstable, Dukes and Nantucket Counties of the Commonwealth of Massachusetts; but excluding all other employees, Care Manager Supervisors, Nutrition Workers, office clerical employees, and guards.

Section 2.

A loss of grant funds shall be deemed just cause for terminating employees holding a grant-funded position, and said termination shall not be subject to grievance/arbitration. An employee terminated under such circumstances shall have preference in being rehired for any bargaining unit position, which s/he is qualified to fill.

ARTICLE II – NO STRIKES AND NO LOCKOUTS

Section 1.

Neither the Union nor any employee shall engage in, induce, support, encourage or condone a strike, work stoppage, slow-down or withholding of services, including reasonable overtime services by employees.

Section 2.

The Union shall exert its best efforts to prevent any violation of Section 1 of this Article and if such action does occur, to exert its best effort to terminate it.

Section 3.

The Employer agrees that so long as the Union and employees are not in violation of this Article or other provisions of this Agreement, it shall not lock out employees during the time of this Agreement.

ARTICLE III – MANAGEMENT RIGHTS

Section 1.

- A. Except as otherwise limited by a provision of this Agreement, the Agency shall have the right to exercise complete control and discretion over its organization including, but not limited to, the right to:
1. Determine the standards of service to be provided, and the standards of productivity and performance of its employees;
  2. Establish and/or revise personnel evaluation programs; and evaluate employees during their probationary period, and on a regular basis thereafter;
  3. Determine the methods, means and personnel by which its operations are to be conducted;
  4. Determine the job content of job classifications;
  5. Determine the assignment, direction, and transfer of personnel;
  6. Relieve employees of duty because of lack of work, or other legitimate reasons;
  7. Move, sell, close, liquidate or consolidate the Agency and its offices in whole or in part;
  8. Establish reasonable work rules;
  9. Suspend, demote, discharge or take any other appropriate action against its employees; and
  10. Take all necessary actions to carry out its mission.
- B. Employees who are absent on a leave-of-absence due to a workers' compensation injury may be required to return to work as part of an individualized "return-to-work" program. Employees absent on leave-of-absence due to non-job-related illness or injury may volunteer to return to work on an individualized "return-to-work" program. In either case, the employee shall be assigned modified duties falling within the range of duties for his/her job classification, provided said assignment of modified duties is consistent with the recommendations of an Employer-designated physician and/or the Employer's insurance carrier. If the employee's physician makes a medical recommendation contradicting or disagreeing with the Employer's designated physician and/or Employer's insurance carrier, the Employer's designated physicians and/or the Employer's insurance carrier and the employee's physician shall mutually agree upon a third physician in an appropriate specialty whose recommendations shall be considered final with respect to whether or not the employee can return to work and perform the modified duties.

Section 2.

It is agreed that this enumeration of management rights shall not be deemed to exclude other management rights not specifically enumerated; and that all rights heretofore exercised by the Agency, or inherent in the Agency as the Manager of the business, or as an incident to the management, not expressly contracted away by a specific provision of this Agreement, are retained solely by the Employer.

Section 3.

The Agency's exercise of any management right or function in a particular manner shall not preclude the Agency from exercising same in any other manner which does not expressly violate a specific provision of this Agreement. The Agency's failure to exercise any right or function reserved to it shall not be deemed a waiver of its right to exercise same. Any rights granted to or acquired by the employees of the Union under this Agreement, or during its life, shall have no application beyond the term of this Agreement or any renewal thereof.

Section 4.

The Agency shall have the right to make and enforce rules and regulations governing its operation, the manner and method of performing the work, the professional standards it requires, attendance and any other matter, so long as such rules and regulations are not in direct conflict with a specific provision of the Agreement. The Agency shall have the right from time to time to change, alter, and add to such rules. Such rules will be enforced and in effect upon being posted in the offices of the Agency, and a copy of such rules, prior to posting, shall be furnished to the Union.

Section 5.

Any prior agreements covering employees in the bargaining unit shall be terminated upon the effective date of this Agreement, and shall be superseded by this Agreement.

ARTICLE IV – UNION SECURITY

Section 1.

Employees shall, as a condition of employment, within thirty (30) days of the date of this Agreement or within thirty (30) days after the date of hire, either:

- A. Acquire and maintain membership in the Union in good standing; or
- B. Tender to the Union a service fee equal to periodic dues uniformly required as a condition of membership in the Union; provided, however, that in no event shall an employee be required to render a service fee, which exceeds the maximum amount that may be lawfully collected.

Section 2.

Any employee who fails to maintain her/his obligations under the provisions of this Article, shall not be retained in the employ of the Employer, provided that the Union shall have notified the Employer and the employee in writing of such default, and said employee shall have failed to remedy the same within thirty (30) days after receipt of such notice.

In the event that an employee has filed a claim or complaint with an administrative agency or in a court having competent jurisdiction and said claim or complaint challenges the appropriateness of the dues or agency service fee amount, the Employer shall not be required to take any action against said employee until the matter is

resolved by the administrative agency or court, provided said employee authorizes the placement of the dues or agency service fee deduction in an escrow account.

Section 3.

The Agency will honor from each employee a voluntary revocable wage assignment (check-off card), in a form to be agreed to by the parties and attached hereto, authorized the Agency during the life of this Agreement to deduct from her/his earnings due each month the uniform membership dues and initiation fees or agency fee for the current month.

Deductions shall be made from the employee's weekly paycheck in an amount certified in writing by the Union as the authorized amount of dues or agency fee; and the Employer shall remit to the Union, within thirty (30) days of the payroll deduction, the amounts deducted, along with the names of employees for whom deductions were made and the amount of such deductions.

Section 4.

The Union agrees to indemnify and hold the Employer harmless for any and all claims suits or other forms of liability that shall arise out of or by reason of action taken or not taken by the Employer for the purpose of complying with this Article.

Section 5.

