

# Agreement Between

**Bayer HealthCare LLC**

Berkeley, California Plant

And

**International Longshore  
& Warehouse Union Local #6**

**Effective**

August 25, 2015- August 25, 2019



Bayer HealthCare LLC and the International Longshore and Warehouse Union and its Local #6, recognize their respective responsibilities in the area of equal employment opportunity and applicable federal and state laws relating to fair employment practices.

The Company and the Union recognize the moral principles involved in the area of civil rights and have reaffirmed in this Collective Bargaining Agreement their commitment not to discriminate because of race, color, national origin, sex, age, handicap, creed, political beliefs, union activity, nor against disabled veterans or Vietnam era veterans.

This Agreement is made and entered into this **twenty-fifth day of August, 2015** between Bayer HealthCare LLC, a Delaware Corporation, for its Berkeley, California Plant located at 800 Dwight Way, Berkeley, California, hereinafter referred to as the Company, and the International Longshore and Warehouse Union on behalf of Local #6, hereinafter referred to as the "Union."

#### **PURPOSE**

The general purpose of this Agreement is to promote the mutual interests of the Company and its employees, and to provide for the operation of the plant under methods which will further, to the fullest extent possible, the welfare of the employees, economy and efficiency of operation, elimination of waste, realization of maximum quantity and quality of output, cleanliness of plant, and protection of property.

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Any reference in this Agreement made to either the masculine or feminine gender (he, she) shall refer to both genders.

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## ARTICLE I

### RECOGNITION, UNION SECURITY AND MANAGEMENT RESPONSIBILITIES

**Section 1** - The Company recognizes the Union as the exclusive bargaining agent for the purpose of representing all employees covered by this Agreement in negotiations pertaining to hours of work, rates of pay, and working conditions incidental to their employment by the Company. The employees covered by this Agreement are all the employees in the unit defined in the Certification of Representation issued by the National Labor Relations Board under date of March 26, 1952, in Case No. 20-RC-1561, namely, all production and maintenance employees of the Company at its Berkeley, California plant including regular part-time employees, but excluding executives, administrative employees, confidential employees, professional employees, office clerical employees, salesmen, watchmen, guards, and supervisors as defined in the National Labor Relations Act, as amended.

**Section 2** - Neither the Union nor the Company may assign jurisdiction over any section or group of the employees herein covered to any third party or parties.

**Section 3** - The Company agrees that it will not interfere with, restrain, or coerce said employees because of membership or lawful activity in the Union nor will it attempt to discourage membership in the Union by discrimination in respect to hiring, tenure of employment or any other term or condition of employment.

**Section 4 – Shop Stewards:** The Union may appoint Shop Stewards for the purpose of carrying out Article XI. The Stewards shall be allowed reasonable time to spend on the handling of grievances, including reasonable time to conduct investigations pertaining to such grievances without disrupting the operation of any department. The Union shall furnish the Company with a list of its Shop Stewards and other Chapter Officers, and notify the Company of all changes which may occur from time to time. The Union agrees that neither it nor any of its officers or members will engage in Union activity or Union business during working hours except as specifically provided for by the terms of this Section, or by mutual agreement. The Company agrees to allow the Union to conduct Union business upon Company property provided such business is conducted outside of working hours and does not interfere with plant operations or create discord.

**Section 5 – Union Dues:** The Company agrees to deduct Union membership dues from the wages of all employees covered by this Agreement who have heretofore executed or who may hereafter execute and deliver to the Company a written authorization for such deduction. Such authorization for the deduction of monthly membership dues may be revoked by the employee signing it by submitting written notice to the Company and the Union at any time within sixty (60) days prior to the date which is twelve (12) months after the execution thereof, but if the employee fails to exercise his right of revocation within such period, the authorization shall be deemed renewed for a period of one year and shall be irrevocable during said period or until the termination date of this Agreement, whichever occurs sooner, and shall be terminable and

renewable for like periods of one year (12 months) and under the same conditions as are set forth above.

For the purposes of this Agreement, Union membership dues are defined as follows:

- (a) Dues to obtain membership (initiation fee).
- (b) Dues to maintain membership in good standing (monthly dues).

**Section 6** - The Company agrees to deduct from the wages and turn over to the Secretary-Treasurer of the Union, initiation fee and dues of such members of the Union as individually and voluntarily certify in writing that they authorize such deductions. The authorization shall be in the following form:

**AUTHORIZATION FOR DEDUCTION  
OF UNION MEMBERSHIP DUES**  
(Monthly & Initiation Fee)

**Bayer HealthCare LLC**  
**Berkeley, California Plant**

I, the undersigned employee of Bayer HealthCare LLC, hereby authorize and direct the said Company to deduct, on my first payday of each month, from any wages now or hereinafter, and pay to Warehouse Union Local #6, ILWU, my membership dues and Initiation as a member of that organization. I agree to hold the Company harmless from loss from any judgment of a court of competent jurisdiction and from any order of the Labor Commissioner or other agency or government in connection with or arising from any deductions made pursuant to this assignment. No other assignment or order exists in connection with this transaction. This assignment shall be irrevocable for a period of one year from the signing thereof and shall be continued thereafter from year to year, on an annual basis, unless revoked by me by notice in writing to the Company and the Union submitted at least sixty (60) days prior to the one year anniversary date of this signing, or sixty (60) days prior to any succeeding anniversary year of this signing.

**Date** \_\_\_\_\_ **Signature** \_\_\_\_\_

The Union shall hold the Company harmless against any claim that may be made by reason of the deduction of Union dues pursuant to this Agreement.

**Section 7** - The Company agrees to give each new employee a copy of this Agreement. The Company shall advise each new employee covered by this Agreement of the name of his Union Steward.

**Section 8 – Bulletin Boards:** The Company agrees to provide space on Bulletin Boards to the Union for posting material in all bargaining unit break rooms and on B55 and B60 departmental bulletin boards. For purposes of this section the cafeteria will not be considered a break room. The Union will provide copies of the posted material to the Manager of Labor Relations at the time the material is posted. The Union agrees

that in the event the Company objects to material posted by the Union, the Company and Union will meet and discuss such material. If such objection is not resolved through mutual agreement, the Company will have the right to revoke the Union's bulletin board privileges. The Company will not arbitrarily remove Union material or revoke bulletin board privileges.

**Section 9** - On and after the thirtieth (30th) day after the date of execution of this Agreement, membership in good standing in the Union shall be a condition of employment for all employees in the Bargaining Unit. Eligible employees hired after such date of execution must become members of the Union thirty (30) days after date of hire, and failure to join the Union within such time shall be cause for the employee's dismissal. The Union may waive, deny, or terminate membership as to any eligible employee without prejudice to the continued employment of such employee and in the event that the Union waives, denies, or terminates membership as to any employee for reasons other than the failure of the employee to tender membership dues as defined in this Agreement, such waiver, denial, or termination of membership shall be deemed to be without prejudice to continued employment.