- A. An employee may consent in writing to the authorization of the deduction of a Political Education Fund fee from her/his wages, and to the Union as the recipient thereof. Such consent shall be in a form acceptable to the Employer, and shall bear the signature of the employee. An employee may withdraw her/his Political Education Fund authorization by giving at least sixty (60) days notice in writing to her/his fiscal manager and to the Union.
- B. The Employer shall deduct such Political Education Fund fee from the pay of employees who request such deduction and shall transmit deductions to the Treasurer of the Union together with a list of employees whose Political Education Fund fees are transmitted.

ARTICLE V – EFFECT OF AGREEMENT

It is acknowledged that, during the negotiations that resulted in this Agreement, the Union had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining. Therefore, for the life of this Agreement, the Agreement shall constitute the total agreement between the parties; and the Union agrees that the Agency shall not be obligated to any additional collective bargaining.

No amendment to this Agreement shall bind the parties hereto unless in writing signed by the parties hereto. No practice, condition of employment, or benefit, or oral agreement that is not expressly stated in this Agreement shall be deemed part of this Agreement.

The parties further agree that only matters that are expressly and specifically limited or restricted by a provision of this Agreement shall be subject to the grievance/arbitration provisions of this Agreement.

ARTICLE VI – UNION ACTIVITY/UNION STEWARD

Section 1. Stewards

The Union shall have the right to elect four (4) employee Stewards in Barnstable County, and one (1) each in Dukes and Nantucket counties. A Barnstable County Steward may be designated Chief Steward.

Stewards shall be permitted reasonable time off with pay for purposes of investigating and processing of grievances. The Steward shall keep track of any work time in excess of fifteen (15) minutes spent in the investigation and processing of grievances and shall submit to the employer a monthly accounting of such paid time off on her/his time sheet.

Section 2.

The Union shall provide the Employer with a written list of Union representatives and officers, including the Steward, and shall notify the Employer of any changes therein.

Section 3. Union Representation.

Authorized staff representatives of the Union shall have access to the Employer's premises only for the purpose of discussing such Union business that can only be transacted during working hours.

Section 4. Access to Premises.

Before entering the Employer's premises, authorized Union representative must first notify and obtain permission from the appropriate Agency representative. During such visit, there shall be no interruption of the work by the Union representative. There shall be no further Union activity by employees on Agency time. If the privilege of access to the Agency is abused, it may be discontinued by the Agency.

Section 5. Union Meetings and Conventions.

A maximum of five (5) days per fiscal year will be provided to the bargaining unit as paid leave to be used by Union officers, Stewards, and elected delegates for purposes of attending Union meetings and conventions scheduled during the employees' work hours.

Section 6. Bulletin Boards.

The Employer will make available in each office a sufficient space, no larger than twenty-four (24) inches by thirty-six (36) inches, in a non-public area of the office for purposes of posting Union notices. Such notices shall not contain any offensive or derogatory material or material in support of or against a candidate for political office.

Section 7. Union Orientation.

On a monthly basis the Employer will allow one (1) Union Steward one-half (1/2) hour to provide orientation to new bargaining unit employees hired within the last thirty (30) days.

ARTICLE VII – NON-DISCRIMINATION

Section 1.

The Employer and the Union agree that neither the Employer nor the Union shall discriminate against any employee on the basis of race, creed, religion, national origin, sex, age, mental or physical handicap or disability, veteran status, sexual orientation, or Union activity or non-participation in Union activity. The Employer and the Union agree that no person shall be subject to sexual harassment.

Section 2.

It is further agreed that while the parties may discuss alleged violations of this Article in the preliminary steps of the grievance procedure, any claim or allegation of violation of this Article will not be subject to arbitration and the exclusive remedy for such claims will be through applicable federal or state statutes where available.

Section 3.

The Employer shall maintain and adhere to an affirmative action plan in satisfaction of its agreement with the Executive Office of Elder Affairs. The Labor-Management Committee established under this Agreement may review issues of sexual harassment or racism.

ARTICLE VIII – GRIEVANCE AND ARBITRATION

Section 1.

A grievance is defined as any dispute arising during the term of this Agreement between the Union and the Employer, or between the Employer and any of its employees, involving the interpretation or application of a specific provision of this Agreement.

Section 2.

Grievances shall be processed in the following manner:

Step 1. Immediate Supervisor.

An employee shall present a grievance in writing on a form (attached hereto and made a part hereof) to her/his immediate supervisor outside the bargaining unit within ten (10) working days of the event giving rise to the grievance, or the date the employee knows or should have known of the event. The employee may or may not be accompanied by the Union Steward.

Step 2. Department Head.

In the event the grievance is not settled between the employee and her/his immediate supervisor outside the bargaining unit within five (5) working days of the time it is raised, the grievance shall be presented to the

employee's Department Head within five (5) working days of presentation to the immediate supervisor outside the bargaining unit in Step 1. The Department Head will promptly discuss the matter with the Steward and the employee, and will give a written answer within five (5) working days of the time the written grievance is discussed.

Step 3. Executive Director.

In the event the Department Head's answer in Step 2 is not satisfactory, the Union Steward may, within five (5) working days of the answer in Step 2, request in writing a meeting with the Executive Director or her/his designee. The Executive Director or her/his designee shall meet with the Steward within five (5) working days of the written request and attempt to arrive at a satisfactory conclusion. The Executive Director's written answer will be due within five (5) working days of the meeting referred to in this step.

Step 4. Arbitration.

If the matter is one which is subject to arbitration then the Union may, within twenty-one (21) calendar days after the Employer's answer in Step 3, or the date on which said answer is due, whichever first occurs, notify the Executive Director in writing of its intention to proceed to arbitration. Thereupon, the parties will have thirty (30) days to attempt agreement on the choice of an arbitrator. If no agreement is reached within said thirty (30) days from receipt by the Executive Director of the Union's written intention to proceed to arbitration, then the Union may request the Labor Relations Connection to appoint an arbitrator in accordance with its then-existing voluntary labor arbitration rules.

Section 3.

Grievances not present or advanced by the Union in accordance with the time limits specified at each step shall be deemed abandoned and not entitled to consideration thereafter. Any time limit set forth in Section 2 may be extended by mutual agreement of the parties in writing.

Section 4.

The arbitrator so selected shall schedule a prompt hearing, at which time s/he shall have the power to make determination of fact on the questions submitted to her/him, and apply them to the provisions of the Agreement alleged to have been violated, so long as the matter is one which is subject to arbitration under the terms of this Agreement, and so long as it is submitted to her/him in accordance with the procedure herein specified. In interpreting and applying the provisions of this Agreement which are subject to arbitration, and in making findings of fact in connection therewith, the arbitrator's interpretation must be in accordance with the spirit and letter of this Agreement. No arbitrator shall have the jurisdiction or authority to add to, take from, nullify, or modify any of the terms of this Agreement or to impair any of the rights reserved to management under the terms hereof.

The arbitrator shall be bound by the facts and evidence submitted to her/him, and may not go beyond the terms of this Agreement in rendering her/his decision. No such decision may include or deal with any issue or matter that is not expressly made subject to arbitration under the terms of this Agreement. The decision of the

arbitrator shall be in writing and shall be final and binding upon the parties when rendered upon a matter within the authority of the arbitrator, and within the scope of matters subject to arbitration as provided in this Agreement, and shall be otherwise void.

Section 5.

Unless it is mutually agreed otherwise, each grievance, which is subject to arbitration shall be handled by a separate arbitrator in a separate hearing, except that grievances arising out of an identical set of facts or the same incidents may, by agreement, be heard together.

Section 6.

Each party shall be responsible for one-half (1/2) of the expenses and fees of an arbitrator designated under this Article. However, each party shall bear its own costs as to all other matters (including, but not necessarily limited to, its own witnesses, court reporters, stenographic records, etc.).

Section 7.

Should it be determined that an employee, other than a probationary employee, was disciplined or discharged without just cause, s/he shall be restored to her/his former status. Probationary employees shall not have access to the grievance and arbitration procedure in matters involving their discipline or discharge.

ARTICLE IX-DISCHARGE AND DISCIPLINE

Section 1.

The right to discipline or discharge employees shall remain in the discretion of the Agency, except that no employee who has completed the probationary period shall be disciplined or discharged without just cause. A grievance involving the discharge of an employee will be filed at Step 3 of the grievance procedure within 5 working days of the discharge.

Section 2.

The Agency shall notify the Union representative within three (3) working days of all disciplinary action involving employees covered by this Agreement.

Section 3.

Any grievance relating to the discharge or discipline of any employee who has completed the six (6) month probationary period may be taken up and determined under the grievance/arbitration provision of this Agreement.

In addition to the initial six (6) month probationary period upon hiring, the Employer may place an employee on probationary status for up to three (3) months at any time where progressive discipline has not served to correct performance issues as per the Agency's progressive discipline policy 5.2.

ARTICLE X – PERSONNEL RECORDS

Section 1.

Each employee shall have the right, upon written request, to examine and copy any and all material, including any and all evaluations, contained in any personnel records concerning such employee. The Union shall have access to an employee's records upon written authorization by the employee involved.

Section 2.

Whenever any derogatory material, commendations, or evaluations are inserted into the personnel file or records of an employee, such employee shall be promptly notified and given a copy of such material.

Section 3.

The Union or any employee may challenge the accuracy or propriety of such material and personnel evaluations by filing a written statement of the challenge in the personnel file.

Section 4.

Any negative action taken against an employee and based upon a personnel evaluation or other material in the file, and which during the grievance procedure such material is found to be inaccurate or improperly placed in the personnel file, shall be removed from the file together with any employee statement(s) related thereto.

ARTICLE XI-WORKWEEK AND WORK SCHEDULE

Section 1.

Except as otherwise specified in this Agreement, the regular hours of work for full-time employees shall be thirty-nine (39) hours per week, including one (1) hour paid lunch period. Employees are expected to take their lunch periods as near to the middle of the workday as possible. Employees who, through circumstances beyond their control, are prevented from taking a lunch period of at least one-half (1/2) hours, shall be granted one (1) hour of compensatory time to be scheduled by the supervisor. Employees taking a one-half (1/2) hour lunch period, but who are prevented by circumstances from taking the full one (1) hour lunch period, shall receive no compensatory time. To the extent practicable, the normal workweek shall consist of five (5) consecutive days, Monday through Friday, with the regular hours of work each day to be consecutive except for the lunch period. Employees shall report to the office at the start of the workday, unless prior supervisory approval is given not to report, and all Case Managers, Elder-At-Risk, and Protective Service employees shall be required to participate in maintaining office coverage at each office from 3:00 p.m. to 5:00 p.m. each day, and respond to any home care or crisis calls. A rotation schedule for each office will be developed to assure such coverage by at least one (1) Case Manager, Monday through Friday. Case Manager working a flextime schedule will modify their weekly schedules when they are assigned 3:00 p.m. to 5:00 p.m. coverage so as not to exceed forty (40) hours

per week. Employees who do not return to the office at the end of the workday shall be expected to call in for their messages.

Section 2.

When the Employer, because of regulatory or business reasons, must change an employee's work schedule, the Employer will give thirty (30) days notice, and will first seek volunteers.

If the assignment must be made on an involuntary basis, it will be made by inverse seniority of qualified employees.

In emergencies, changes in work schedules may be made as Agency needs require.

Section 3.

Overtime work shall be distributed as equitable and impartially as practicable among persons in each work location who ordinarily perform such work in the normal course of the workweek as assigned by the supervisor. Vacation and holiday time shall count as time worked for the purpose of calculating overtime compensation.