**Section 10 - Company Responsibilities:** It is agreed that the industrial relations concept of "Reserved Management Rights" is hereby incorporated into this Agreement for the purpose of reserving to the Company any and all rights with respect to decision-making which is attendant with ownership and the management of the business not otherwise clearly limited by expressed terms contained in this Agreement and intended by the parties for that exact purpose.

**Section 11** - The work to be performed by each employee and his qualifications and ability to perform that work shall be determined by the Company with application to all provisions of this Agreement. Complaints that the Company has exercised this responsibility unfairly may be taken up through the grievance and arbitration provisions of this Agreement.

**Section 12 - Understanding Regarding Subcontracting:** All requests for contractor services where the labor for each craft is below 400 man-hours will be sent to the Maintenance Department. If the work can be done in-house, the engineer will be notified, and a work order will be generated. If the work is to be contracted, the purchase request will be forwarded to purchasing, and the engineer will be notified. The requests for contractor services where the labor for each craft is above 400 man-hours will be sent directly to purchasing for contracting out the work.

Maintenance Management will discuss with the shop steward all decisions to contract work prior to the contracting of the work. Maintenance Management will authorize work requests/orders that are to be contracted. The Manager of Maintenance and Reliability Engineering, or his/her designee, will meet twice per month with the appropriate stewards designated by the Union to discuss contractors doing bargaining unit work affecting Maintenance, Central Utilities, and Site Facilities Support.

## ARTICLE II

### HOURS OF WORK AND OVERTIME

#### Section 1 -

- (a) **Work Week:** The established workweek shall begin on Monday and end on the following Sunday and for most operations shall be five (5) consecutive days per week starting on Monday, forty (40) hours per week, eight (8) hours per day or four (4) consecutive days per week, forty (40) hours per week, ten (10) hours per day. For Graveyard shifts that start one day and end the next, the day the majority of hours worked shall be the work day. Those employees on operations which require work to be performed on Saturdays and Sundays, such as continuous processes, janitors and similar operations, shall work five (5) consecutive days for employees working eight (8) hour shifts and four (4) consecutive days for employees working ten (10) hour shifts within the established workweek as designated by the Company, subject to the right of the Company to provide for non-consecutive workweeks where necessary to accomplish the rotation of shifts and days off. Days off will be scheduled by seniority when the requisite qualifications are available. Every reasonable effort will be made to have a Saturday or Sunday included in the days off. In the event the Employer determines the need to modify work schedules, it agrees to meet and confer with the Union for the purpose of discussing and considering alternative methods of addressing such needs.
- (b) **Work Day:** An employee's workday will start at 06:00, 12:00 or 24:00, whichever time is furthest from their regularly scheduled shift. It will then continue for twenty-four hours. The purpose of this section is to prevent the employee from working across the day-divide when possible.

#### Section 2

- (a) **Reporting Time Pay:** When an employee reports for work and is provided with less than four (4) hours available work [five (5) hours in the case of a ten (10) hour shift], he shall receive pay at the appropriate rate for that particular shift sufficient to reimburse him for the difference between four (4) hours pay [five (5) hours pay in the case of a ten (10) hour shift] and the amount of work provided. It is understood that the Company is exempted from this report-in pay requirement where the condition causing this lack of work is the result of an "Act of God" or because of conditions beyond Company control or where the Company has first given a previous notice at least two (2) hours prior to that employee's starting time or where the employee has been personally contacted by the Company prior to his leaving home for work on that shift. The benefits of this paragraph shall not apply to an employee who is not permitted to work because he is disciplined by the Company for just cause.
- (b) **Call Back Pay:** Any employee who is called back to work overtime after leaving the work site shall be provided a minimum of four (4) hours of work if working an eight (8) hour shift [or five (5) hours if working a ten(10) hour shift] or pay at the applicable premium rate. Maintenance employees called back for emergency service are only required to complete the emergency job for which they are called back to the satisfaction of the impacted department's supervisor (or designee) or engineer and any other emergency work that falls within the four (4) hour minimum.



- (c) **Cancelled Overtime Pay:** When any employee has accepted posted overtime and that overtime is cancelled less than four (4) hours before the employee is scheduled to report to work, the employee shall be paid two (2) hours regular wages.

**Section 3 – Shift Premiums:** A shift premium of one dollar and seventy-five cents (\$1.75) above the regular hourly rates shall be paid to bargaining unit workers on swing and two dollars and twenty-five cents (\$2.25) on graveyard shifts. For the purpose of shift premium computation only, shifts are defined as follows:

Day Shift	7:00 a.m. - 3:30 p.m.
Swing Shift	3:00 p.m. - 11:30 p.m.
Graveyard Shift	11:00 p.m. - 7:30 a.m.

For regular shifts or extended shifts of less than sixteen (16) hours, the applicable shift premium for all hours worked shall be the shift premium for the shift within which the majority of the first eight (8) hours worked fall, except that if equal hours are worked in each of two (2) shifts as defined above, the higher shift rate will apply to all hours worked.

For an extended shift of sixteen (16) hours or more (double shifts) the shift rate for each of the double shifts will be determined in accordance with the method outlined above.

**Section 4 – Shifts and Schedule Changes:**

- (a) Time and one-half shall be paid after eight (8) hours worked in any one day and forty (40) hours in any one week. All hours worked by an employee on his sixth (6th) consecutive day or shift shall be paid for at the rate of time and one-half; all hours worked beyond twelve (12) hours in any one day or on his seventh (7th) consecutive day or shift shall be paid for at the rate of double time, even if the seventh consecutive work day is not in the same work week.
- (b) The Company and the Union shall meet and confer prior to implementation of a 10 hour shift in any area and shall attempt to resolve any issues of concern to either party. If this change from an 8 hour to a 10 hour shift creates an undue hardship on the employee, the company will make every reasonable effort to accommodate them. When such issues have been resolved, the shift schedule will be structured in regards to overtime as follows:

10-hour schedule

Straight time shall be paid for the first ten hours. Time and one-half shall be paid for time worked between 10 hours and 12 hours in a day. Time and one-half shall be paid after forty hours in any one week, and all hours worked beyond twelve hours in any one day shall be paid for at the rate of double time. Time and one-half will be paid for hours worked by employees on their scheduled days off. Double time will be paid on the 7<sup>th</sup> consecutive workday, even if the seventh consecutive work day is not in the same work week.

- (c) When the Company intends to change the employee's shift from one type of shift (i.e. 8 hours, or 10 hours) to another type of shift, the Company and the Union will meet and confer prior to implementation.