Overtime work shall be any work in excess of the employee's normal workweek hours. No overtime shall be compensated unless prior approval for the overtime work has been obtained from the employee's supervisor. Approved overtime shall be compensated in the following manner: One (1) hour of pay shall be earned by the employee for each hour of overtime work except for overtime work in excess of a 40-hour week. Any overtime work in excess of a 40-hour week will be compensated at the rate of one and half (1-1/2) hours of pay for each hour of overtime worked over 40 hours. When a "modified" full-time schedule has been established for a particular employee, according to the terms of Section 7 of this Article, any overtime work in excess of the full-time schedule will be compensated at the rate of one and a half (1-1/2) hours of pay for each hour of overtime worked.

Full-time employees can accumulate a maximum of forty (40) compensatory time hours; and part-time employees can accumulate a maximum number of compensatory hours in proportion to forty (40) hours based on hours worked in relation to full-time employees.

Compensatory time may be used at any time with the approval of the immediate supervisor.

Section 4.

Part-time employees work less than thirty-nine (39) hours per week on a regular basis year-round, and may be assigned to work a workweek other than Monday through Friday and workdays that are not consecutive.

Section 5.

- A. The Unit Head shall rotate standby duty among employees where coverage is needed on a weekly basis. Employees assigned standby duty for the week shall be paid one hundred and forty-five dollars (\$145) and shall be available to respond between 5:00 p.m. and 9:00 a.m. Monday through Friday, and between 5:00 p.m. Friday and 9:00 a.m. Monday. Employees on standby duty will remain on standby duty during the

period 9:00 a.m. to 5:00 p.m. when the Agency is closed due to a holiday, or where circumstances exist where the Agency is not able to be open for normal operations. Employees shall be paid an additional thirty dollars (\$30) per day for standby duty on these occasions.

Effective July 1, 2009, the standby duty weekly payment shall be increased from \$145 to \$150.

- B. Only Protective Service Workers, Crisis Intervention Workers, or qualified volunteers from other job classifications will be required to perform standby duty, except as provided in Section 6 of this Article.
- C. Any employee who performs standby duty will be properly trained for such duties by the Agency.
- D. When an employee is performing standby duty, s/he will be compensated for time actually worked under one of the following two methods. Each eligible employee will choose the method that applies to him/her once a fiscal year. Employees may not change methods during the fiscal year. Each employee will choose the method in June for a July 1 effective date. Employees newly hired or otherwise new to standby duty during the fiscal year will choose a method to be effective for the remainder of the fiscal year. In year one of the contract, when the contract execution date falls after June, eligible employees will choose a method to be effective for the remainder of the fiscal year.

Method 1 (Comp time). Employees required to perform work in response to a standby duty responsibility will be compensated at the rate of one and one-half (1-1/2) hours of compensatory time for each hour of time actually worked, except in the late-night hours as described in the next sentence. Employees required to perform work in response to a standby duty responsibility between the hours of 10:00 p.m. and 6:00 a.m. will be compensated at the rate of two (2) hours of compensatory time for each hour of time actually worked.

This compensatory time is to be used at the employee's discretion, except where circumstances beyond the Agency's control prevent said time off (e.g., court appearances). The scheduling of compensatory time will be done with supervisory approval, except where the first four (4) hours of the next working day are to be taken as compensatory time. In this situation, the employee shall notify the Agency one-half (1/2) hour prior to the beginning of her/his regularly scheduled workday.

Method 2 (Pay) Employees required to perform work in response to a standby duty responsibility will be compensated at the rate of one and one-half (1-1/2) hours of pay for each hour of time actually worked except in the late-night hours as described in the next sentence. Employees required to perform work in response to a standby duty responsibility between the hours of 10:00 p.m. and 6:00 a.m. will be compensated at the rate of two (2) hours of pay for each hour of time actually worked.

#### Section 6.

It is understood between the parties that should EOEAs during the term of this Agreement require standby duty for purposes other than protective services or crisis intervention type work, the Employer will first attempt to cover this work by seeking qualified volunteers and, in the absence of volunteers, by rotating the seniority list of qualified employees starting with the junior-most employee.

Section 7.

By mutual agreement between the immediate supervisor and the employee who has completed the probationary period, flexible schedules, part-time schedules, and job-sharing will be allowed, subject to review and approval by the ASAP Program Director and Executive Director. Approval will take into account maintaining efficient Agency operations throughout the workweek, including office coverage and satisfying client needs.

ARTICLE XII-SALARIES AND EVALUATIONS

Section 1.

Effective July 1, 2008 , the salary schedules in effect on June 30, 2008 for all positions shall be increased by 2.0%. (See Appendix A)

Effective July 1, 2009, the salary schedules in effect on June 30, 2009 shall be increased by 3.0%.

Effective July 1, 2010, the salary schedules in effect on June 30, 2010 shall be increased by 3.0%.

- A. New employees will be placed at the “Primary” tier in their respective job classifications.
- B. After initial placement on the 4-tier salary schedule, eligible employees covered by this Agreement shall move from the “Primary” to the “Experienced” tier or from the “Experienced” to the “Mentor” tier three years after the initial placement, and employees on the “Mentor” tier who have completed ten years of service with the employer will move to the “Mentor Plus” tier.

It is understood that these increases are inclusive of any State cash reserves received by the Agency unless a reserve is received in excess of the July 1, 2008, July 1, 2009 and/or July 1, 2010 increases.

“Cash reserves,” as used herein, refers to the traditional-type cash reserves available from time to time in the past and is to be distinguished from any so-called “Quality of Care Funds,” even should those funds derive from what otherwise would have been a traditional cash reserve amount. The percentage increases on July 1, 2008, 2009 and 2010, are exclusive of said Quality of Care Funds.

Section 1a.