**Section 5- Temporary Shift Change:** Any person being temporarily requested to change his/her work schedule (including shift, days of the week and start times) will be notified forty-eight (48) hours in advance for periods of less than seven (7) days and one week in advance for periods of seven (7) days or more. Time and one-half shall be paid for the first shift period worked where such notification is not posted. However, under no circumstances will overtime be pyramided. The Company will not arbitrarily require a temporary change in work schedules (including shift, days of the week and start times). Where a temporary change of work schedules (including shift, days of the week and start times greater than one (1) hour) is planned to last more than forty-five (45) calendar days, the Company will meet and confer with the Union before implementing that change.

**Section 6 – Absences Less Than One Day:** The Company agrees that under the following circumstances, absences of less than one (1) day shall be counted as time worked for the purpose of computing overtime pay:

- (a) When the employee is required to go home by **Occupational Health**.
- (b) When the employee is called away by death or serious illness in his immediate family or attends a funeral of a member of his immediate family.
- (c) The Company, at its discretion, may consider other reasons valid for inclusion under this privilege. Such permission to leave or remain away from work does not constitute an "excused absence" for the purpose of computing overtime unless the employee is so notified at the time permission is granted.
- (d) When the employee misses a partial or full day of work due to personal illness or injury (STD) or is on an unpaid funeral leave, this time shall not be counted as time worked for the purpose of computing overtime pay.

**Section 7 - Hours Worked:**

- (a) Time not worked because of a holiday occurring or legally observed during the employee's regularly scheduled workweek shall be counted as time worked for the purpose of computing overtime.
- (b) Time not worked because of vacation time taken during the employee's regularly scheduled workweek shall be counted as time worked for the purpose of computing overtime.

**Section 8 - Meal Breaks:**

- (a) **Employees are expected and encouraged to take their meal break before their fifth hour of work. If an employee is unable to take his/her meal break or take it in a timely manner, the employee must notify his/her supervisor before or at the time the employee is unable to take the meal break. An employee who is not provided a meal period in accordance with state law shall receive one hour's additional pay at straight time. This additional one hour of pay shall not be considered hours worked for purposes of computing overtime pay.**
- (b) Employees who are working on continuous processes will be allowed Twenty (20) minutes for lunch on the job without loss of pay.

- (c) Boiler room employees and Ammonia Plant will be granted a paid lunch period.

**Section 9 – No Pyramiding of Overtime:** Nothing in this Agreement shall be construed as providing for the pyramiding of overtime; and it is understood and agreed that holiday pay and any other extra compensation provided for herein (other than the shift premium provided for in Section 3 of this Article), shall be excluded from the regular rate of pay used as the basis for computing overtime.

**Section 10 – Shift Premium Calculation:** The shift premium for regular shifts shall be included in the regular straight time hourly rate of an employee working on such a shift for purposes for computing holiday pay, Article IV; and vacation pay, Article VI.

**Section 11 –Overtime:**

- (a) When scheduled overtime work is to be performed, every effort will be made to equalize the amount of this work. The basis of selection will be from qualified employees within the same department and same classification. The Company should maintain a reasonable balance of opportunities between shifts where this can be accomplished without impairing efficiency.
- (b) **Mandatory Overtime:** Employees are expected to accept and work reasonable amounts of overtime as required by the Company. The Company will attempt to provide a reasonable advance notice of such overtime in keeping with the circumstances and in recognition of employees' needs to plan their own personal time off. Employees will be required to work scheduled overtime unless there is a personal reason which is sufficient to justify their being absent. Mandatory, unscheduled overtime is required to prevent the loss of product, immediate production needs, jeopardy to an employee's health, or danger to the environment. When an employee is required to perform unscheduled overtime, the employee will be given the opportunity to discuss with the employee's supervisor issues that would preclude the employee from working overtime and to discuss available alternatives. Procedures concerning scheduled and unscheduled overtime are described below.
- (c) **Overtime Approval:** Employees who anticipate the need for overtime must obtain prior approval from their supervisor or designee by telephone or other method determined by their department. If prior approval is not feasible due to unavailability of the supervisor or designee, notification will suffice if circumstances warrant the overtime work. These circumstances include the need to prevent the loss of product, jeopardy to an employee's health, danger to the environment or in support of immediate production needs.
- (d) **Shift Trades:** Employees with interchangeable qualifications may trade shifts with another employee within the same classification and department so long as such change does not adversely affect the operation. Such changes must be by mutual agreement between the employees involved and require the advance approval of their supervisor.

**Section 12- Overtime Posting Procedures:**

**Scheduled Overtime:** Overtime that is known by management 48 hours in advance of the work to be performed.

**Scheduled Overtime Procedure:**

Maintain a department seniority list (across shifts). As scheduled overtime opportunities arise, approach next qualified senior employee on this list. This employee would be the individual whose name appears following the employee who was last selected for overtime.

All known overtime opportunities will be presented to the employee at once; however, in an effort to equalize overtime an employee may only choose one opportunity at a time, although the opportunity can be any one of those available. When numerous opportunities are available, it may result in going through the seniority list more than once during the selection process.

If an employee elects not to accept a particular overtime opportunity the employee will not be eligible to select again until the seniority list is exhausted to the point that the employee's name comes up again. However, in the case of inability to contact employee, illness, scheduled vacation, jury duty, paid bereavement days, or military service, the employee will be responsible for checking with their supervisor during the employee's time off, to become eligible for the next overtime opportunity. Overtime opportunities that occur when an employee is on leave will be treated the same as overtime opportunity not accepted.

**Unscheduled Overtime:**

Overtime that is known by management less than 48 hours in advance of the work to be performed.

**Unscheduled Overtime Procedure:**

Those employees working on the shift at the time the overtime becomes known would be asked by rotation in order of seniority to work the overtime. If necessary, subsequent shifts would be asked by rotation in order of seniority as the shifts report to work. Unscheduled overtime worked will not affect the employee's position on the scheduled overtime list.

**Section 13 – Jury Duty:** In situations where employees are summoned for jury duty, the Company shall pay them their regular straight time hourly rate for hours not worked as a result of jury duty up to the hours scheduled for that employee on any regularly scheduled workday. Any payment by the Court to employees shall be refunded to the Company. It is expected that employees not selected for service on the jury will return to work if at least one half of their regular shift remains during the day. Day shift employees will return to work and complete their regular shift. Off shift employees will arrange with their supervisors to complete any hours remaining (their regular shift minus time served as jury duty and travel back to the plant) through the use of flex time. However, this section shall not apply where employees voluntarily seek jury service.

**Section 14 –Rest Breaks:** Employees shall be allowed a fifteen (15) minute rest break during the first half of their shift and a ten (10) minute rest break during the second half of their shift.

Because in the production environment a great deal of time is spent in de-gowning and re-gowning for rest breaks, the Company and the Union agree that an employee meal break and one or more employee rest breaks may be combined and that this to the mutual benefit of both the Company and the employees. If any employee opposes scheduling breaks on this basis, the employee shall notify his supervisor or the Union and the parties will meet and confer and attempt to structure a schedule which is mutually acceptable to all.