In addition to the increases contained in Section 1, employees will be paid a one-time payment (not included in their base pay) as soon after the execution of this Agreement as administratively possible. Said payment will be based upon two percent (2%) of each employee’s fiscal year 2008 earnings and will be subject to regular tax withholdings.

Section 2.

When assigned by the Director to perform supervisory duties (in the absences of the regular supervisor), an employee will be paid an additional five dollars (\$5.00) per hour. The employer will first seek a volunteer to replace a supervisor. If more than one (1) employee volunteers, the more senior will be chosen. If no bargaining unit employee volunteers, the Employer will assign non-bargaining unit employees.

Effective July 1, 2009, the differential shall be increased to six dollars (\$6.00) per hour.

ARTICLE XII-WORK IN A HIGHER CLASSIFICATION

An employee assigned by a supervisor to work in a higher classification within the bargaining unit, for a regular workday or longer, will be paid at his or her tier (primary, experienced, mentor) in the higher classification.

ARTICLE XIV – HOLIDAYS

Section 1.

The following days shall be holidays for employees:

New Year's Day	Independence Day	Employee's Birthday
Martin Luther King Jr. Day	Labor Day	
President's Day	Columbus Day	
Patriot's Day	Veterans' Day	
Memorial Day	Thanksgiving Day	
	Christmas Day	

Section 2.

All holidays shall be observed on the Commonwealth's legal holiday, unless an alternative day is designated by the Employer.

Section 3.

When a holiday occurs on the regularly scheduled workday of a full-time employee, s/he, if not required to work that day, shall be entitled to receive her/his regular day's pay for such holiday.

Section 4.

The employee's birthday must be observed within the pay period that the birthday occurs.

Section 5.

Full-time employees and part-time employees working nineteen and one-half (19½) or more hours per week who are required to work on a holiday shall receive a compensatory day off with pay within sixty (60) days following the holiday, to be taken at a time approved by the Agency. If a compensatory day cannot be granted by the Agency because of a shortage of personnel or other reasons, then s/he shall be entitled to pay for the day at her/his regular rate of pay, in addition to pay for the holiday worked.

Section 6.

An employee who is on an unauthorized absence for any part of her/his scheduled workday immediately preceding or immediately following a holiday, or on the holiday where scheduled, shall not receive holiday pay or compensatory time off for that holiday.

ARTICLE XV – VACATION

Section 1.

Full-time employees shall receive an accounting of their vacation time on a bi-weekly basis, commencing with the first month of employment, as follows:

- A. Three (3) weeks - after completing one (1) year of service
- B. Four (4) weeks - after completing three (3) years of service
- C. Five (5) weeks - after completing eight (8) years of service

Employees may use accrued vacation time after three (3) month of employment.

A regular part-time employee shall be granted vacation leave in the same proportion that her/his part-time service bears to full-time service.

Section 2.

Vacation time shall begin to accrue on the first day of work.

Section 3.

Vacation request shall be submitted to the supervisor for approval.

In no event shall vacation leave credit be accrued beyond four (4) week for employees with one through four (4) years of service, and beyond five (5) weeks for employees with more than four (4) years of service.

Section 4.

Employees who are eligible for vacation when services are terminated shall be paid for any earned vacation time not used at the date of separation. In the event of an employee's death, any earned and not used vacation time shall be paid the employee's designated beneficiary, and if no beneficiary is designated, to the employee's estate.

Vacation pay will be paid in advance provided the employee gives the Employer two (2) weeks' notice of said leave.

Section 5.

Employees will be able to sell back up to three (3) days of unused accumulated vacation leave each calendar year. Sell back opportunities will be available twice a year – the last payroll in June and the last payroll in December. Employees must be out of probation to be eligible to participate.

ARTICLE XVI – SICK LEAVE

Section 1.

A full-time employee shall accumulate sick leave with pay credits at the rate of one and one-quarter (1-1/4) workdays for each full calendar month of employment with a pro-rata accrual of said benefit commencing on the first day of work and reported with the bi-weekly payroll. An employee on any leave with pay or industrial accident leave shall accumulate sick leave credits.

A regular part-time employee shall be granted sick leave credits in the same proportion that her/his part-time service bears to full-time service.

Sick leave may accumulate up to a maximum of one hundred and twenty (120) days.

Section 2.

Sick leave shall be granted to an employee only under the following conditions:

- A. When an employee cannot perform her/his duties because s/he is incapacitated by personal illness or injury;
- B. When, through exposure to contagious disease, the presence of the employee at her/his work location would jeopardize the health of other;
- C. When a medical appointment can only be scheduled during work hours.
- D. When the spouse, parent, or child of an employee, or a relative or significant other living in the immediate household is seriously ill, the employee may utilize sick leave credits up to a maximum of seven (7) days per fiscal year.

Section 3.

A full-time employee shall not accrue sick leave credit for any month in which s/he was on leave without pay or absent without pay for a total of more than three (3) days.

Section 4.

Upon return to work following a sick leave in excess of five (5) consecutive workdays, an employee may be required to undergo a medical examination to determine her/his fitness for work.

Section 5.

Any employee having no sick leave credits, who is absent due to illness, shall be placed on leave without pay, unless said employee requests use of other available leave time which is subsequently approved. Following a leave without pay in excess of forty-five (45) days, the employee can return to the first available position for which s/he is qualified.

Section 6.

A regular part-time employee shall not accrue sick leave credit for any month in which s/he was on leave without pay or absent without pay, in the same proportion that her/his service bears to three (3) days service of a full-time employee.

Section 7.

Notification of absences under this Article must be given to the immediate supervisor or the Department Head as early as possible on the first day of absence, and no later than thirty (30) minutes beyond the normal arrival time, unless circumstances beyond her/his control prevent such notice from being given. If such notification is not made, such absence may, at the discretion of the Department head, be applied to absence without pay.

Where the Department head has reason to believe that sick leave is being abused, s/he may require the submission of satisfactory medical evidence. Failure to produce such evidence within seven (7) days of its request may result, at the discretion of the Department Head, in denial of sick leave for the period of absence.