**Section 15 – Call Off:** In the event an employee is unable to report for work as scheduled, he shall be required to notify the Supervisor of this fact by phone or by the method determined by the department at least one (1) hour prior to the start of his shift, unless under the circumstances an earlier call off would not be possible. This notification must include the employee's reasons for his failure to report as well as stating the time of his anticipated return. Failure on the part of an employee to comply with this requirement will subject that employee to potential disciplinary action by the Company. If the absence is to last for more than one (1) day, the employee will be responsible for providing this notification each day until placed on Leave of Absence or advised otherwise by the Company. It is also understood that this reporting requirement does not serve to eliminate the additional responsibility on the part of the employee to further explain and justify such absence or tardy. In the case of an employee whom the Company determines as having a questionable attendance record, the Company may require a physician's certification for a disability of even one (1) day or less. Otherwise, a physician's certification is not normally required until after the third (3rd) day.

**Section 16 – Plant and Department Shutdowns-Christmas and Other Slack Times:** When the Company elects to temporarily shut down a department(s) or the plant during the Christmas holidays, employees so affected will be governed by the options listed below. In addition to Christmas time, should there occur other slack periods of work during which the supervisor determines that some or all of the employees may be temporarily released, the same options will apply:

- Use available remaining vacation days.
- Take a personal leave of absence (without pay) but such leave will not negatively impact their seniority standing, attendance record, nor remaining eligible vacation time.
- Take available work offered by the Company either within or outside their department. Such available work to be offered on the basis of seniority and qualifications.

It is understood that the decision to permit employees to exercise options in accordance with this Supplement rests entirely with the Company, except that the Company may not require an employee to take more than (40) hours of paid leave per year (including vacation, floating holidays, and unused sick leave) during temporary shutdowns.

**Section 17 – Flextime:** An employee's schedule may be adjusted to make school attendance and other important personal pursuits possible so long as such activity does not interfere or otherwise have a negative impact on the operation. Such adjustments require the advance approval and agreement of the supervisor.

Similarly, employees may be permitted to make up for time lost due to personal business reasons, when this can be accomplished at straight time and without otherwise interfering with or negatively impacting operations. This, too, requires the advance approval of the supervisor.

**Section 18 – On-Call Pay:** The Company will provide On-call pay to designated employees who serve in an On-call status. When an employee serves On-call, the employee shall receive pay at a rate of fifty per cent (50%) of the employee's regular hourly rate. The employee will be paid during their designated On-call shift for all off-duty hours during which the employee is available to be called in. Should a scheduled On-call shift be canceled less than four (4) hours before the employee is scheduled to work an On-call shift the employee shall be paid two (2) hours regular wages.

While On-call, the employee must remain available by telephone. The employee must return any calls from the Company within fifteen (15) minutes. The employee must arrive at work within sixty (60) minutes or an amount agreed upon in advance. The employee must arrive in a condition fit for duty. Failure to adhere to the requirements of this paragraph will result in the loss of on-call pay for the designated On-call shift and the may result in disciplinary action.

If an employee reports to work after being called in, the employee will receive a minimum of four (4) or five (5) hours pay, depending on the employee's regular shift per Article II, Section 2. The employee will then be paid their normal hourly rate once clocked in, unless such additional hours would otherwise constitute overtime, and then at the applicable overtime rate. On-call shifts may be denied if such shifts could result in an employee being unable to complete their regular scheduled shift. Applicable shift premiums will be paid for all time actually worked. Employees on paid vacation or leave of absence are not eligible for On-call shifts.

Scheduled On-call shifts will be posted forty-eight (48) hours in advance. On-call hours will count as hours worked at the rate of 50%. Such opportunities will be filled by qualified volunteers, and if necessary by reverse seniority rotation, from among employees working in the department posting the On-call shifts.

### ARTICLE III

#### RATES OF PAY AND CHANGES IN CLASSIFICATION

**Section 1 – Minimum Pay Rates:** August 25, 2015 to and including August 25, 2019 until twelve o'clock noon, the basic rates of pay for the employees covered by the Agreement shall not be less than those specified in Supplemental Attachment No. 1. Nothing herein contained shall be construed to curtail the right of the Company in its discretion to increase the rates paid, including bonuses or rewards, to individual employees by reason of merit, special ability or specialized training, or to prevent the Company from hiring qualified employees at starting rates in excess of the rates set forth in said Appendix. No individual employee shall have his present rate of pay reduced by virtue of any provision of this Agreement. The Union shall be advised in writing, on a quarterly basis, of the monetary amounts, justifications and names of the bargaining unit recipients to whom the Employer has paid merit increases and/or bonuses or rewards.

**Section 2 -** There shall be no discrimination in rates of pay among employees where the kind, quantity, and quality of work performed is equal.

**Section 3 – Work In Higher Classifications And Codes:** If work of a higher paid classification is required of an employee for any consecutive period of one (1) hour or more in any one day, the employee shall receive the rate of pay specified for such higher paid classification or code for such time worked; unless the employee is being trained and is not qualified to perform the higher classification. Assistants to higher coded positions shall be paid the higher rate when performing the duties of the higher coded position in accordance this Article.

#### **Section 4 – Qualifications and Pay Rates:**

- (a) An employee who is required to work on a regularly scheduled job one half or more of such time in a higher classification during a regular payroll period will be paid the higher rate for that entire payroll period. An employee who is required to work less than one half of his time in a regularly

scheduled job in a higher classification will be paid according to Section 3 of this Article. This Section applies to regularly scheduled jobs and does not affect employees who are reassigned to a different job because of layoff or emergencies beyond the control of the employer.

(b) An employee who has been regularly employed for a minimum of three (3) months in any classification shall not have his rate reduced to a lower rate for a minimum of two (2) calendar weeks after he has been notified that he is to be reduced to a lower classification; or an employee who has been regularly employed for a period of a year or more in any classification shall not have his rate reduced to a lower rate for a minimum of sixty (60) consecutive calendar days after he has been notified that he is to be reduced to a lower classification; providing in each case transfer does not occur because of poor work performance.

(c) In compliance with federal regulations, employees are required to remain qualified in job tasks specific to their classification and code as long as sufficient access and opportunity exists to remain qualified. Employees cannot without good reason refuse to become signed off/qualified on a task specific to their classification and code.

(d) Effective January 1, 2016, employees may drop a code level if, after notification, they fail to maintain eighty-five percent (85%) qualification in their curriculum for a period of ninety (90) or more days. Employees are responsible for completing required curriculum training. To avoid dropping a code, employees will report any insufficient time and/or access issues to their supervisors in writing. The employee's prior code level will promptly be restored upon achievement of 85% qualification.

**Section 5 – Job Descriptions:** The parties have agreed to the classification of jobs listed in Supplemental Attachment #2. The Company will provide the Union with job descriptions for all existing as well as new jobs for its use during classification and rate discussions. With respect to new jobs or those undergoing reclassification as a result of significant changes in duties, the Company will provide the Union with an updated description and a proposed classification. The Union will have thirty (30) days in which to file a written objection to the proposal or it will become final. Timely objections raised within this period may be processed through the regular grievance and arbitration procedures for a determination as to their fairness and appropriateness.

**Section 6 - Non-Bargaining Unit Work:** Non-bargaining unit employees shall not do jobs normally performed by bargaining unit employees except for instructional/training purposes, or in operating equipment or processes in emergencies or in performing necessary work for experimental, developmental or start-up purposes. If special circumstances arise that are not covered by the above, the Company will discuss the issue with the Union.

#### **Section 7 – Premium Pay Rates**

- Assistant Supervisors will receive a premium of two dollars and twenty-five cents (\$2.25) per hour.
- Assistant Trainers will receive a premium of one dollar and seventy-five cents (\$1.75) per hour.
- Employees working in a –30 C cold room will receive twenty-five (\$0.25) per hour.

- When an employee is performing chemical weighing duties as part of the job of Material Handler, they will receive thirty cents (\$0.30) per hour during the time those duties are performed.
- Line Mechanics- When an employee is performing Line Mechanic duties as part of the job of Maintenance Mechanic, he/she will receive thirty cents (\$0.30) per hour for the time those duties are performed.

**ARTICLE IV**

**HOLIDAYS**

**Section 1** - During the term of this agreement the following holidays will be observed. Employees working a Monday through Friday schedule will observe the Company holiday schedule. Employees working on a schedule other than Monday through Friday will observe the actual holiday if it falls on their scheduled day to work or the last day worked if the holiday falls on their scheduled day off.

- New Year's Day
- Spring Holiday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

Plus three (3) holidays to be individually scheduled in advance with approval of the employee's supervisor.

Employees will not be eligible for the 3 unscheduled holidays until seniority is reached. Also, the number of individual holidays will be prorated based on the employee's date of hire as indicated below:

<u>Date of Hire</u>	<u>Number of Holidays</u>
January - March	3
April - June	2
July - September	1
October - December	0

**Section 2** - If one of the above holidays falls on an employee's regularly scheduled workday and he is not required to work, he shall receive his regular assigned shift pay at his regular straight time rate.

**Section 3** - If an employee is required to work on a holiday which is celebrated on his regularly scheduled workday, he shall receive his regular assigned shift pay at his regular straight time rate plus time and one-half for all hours worked on said holiday.



**Section 4** - Employees who are working on irregular shifts, when a holiday falls on one of their regularly scheduled days off, shall have their last scheduled working day before such holiday off or if required to work shall receive his regular assigned shift pay at their regular straight time rate plus time and one-half for all hours worked on said holiday.

**Section 5** - If an employee is required to work on a holiday which is legally celebrated on his scheduled day off, he shall have his last scheduled working day off, or if required to work on that day, shall receive an extra day's pay plus time and one-half for all hours worked on the holiday.

**Section 6 – Holiday Coverage:** Holiday overtime coverage will be assigned based on the following priorities: (1) First choice for holiday overtime will go to employees who's regular schedule (including day and shift) would include the holiday. (2) Second choice for holiday overtime will go to employees who work in the same building and department by seniority and qualifications. (3) Third choice for holiday overtime will go to employees in the same department, including all buildings in that department, by seniority and qualifications. (4) Fourth choice for overtime will be to fill all positions unfilled by volunteers from 1, 2, and 3 above by reverse seniority and qualifications among the employees on the day / shift upon which the holiday falls. For the Maintenance Department, (4) Fourth choice overtime will be fill all positions unfilled by 1, 2, and 3 above by reverse seniority rotation and qualifications among the employees in the same department/craft, regardless of the day on which the holiday falls.

At least 44 days before the holiday, overtime opportunities for that holiday will be posted. Thirty days before the holiday, all assignments for that holiday will be completed and posted.

**Section 7 – Qualifying for Holiday Pay:** The above provisions are subject to the following conditions. No employee shall receive holiday pay unless he has:

- (a) Worked a full day upon his last scheduled working day preceding the holiday and also upon his first scheduled working day succeeding holiday. [A temporary shift change or approved late arrival/early departure will not affect holiday pay]; or
- (b) Been on paid vacation, or
- (c) Been on approved absence by his supervisor as well as the Human Resources Department, and both have specifically agreed to payment of holiday pay. Where an employee notifies the Company and claims disability due to illness or injury on a qualifying day, the employee must actually be seen by a physician on that qualifying day and be clearly certified as disabled for work that same day to qualify for holiday pay. A doctor's note certifying this must be turned into Occupational Health within five (5) business days after returning to work.

**Section 8** - It is recognized that compensation paid either for the holiday itself or the day preceding such holiday for which provision is herein made is not pay received during the normal workweek, and that such pay is not and shall not be deemed to be a part of the regular rate of pay of Company's employees, for the purpose of computing overtime; provided, however, that this provision in no way affects or qualifies Section 7(a) of Article II of this Agreement. If a legally celebrated holiday falls on an employee's scheduled day off, the holiday shall not be considered as time worked for purposes of computing overtime pay.

## ARTICLE V

## VACATIONS

**Section 1** - The Company provides paid vacation for employees to have time away from work for recreation, relaxation, travel and other pursuits of personal interest. The vacation year shall run from January 1 through December 31 (calendar year). Employees must first complete their probationary period before vacation accrual begins. Following successful completion of the probationary period by an employee, that time shall be counted retroactively as a part of the vacation accrual. Vacation time is based on length of continuous service as set forth below:

<b>Length of Continuous Service</b>	
1 but less than 5 years	80 hours
5 but less than 10 years	120 hours
10 but less than 20 years	160 hours
20 but less than 30 years	200 hours
30 or more years	240 hours

**Section 2**- For each month an employee works, or is absent due to funeral leave, industrial injury, vacation, holidays, jury duty, military or union leave, vacation eligibility is accrued, up to 100%. Once an employee works 10 months in a calendar year, he or she has accrued all of the vacation time for that year.

Employees will receive their full vacation accrual rate if scheduled to work at least 32 hours per week on a regular basis. Employees hired on or before the 15<sup>th</sup> of the month shall have that month credited in computing their vacation allowance. Employees scheduled to work between 20 and 32 hours per week accrue vacation on a prorated basis.

Vacation eligibility and accrual are determined by the employee's length of continuous service during the year. Eligibility and accrual for the next higher level of vacation entitlement are effective on January 1 of the year the employee's anniversary reaches the next level of continuous service.

Accrued vacation shall be expressed in hours for the purposes of using vacation. Earned and carry over days will be converted to hours by multiplying the number of days by a factor of eight to equal the total vacation hours available.

During an employee's first calendar year with the company, vacation eligibility is earned according to date of hire. (See table below for vacation eligibility for new hires.)