Section 8.

An employee absent due to illness or injury covered by Workers' Compensation may be paid from accumulated sick leave, the difference between Workers' Compensation payments and her/his regular pay.

Section 9.

The Employer shall continue to administer a sick leave bank for all Agency employees. Any changes in the Employer's sick leave bank policies shall be discussed at Labor-Management meetings.

ARTICLE XVII – OTHER LEAVE

Section 1. Personal Leave

Full-time employees who have completed their probationary periods shall be granted four (4) personal days per calendar year. Requests for personal days should be submitted to the immediate supervisor, in writing, with as much advance notice as possible. Personal days must be used by the employee; and any unused personal days credited to an employee but not used prior to terminating employment are not compensated.

Regular part-time employees shall be granted personal days on a pro-rata basis.

Section 2. Bereavement Leave.

Employees shall be granted up to four (4) days with pay as bereavement leave when there is a death in their immediate family or household. Immediate family is defined as grandparents, parents, cohabitant, spouse, siblings, children, grandchildren, mother-in-law, father-in-law, sister-in-law, and brother-in-law. Employees shall be granted up to two (2) days with pay as bereavement leave when there is a death in the immediate family of the cohabitant. Additional unpaid bereavement leave may be granted at the discretion of the immediate supervisor and Executive Director or designee.

Section 3. Parental Leave.

Employees will be granted a leave of up to three (3) months of unpaid leave for maternity leave purposes or the purpose of caring for a child born to or adopted by an employee, within the first year of occurrence of the birth or the adoption.

A portion or all of said leave may be paid for by use of accrued vacation, sick, person leave, and/or compensatory time.

At the expiration of such leave, the employee shall return to her/his position.

Additional unpaid leave of three (3) months may be granted, and at the expiration of such leave, the employee shall return to the first opening for which s/he is qualified.

The request for such leave must be made at least two (2) weeks in advance of the anticipated date of departure, whenever possible.

Section 4. Civic Duty Leave.

Employees summoned for jury duty will be granted a leave-of absence with pay for time lost from their regular work schedule while on said jury duty, upon presentation of the appropriate summons to the Personnel Director by the employee, provided the employee remits to the Agency the jury fees received from the court, not including expenses reimbursed for travel, meals, rooms, or incidentals. The employee shall notify her/his supervisor in writing at once when summoned for jury duty.

An employee on court leave who has been excused by the proper court authority shall report to her/his work location, if such interruption in court service will permit four (4) or more consecutive hours of employment and where the court permits the employee to remain on call.

Section 5. Military Leave.

Leave will be granted to an employee ordered to military duty by the Commonwealth of Massachusetts or the United States government, not to exceed seventeen (17) days active duty per calendar year. The Employer will pay the employee the difference between he/his military pay and her/his regular pay during said military leave, provided the employee notifies the Employer of her/his orders as soon as they are received and provides a copy of said orders and proof of compensation received from the government.

Section 6. Education Leave.

Employees shall receive four (4) paid training days per year. Employees will be granted an unpaid leave-of-absence of up to one (1) year for educational purposes. At the end of such leave, the employee will return to the first opening for which s/he is qualified.

The Employer shall reimburse the employee for all approved job-related training.

Section 7. Dependent Care Leave.

Employees will be granted an unpaid leave-of- absence of up to two (2) months to care for, or make arrangements for the care of, a dependent. "Dependent" is defined as a child of the employee or a disabled or elderly relative or significant other who is temporarily or permanently in need of care provided by or arranged by the employee. At the end of such leave, an employee will return to her/his position.

Additional unpaid leave of four (4) months may be granted, and at the expiration of such leave the employee shall return to the first opening for which s/he is qualified.

Section 8. Union Leave.

An unpaid leave of up to one (1) year will be granted to employees for the purpose of taking a job with the Union. At the expiration of such leave, the employee will return to the first opening for which s/he is qualified.

Section 9. Leave without pay.

Leave without pay may be granted, after other available leave time has been exhausted, at the discretion of the Employer when requested by an employee for personal reason. Requests for leave without pay must be in writing and state the reason and specific time period required. Requests shall be submitted to the Executive Director via the immediate supervisor. An employee on leave without pay shall not be entitled to holiday pay for any holidays occurring during this leave. An employee may not accrue vacation or sick leave time for any month in which s/he is on leave-without-pay for a total of more than three (3) days. An employee on leave without pay will be responsible for paying all premiums related to health insurance coverage if the leave lasts longer than one month. Following a leave without pay in excess of two (2) months, the employee may return to the first available position for which s/he is qualified.

Section 10. Administrative Leave.

Administrative leave is time off with pay given by the Employer. Administrative leave occurs when the Employer closes the office, or directs employees not to report to work, or to leave work. Administrative leave shall be granted when weather so dictates.

In the event any bargaining unit employee is required to work in the office as part of a skeleton force, s/he shall receive compensatory time for each hour worked in addition to her/his regular pay.

ARTICLE XVIII – SENIORITY AND LAY-OFF

Section 1.

Seniority, for the purposes specified in this Agreement, shall be defined as the length of continuous service with the Agency, commencing with the first day of work and including authorized leave with pay. When an employee assumes a lower classified position, the employee will retain his/her seniority from the prior position held provided there is no break in continuous service with the Agency, thereby not affecting seniority-based benefits such as vacation and years of service for tier placement.

Section 2.

An employee shall lose her/his seniority by the following breaks in service:

- A. Quit, resignation or retirement.
- B. Discharge or termination.
- C. Unauthorized absence.
- D. Lay-off for twenty-four (24) months or more.
- E. Failure to notify the Employer, within seven (7) days of receipt of a notice of recall at the address of the employee on file with the Employer, that the employee intends to return to work; and failure to so return to work within fourteen (14) days of receipt of same notice of recall at the aforementioned address. In such case, the employee shall move to the bottom of the seniority list as though employment had commenced on that date.