<b>Date of Hire</b>	<b>Eligibility</b>
January 1 - January 31	80 hours
February 1 - 28/29	72 hours
March 1 - March 31	64 hours
April 1 - April 30	56 hours

May 1 - May 31	48 hours
June 1 - June 30	40 hours
July 1 - July 31	32 hours
August 1 - August 31	24 hours
September 1 - September 30	16 hours
October 1 - December 31	8 hours

**Section 3** - Vacation pay shall be computed by multiplying the number of hours in the employee's regularly scheduled workweek by his straight time hourly rate plus applicable shift premium.

**Section 4** - Vacations shall be scheduled on the basis of operational needs as determined by the Company with due consideration to the wishes of the employees. Vacations must be taken in increments of full days whenever possible, but in no case in less than one-half (1/2) day increments. Special requests for one-half (1/2) day vacations must be approved in advance by the supervisor. Vacation will be taken in one of the following options:

Full day(s) of vacation

- 8 hr shift
  - Take 8 hrs vacation
- 10 hr shift
  - Option 1: Take 10 hrs vacation
  - Option 2: Take 8 hrs vacation, 2 hrs unpaid

Half day(s) of vacation

- 8 hr shift
  - Take 4 hrs vacation, work 4 hrs that day
- 10 hr shift
  - Option 1: Take 5 hrs vacation, work 5 hrs that day
  - Option 2: Take 4 hrs vacation, work 6 hrs that day

The Company will grant or deny requests for vacation within fourteen (14) calendar days of the submission of written request for vacation to the employee's supervisor. If the Company fails to respond to the request within that time frame, the request will be deemed granted.

**Section 5** - Vacations are granted to provide employees an opportunity for relaxation. Employees are encouraged to take their full earned vacation entitlement. Employees may elect to carry over to the next vacation year part of their accrued vacation as follows:

Years of Service	Vacation Hours Earned This Year	Maximum Permissible Carryover
0-4	80	40
5-9	120	120

Years of Service	Vacation Hours Earned This Year	Maximum Permissible Carryover
10-19	160	160
20-29	200	200
30 or more	240	240

Employees must take all earned vacation each vacation year except as allowed for permissible carryover in accordance with the above schedule. An employee may elect to receive up to one half (1/2) of his Maximum Permissible Carryover remaining at the end of the calendar year in a lump sum payment, less legal deductions. If an employee does not record his/her election in the manner and timeframe specified by the Company, the entire amount will be carried over up to the maximum permitted.

**Section 6** - Upon termination, an employee will receive payment for his/her unused accrued vacation. In no case shall earned vacation be used to extend a termination date.

**Section 7** - If a holiday as specified in this Agreement occurs during the employee's vacation period, the employee will be paid for the holiday as a holiday and will not be charged for the holiday as a vacation day.

**Section 8** - Should an employee experience a disability due to illness or injury while on vacation of four (4) days or longer, that period of disability may be converted from vacation to leave of absence if the employee requests a medical leave of absence and the leave is fully authorized.

**Section 9** - Absences of forty (40) workdays or less during any accrual year shall not affect an employee's vacation accrual. Absences beyond this amount will result in a 10% reduction in the employee's accrual for each subsequent leave period of twenty (20) workdays or any portion thereof. Absences due to funeral leave, industrial injury, vacations, holidays, jury duty and military and union leaves of absence shall not count toward this total.

## ARTICLE VI

### SENIORITY

**Section 1** - Seniority is defined as the principle under which older employees in point of service with the Company shall be given preference. Seniority shall be determined on the basis of length of service over the entire period of employment.

**Section 2 - Probationary Period:** New employees shall be placed on the seniority list one hundred and twenty (120) calendar days after hiring. The Company will seek input from the assigned senior employees/Assistant Trainers regarding the probationary employees' performance, qualifications and suitability before making a final determination as to the probationary employees' status. Such persons will monitor the progress of the probationary employees' training.

**Section 3** - Any dispute which may arise over the application of the seniority principle may be treated as a grievance and resolved under the grievance procedure.

**Section 4** - Seniority shall not apply to discharges for cause or to disciplinary layoffs or disciplinary demotions.

**Section 5** - The discharge of an employee not on the seniority list shall not be subject to arbitration.

**Section 6** - An employee who left the Bargaining Unit to accept a Union ineligible position with the Company prior to September 2, 1973 shall accumulate seniority rights up to September 2, 1973. If at some future date he desires to return to the Bargaining Unit, all time following September 2, 1973 shall be considered dead time and shall be without accumulation of seniority rights.

Any employee who is transferred after September 2, 1973 from the Bargaining Unit to management or other job classification not covered by this Agreement shall retain that seniority which has been accumulated during employment in the Bargaining Unit. Such seniority shall not continue to accrue during the period of employment outside the Bargaining Unit.

If at some future date he desires to return to the Bargaining Unit, all time on the Union ineligible position shall be considered dead time and shall be without accumulation of seniority rights.

**Section 7** - If a former employee who has lost seniority is rehired, his new seniority date shall be the date he is rehired.

**Section 8** - Seniority and employment shall be lost for the following reasons:

- a) When an employee **quits**.
- b) If he is **discharged** for cause.
- c) If he is **laid off** for **more than** twelve (12) months or 20% of the Time worked prior to layoff, whichever is greater.
- d) If he **overstays a leave of absence**.
- e) If he is absent from work for more than three (3) days without being covered by a leave of absence, unless the Company is provided reasonable justification covering such entire period.

- f) If he is **absent from work for any reason for three (3) consecutive workdays** without notifying the Company unless there is reasonable justification for such failure.
- g) If the employee takes early or normal **retirement** under the terms of the Pension Plan.
- h) If the employee is laid off in accordance with Article XIII and receives severance pay.
- i) If he/she is off work on a disability for more than twelve (12) months or 20% of time worked, whichever is greater.

## **ARTICLE VII**

### **DISCHARGES AND LAYOFFS**

**Section 1** - No employee with seniority shall be discharged except for just cause. The provisions of this Section shall not apply to personnel reductions for lack of work or to effect economies.

In the event an employee with seniority is discharged without just cause, he shall be reinstated without loss of pay, seniority, or other benefit, subject to the following limitations:

- (a) The Union must within two (2) weeks of the discharge file the grievance at the Third Step of the grievance procedure of Article XI or the grievance shall be automatically closed.
- (b) If settlement at this level is not reached within one week, the matter must be submitted to arbitration upon the request of the Union, which request must be made in writing to the Company within said week, or the grievance shall be automatically closed.
- (c) If the matter is submitted to arbitration, the parties shall select the arbitrator in accordance with the procedure set forth in Article XI, and make a good faith effort to place the matter on the arbitrator's schedule, for decision, all within a period of 30 days from the date of the request for arbitration. This period of 30 days may be extended by mutual agreement.
- (d) In the case of reinstatement as a result of arbitration, the total back-pay award allowable shall be limited to the full-time regular pay of the employee for the period they were off the payroll or for the period ending (30) thirty days after the transcript of the arbitration hearing is transmitted to the parties' respective attorneys by the court reporter, whichever period is shorter, less any gross earning or unemployment compensation received or earned during such period.

The employee shall make every reasonable effort to minimize his damages by seeking and obtaining gainful employment during the period he is off the payroll, and any back-pay award shall not include any time during which the employee has failed to meet this obligation. If the employee is disabled by sickness or injury during any part of such period, his rights during such period of disability shall be limited to the disability benefits to which he would have been entitled if he had remained on the payroll.

- (e) If the procedure above outlined is not followed as to a particular discharge or if the grievance as to such discharge is automatically closed in accordance with such procedure, neither the Union nor the individual employee who was discharged shall have the right to challenge such discharge, or the right to any back-pay award or other relief hereunder.
- (f) The arbitrator shall have latitude to modify a discharge to a layoff, for which no compensation shall be awarded.

**Section 2 - Work Standards and Discipline:**

- (a) The Company agrees that no employee with seniority shall be demoted or discharged for general inefficiency or low standard of work unless he has been warned of his shortcomings in advance of such demotion/discharge to afford him a reasonable opportunity to correct his performance to a level that meets written expectations.
- (b) Employees shall follow Standard Operating Procedures (SOP's), Batch Production Records (BPR's), Electronic Batch Records (EBR's), current Good Manufacturing Practices (cGMP), and all other Company policies and procedures. Employees who follow such procedures shall not be subject to discipline under this Agreement. Employees who fail to follow such policies and procedures may be subject to discipline up to and including termination.
- (c) Disciplinary letters shall not be relied upon for the purposes of progressive discipline after one year. This limitation shall not prevent the Company from exercising its right to discipline any employee for just cause, up to and including termination.
- (d) The Company will review the issue of the discharge with the Union in advance of the discharge meeting. The discharge letter will state the specific reason for the termination. The employee, Chief Steward and Business Agent will be provided with a copy of the discharge letter. The employee's previous record of disciplinary action, if applicable, will be included with the letter.
- (e) Notice in writing of demotion or final written warning shall be sent to the Union Business Agent within seventy-two (72) hours of such action, excluding holidays and weekends.
- (f) An employee may request to have a Union representative present at a meeting with the Company when the employee reasonably believes such a meeting may result in disciplinary action. The Union and/or its Stewards shall advise the bargaining unit employees of their right to ask the Company whether any requested meeting may result in disciplinary action.
- (g) Reprimand letters more than two (2) years old shall not be used in discharge arbitration cases, except for letters of discipline used in the ladder of progressive discipline leading to the discharge.

**Section 3** - Except in cases mentioned in the preceding Section, an employee whose name is on the seniority list shall be given written notice on dismissal, stating the reasons for his termination two (2) weeks before the termination of his pay. A copy of any such notice shall be delivered to the Union without delay.

**Section 4 - Reduction in Force:** When the Company, for any reason, elects to reduce the number of employees in any job classification, department or shift and to then either reassign those affected to other work or to affect a layoff from the plant, the following rules shall apply:

- (a) Certain jobs requiring special skills, training and/or experience have been identified as (RB) (Restricted Bumping) jobs. Employees holding title to these jobs will be restricted from being bumped by others unless they too possess the full skills and range of abilities to perform that work by virtue of their past experience and work in the same classification(s).

Notwithstanding the above, the employee may bump the least senior employee in any Code 09 (RB) classification of their choice, if he/she has the appropriate seniority and qualifications. If there are no employees in a Code 09 classification the least senior employee in a Code 10 (RB) classification of their choice may be bumped, if the employee exercising the option has the appropriate seniority and qualifications. The maximum number of employees that may be bumped in an RB classification shall be twenty percent (20%) of a section/department.

The classifications designated as (RB), Restricted Bumping, shall be exempted from bumping and displacement by all other employees except those who are fully qualified to perform the complete range of duties required on that job by virtue of their previous training and experience gained in that classification.

- (b) Other than (RB) jobs, seniority, and qualifications, as contained in the job descriptions shall be the primary consideration in classification reductions, layoffs from the plant, and the bumping process.

For maintenance positions that are non-(RB), seniority shall be the primary consideration in classification reductions, layoff from the plant, and the bumping process consistent with the understanding that an employee must possess the necessary ability and qualifications to perform any job to which they elect to move.

Employees who are reduced or bumped in a reduction in force will first bump within the employee's own job classification and department. If the employee cannot so bump, then the employee may exercise his/her seniority plant wide, provided that should the employee elect to bump into a classification and department where there is more than one position, he/she may bump only the least senior employee in that classification and department.

- (c) Recall from layoff will be in reverse order subject to other applicable provisions governing recall, such as the severance pay provision of Article XIII.

The above provisions serve to outline the broad manner in which general staffing adjustments are to be made. However, should business conditions necessitate a significant reduction in the number of employees, and the "bumping" procedures as outlined above would materially affect the company's ability to produce critical products, the Company and Union agree to meet and confer. The purpose of these discussions would be to develop alternative solutions that would allow the company more flexibility to continue to produce its critical products. Both parties recognize their commitments to seniority and the qualifications needed to continue producing the critical products.

**Section 5 - Substance Dependency:** Employees who claim a dependency related to drugs or alcohol during the disciplinary procedure will be eligible to participate in rehabilitation in accordance with current practices but may be accountable for their job performance or violation of company rules. Such accountability may subject him/her to discipline up to and including termination.



## **ARTICLE VIII**

### **PROMOTIONS AND TRANSFERS**

#### **Section 1 –**

- (a) Promotions or bids to any job identified in Supplemental Attachment No. 2 as a Restricted Bumping (RB) position will be made primarily on the basis of satisfactory performance, ability and qualifications and where approximately equal then on the basis of seniority. Where the Company determines that a vacancy to an (RB) position results in only internal candidates who are unacceptable to the Company on the basis of their qualifications and past experience, then selection shall not necessarily be limited to persons already in the employ of the Company.
- (b) Promotions and bids to positions other than (RB) will be made primarily on the basis of seniority and qualifications, as contained in the job descriptions.
- (c) An employee will not be entitled to bid on any posted position for a period of six (6) months from the first date of any final written warning given to the employee under the attendance disciplinary policy.
- (d) An employee will not be entitled to bid on any posted position for a period of twelve (12) months from the first date of any three (3) day suspension given to the employee under the attendance disciplinary policy.
- (e) If applicants meet minimum qualifications for trainee positions in Plasma and QA, the Company will select the trainees by seniority.
- (f) A Joint Committee will recommend qualification requirements for the Code 9 Plasma Processing Trainee position for those applicants who do not possess the chemistry course requirement.
- (g) When an employee who presently holds a job classification in the Code 10, 11, or 12 designation successfully bids to the Production Technician - Plasma Processing, Biological Analyst, Chemical Analyst, Production Technician - Purification or Production Technician – Media/Fermentation progression, such employee will initially be placed in the Code 10 designation and proceed normally from that point.