Section 3.

In the event the Employer determines that a reduction in the staff is necessary, and which job classification and geographical area (Upper, Middle, and Lower Cape, Martha's Vineyard, Nantucket) is to be reduced, those employees with the least seniority as defined in Section 1 of this Article, who work in the affected job classification and within the affected geographical area, shall be laid off first.

An employee laid off from one geographical area may exercise the right to bump the least senior employee within the same job classification in another geographical area.

It is understood that the Employer reserves its management right to combine, consolidate, merge, or eliminate the current geographical areas herein specified, and nothing in this Agreement shall restrict such rights.

Section 4.

The Employer shall provide a minimum two (2) week notice of lay-off, whenever possible, and will accept a voluntary lay-off within the affected job classification prior to implementing a mandatory lay-off, provided the geographical area in which the reduction is necessary in the area ultimately reduced. Said minimum notice of lay-off shall be extended by the amount of the employee's accumulated compensatory time.

During the two (2) week lay-off notice period, the parties, if the Union requests, will meet to discuss any viable lay-off alternative. However, it is understood that the Employer retains its discretion to reject any suggested alternative that impacts the Agency outside the bargaining unit.

Section 5.

In order to maintain its affirmative action goals, the Agency may by-pass less senior minority employees within the affected classification and geographical area and lay off an employee having greater seniority.

Section 6.

Laid-off employees shall retain recall rights for twenty-four (24) months, and a notice of recall will be sent by certified mail to the employee's last known address as provided to the Agency by the employee. A recalled employee shall have seven (7) days from receipt of the recall notice at her/his address on file with the Agency, to notify the Employer that s/he intends to return to work, and must so return within twenty-one (21) days of said recall notice. Persons on the recall list shall be recalled based on their seniority. Failure to comply with the provisions of this Section shall be deemed a voluntary quit, and the employee shall be removed from the recall list.

Section 7.

A laid-off employee shall be paid for any accrued, unused vacation time to which s/he is entitled at the time of lay-off.

ARTICLE XIX – VACANCY IN POSITIONS

Section 1.

When the Employer determines the need to fill a vacancy in a bargaining unit position, the position vacancy shall be posted for five (5) calendar days at each Agency office prior to any external advertisements or recruitment efforts. Such vacancies shall be posted without unreasonable delay and the Employer shall proceed with all aspects of recruitment and screening process without unreasonable delay. Every effort shall be made to fill such vacancies within 30 calendar days. Employees who wish to make a lateral transfer within the classification in which the vacancy arises shall submit a written request to the Executive Director or designee. The Director may exercise discretion in approving a lateral transfer request.

Section 2.

Where an employee applies for a transfer, the Employer at its discretion may fill the resulting vacancy from outside the bargaining unit or may reassign an employee after all bargaining unit members have been notified of the resulting vacancy by postings at each Agency office. An employee will be provided a two (2) week notice of reassignment wherever possible.

Section 3.

The procedure set out in Section 1 of this Article shall apply to the initial vacancy and not to subsequent vacancies resulting from lateral transfers or reassignments (no pyramiding of vacancies). Notwithstanding the provisions of this Article, the employer shall not be limited in its right to assign or reassign employees at any time absent a position vacancy.

Section 4.

Reassignment shall not be used as a disciplinary measure, and if an employee is reassigned, s/he will not be reassigned again for a period of six (6) months.

ARTICLE XX –PROMOTION PROCEDURE

Section 1.

A promotion is the advancement of an employee from one classification to a higher-paying classification within the Agency.

Section 2.

When the Employer determines the need to fill a promotional vacancy within the Agency, the position shall be posted for ten (10) calendar days at each Agency office. The position shall be open to all Agency employees, and any interested employee shall make written application for the position within the posting period.

Section 3.

The Employer shall review Agency applicants and make its selection on the basis of qualifications, ability and dependability. The Employer shall not exercise its judgment arbitrarily, capriciously, or unreasonably in making its selection.

Employees who are promoted shall be considered on probation for their first sixty (60) days in the new position. In the event the Employer, in its sole discretion, determines that the employee is not satisfying the requirements of the new position, it retains the right to return the employee to that position from which he or she was promoted.

Section 4.

The Employer shall select the best-qualified applicant from within the Agency to fill the position, and only where no Agency applicant is deemed qualified shall outside applicants be interviewed and considered.

Where two (2) or more applicants from within the Agency are found equally well qualified, seniority shall be the determining factor, and the applicant with the greatest seniority shall be promoted.

Where the Employer selects from among Agency applicants on the basis of seniority, a less senior bargaining unit employee who was not selected may not grieve said non-selection.

Section 5.

This procedure shall apply only to permanent vacancies and not to temporary assignments. Further, this procedure shall not prevent a lateral transfer within classification pursuant to Article XIX.

Section 6.

- A. An employee promoted to a higher classification within the bargaining unit will be paid at that step for the higher classification, which provides an increase of at least one (1) increment in the position from which s/he is promoted.
- B. An employee promoted to a position outside the bargaining unit will be paid within the salary range for that position as appearing on the posting notice.

Section 7. Training and Career Ladders.

- A. The Employer and the Union recognize the importance of training programs, the development of career ladders and of equitable employment opportunity structures, and seek to establish a process for generating such program recommendations and their implementation.
- B. Toward these ends, the Employer and the Union shall establish a Training and Career Ladder Committee consisting of three (3) persons appointed by the Union and three (3) persons appointed by the Employer. The Committee's purpose is to develop written policy and procedure for the development of career ladders and training programs.
- C. The Committee shall meet and accomplish the above goals within one (1) year of the signing of this Agreement.
- D. This Section shall not be subject to the grievance and arbitration provisions of this Agreement.

ARTICLE XXI –JOB DESCRIPTIONS

Section 1.

The Employer shall provide each employee a copy of her/his job description. A job description shall be an accurate summary of duties, responsibilities and requirements of the job, and shall include any special conditions of employment.

Section 2.

A complete set of job descriptions shall be on file with the Employer, and shall be available for examination and copying by any bargaining unit member and/or Union representative.

ARTICLE XXII-LABOR MANAGEMENT COMMITTEE

Section 1.

There shall be a Labor-Management Committee established under this Agreement consisting of up to three (3) representatives from the bargaining unit designated by the Union, and up to three (3) representatives from the Employer designated by the Executive Director.

Section 2.

Where either the management designees or the Union designees submit a written agenda to the other, a Labor-Management Committee meeting shall be scheduled within one (1) week of receipt of said agenda(s), wherever possible. Agendas shall not be submitted more frequently than monthly.

Section 3.

The purpose of the Committee is to discuss grievances and problems of contract administration, Agency policies, affirmative action and issues of discrimination, health and safety issues, and other matters of mutual interest, which are not mandatory subjects of bargaining. It is understood that the Committee's role is advisory only and that it shall have no power to bargain collectively, reopen the Agreement, or modify or amend the terms of the Agreement.

Section 4.

In addition to the purposes set out in Section 3, the Committee may, during the contract term, investigate and review alternative pension plans with a view toward making recommendations to the Employer and the Union for the next round of bargaining.

ARTICLE XXIII-EMPLOYEES' EXPENSES

Section 1.

Employees who use their personal motor vehicles on authorized Agency business shall be reimbursed at the IRS approved rate which will go into effect each time the IRS approves a new mileage reimbursement rate. Employees must submit an appropriate mileage voucher indicating their daily travel and destination(s).

Section 2.

The use of public transportation, car rentals, ferries, airplanes or taxis on Agency business, authorized in advance, shall be reimbursed to the employee or submission of a receipt.

Section 3.

Employees shall be reimbursed for the cost of telephone calls made from their homes on Agency business. Employees shall be reimbursed for business-related cell phone expense they incur using cell phones that the Agency provides to Protective Service workers.

Section 4.

Expenses shall be reimbursed on a bi-weekly basis.

Section 5.

The Agency will maintain charge accounts with the Steamship Authority and an airline for use by employees traveling to and from Martha's Vineyard and Nantucket on authorized Agency business.

Section 6.

The Employer shall reimburse employees for damage to any personal property that occurs as a result of working with a client, and without fault or negligence by the employee. The expenses would be reimbursed provided that they are not covered by insurance.

ARTICLE XXIV – GROUP INSURANCE AND PENSION

Section 1. Group Health and Dental Insurance

The Employer shall maintain for the term of this Agreement the same level of group health and dental insurance benefits as existed on the date of execution. The Employer shall pay eight-five percent (85%) of the premium cost for a full-time employee's individual coverage, and shall pay fifty percent (50%) of the difference between individual and family coverage.

While agreeing to maintain the same level of benefits, the Employer reserves the right to change insurance carriers or providers during the contract term and will give notice to the Union of any such change. The Union and the Employer will meet to discuss alternative health and benefit programs.

Part-time employees working twenty (20) or more hours per week may participate in the group health and dental programs on a pro-rata basis.

Section 2. Disability and Life Insurance

- A. The Employer shall maintain a long-term disability program for the employees who work twenty-nine and one quarter (29.25) hours or more per week starting with the first day of the month following employment.
- B. The Employer shall maintain its current life insurance program.

Section 3. Pension.

The Employer will maintain its current pension and deferred compensation programs, and shall provide copies of the programs to each employee.

Section 4. Short-Term Disability

In case of short-term disability, employees may use their vacation time or personal days once their sick leave has been exhausted.

Section 5.

The Employer agrees to establish a flexible spending account for the payment of the employee contribution to the payment of health insurance premiums.

ARTICLE XXV – MISCELLANEOUS

Section 1. Separability.

In the event that any Article, Section or portion of this Agreement is found to be invalid by any agency or court of competent jurisdiction, or shall have the effect of loss to the Employer of funds made available through federal or state law, rule or regulation, but the remainder of this Agreement shall continue in full force and effect. In such event, at the request of either party, the parties shall meet to negotiate a new provision in substitution for the invalid provision.

Section 2. EOEI Approval.

The parties recognize that the Agency's budget, including the cost of this Agreement, is subject to approval and funding by the Commonwealth of Massachusetts Executive Office of Elder Affairs (EOEA). The cost items of this Agreement shall not be effective until budget approval by EOEA, and where there is not approval the parties shall resume bargaining concerning such cost items.

Section 3.

- A. No employee shall be required to transport clients in her/his own vehicle.
- B. No employee shall be required to transport clients individually.
- C. No employee shall dispense medications.

Section 4.

Management will monitor the total workload throughout the Agency to ensure that no employee or group of employees has an inequitable burden placed upon her/him/them. Workload issues may be placed on the agenda for discussion at Labor-Management Committee meetings. The provision of this Section shall not be subject to grievance and arbitration under this Agreement.

ARTICLE XXVI – DURATION

This Agreement shall be in full force and effect for the period of July 1, 2008 to June 30, 2011, but in no event thereafter. This Agreement shall be automatically renewed from year-to-year thereafter unless either party shall seek to reopen negotiations between February 1, 2011 and April 30, 2011, by giving notice in writing to the other party by registered mail/return receipt requested, of its desire to modify, terminate, or revise any or all provisions of this Agreement. In the event such notice is given, this Agreement shall be terminated as of June 30, 2011.

In witness whereof, the parties hereto have set their hands and seals this  
day of \_\_\_\_\_, 2008.

LOCAL 509, SERVICE EMPLOYEES INTERNATIONAL UNION

By its authorized representatives

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ELDER SERVICES OF CAPE COD AND THE ISLANDS, INC.

By its authorized representatives

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