**Section 2** - Every employee shall have the privilege, by appointment, of having a full discussion of his personnel rating with the Human Resources Manager at which time he may be accompanied by a Union Steward.

**Section 3** - Employees desiring transfers or the opportunity to qualify for higher positions shall make such request in writing to Management with copies, if they wish, to the Union. Union and Management shall review such requests from time to time, when review is desired.

#### **Section 4 – Job Postings and Use of Temporary Personnel:**

- (a) The Company will advise the employees of existing or anticipated Union eligible job vacancies involving anticipated employment for longer than one hundred fifty (150) days, posting the description and the qualifications required. The posting shall include the shift on which the vacancy occurs. The reclassification of a job held by an employee due to a change in duties will not be treated as a vacancy. Any employee who would receive a promotion if selected to fill the vacancy may submit an application in writing, within five (5) working days of the posting of the vacancy, stating his qualifications. If a vacancy is posted prior to noon of any day, such day shall count as the first day of the five (5) day posting period. A written proxy will be accepted as a job bid for an absent employee providing it is delivered by another employee for each bid.
- (b) The Company's temporary personnel provider will work with the Union to dispatch union identified Labor Pool personnel for temporary positions of less than one hundred fifty (150), duration. Except as provided below, the Company will not use temporary employees in a position for longer than one hundred fifty (150) days without agreement with the Union.
- (c) Temporary Labor Pool personnel will fill positions for Bayer employees on medical or FMLA Leave for up to 24 consecutive months.
- (d) In the event of a layoff or reduction in plant personnel; all Temporary Labor Pool employees will be laid off first, provided the senior employee who elects to fill that position has the qualifications to do the job.

**Section 5 – Assistant Supervisors:** In addition to the provisions set forth in Sections 1 through 4, Assistant Supervisors will be governed by the following:

- (a) Where there is no vacancy, Assistant Supervisors will normally be selected by job posting from among qualified employees working within that same department and shift in accordance with Section 1 (a) through (d) of this Article and with the Qualifications and Duties in the Assistant Supervisor Job Posting. The Company will comply with Article VII Section 2 with regard to the demotion of any Assistant Supervisor.
- (b) Where the department and shift has an actual vacancy requiring additional staff, Assistant Supervisors will be posted and selected as described above from among qualified employees on a plant wide basis. Where no vacancy exists which would require additional staff, then Assistant Supervisors may be selected by job posting from among qualified employees within that same department and shift.
- (c) The Assistant Supervisor is to function as an assistant to the department supervisor.

**Duties will include:**

Scheduling, employee training, problem solving/troubleshooting, and administrative functions that relate to the job and interface with other departments as necessary to accomplish day-to-day operations as delegated by the supervisor.

Enforce department and Company rules to assure that GMP, Safety and Productivity Standards are met but not to include disciplinary proceedings and hiring decisions.

- (d) All other positions will be posted and selected on a plant wide basis.

**Section 6 - Bid Eligibility:** An employee(s) will be eligible to bid on a vacancy if he meets one of the following requirements:

- (a) The employee was bumped into his current position.
- (b) He is currently on temporary status seeking a regular position.
- (c) The employee has on file documented medical restrictions which would justify the transfer.
- (d) The employee has other compelling personal reasons acceptable to the Company.
- (e) For a lateral or downgrade, the employee has been in his current position for a minimum of eighteen (18) months. For a promotion, the employee has been employed by Bayer in his current position for a minimum of twelve (12) months.

**Section 7 - Labor loans** will be based on seniority and taken first from those employees who have previously performed the jobs to be done for six (6) months or more and who have the necessary qualifications for the job(s) to be done. If there are no such employees, labor loans will be handled on the basis of seniority, provided the employee(s) to be moved have the necessary qualifications for the jobs to be done. If the labor loan assignment proves unsatisfactory, the Company and Union will meet to discuss and try to resolve any issues. The employee will continue to hold their position of record during the labor loan period. An Employee on labor loan retains the same right to bid into a regular open position. If awarded the new position they relinquish their position of record.

**Section 8 - New Position:** When an employee has been awarded a bid to a job with a higher rate of pay (not including shift premium), the employee shall begin receiving the new rate of pay (not including shift premium) effective the first day of the payroll period following acceptance of the position. A reasonable effort will be made to place the employee in the new job by the end of a four (4) week period.

**Section 9 - Temporary Assignment:** An employee who bids on a temporary assignment, and completes that assignment, shall accept the first available option from the following list, in descending order:

1. Return to his/her previous position, if the position has not been filled
2. Bid into an open position for which he/she is qualified
3. Be placed into a Labor Loan position
4. Bid into an open position for which the company is recruiting externally and for which he/she is qualified
5. Bump, once per contract for this situation, into the least senior position in a non-RB classification, provided the employee has the qualifications
6. Elect layoff/recall status

An employee who accepts a temporary assignment will not be eligible for a 30 day evaluation period on this assignment, as would be the case for a regular position.

**Section 10 – Position Evaluation:** When a position is posted, the Company shall interview those bidders with seniority who have the posted qualifications for the position. During the interview the employee will be

given a job description. The employee shall then have a practical orientation to the new position. An employee offered the job shall have forty-eight (48) hours to accept or decline the position, excluding holidays and weekends.

An employee who accepts a position shall have a thirty (30) day evaluation period on the job. If during this period, the employee leaves the position at his/her own, or the Company's, request no disciplinary action will be taken. If an employee requests to leave a second position within the life of the contract, Management and the Union will meet to determine if the reason is justified.

If the employee leaves he/she will accept the first available option from the following list, in descending order:

1. Return to his/her previous position, if the position has not been filled
2. Bid into an open position for which he/she is qualified
3. Be placed into a Labor Loan position
4. Bid into an open position for which the company is recruiting externally and for which he/she is qualified
5. Bump, once per contract for this situation, into the least senior position in a non-RB classification, provided the employee has the qualifications
6. Elect layoff/recall status

If the only option is layoff/recall status, the Company and Union shall first explore other alternatives, such as voluntary work share positions, or voluntary reduction of hours.

**Section 11 – Assistant Trainers:** Where there is no vacancy on a shift, Assistant Trainers will normally be selected by job posting from among qualified employees working within that same department and shift in accordance with Section 1 (a) through (d) of this Article and with the Qualifications and Duties in the Assistant Trainer Job Posting. Where the department and shift has an actual vacancy requiring additional staff, Assistant Trainers will be posted and selected from among qualified employees in the same department. Company will comply with Article VII Section 2 with regard to the demotion of any Assistant Trainer.

It is expected that Assistant Trainers will possess the ability to train others as well as a full knowledge of the process and the ability to independently perform operations or task. Assistant Trainers will be provided with and will be expected to complete courses on training delivery and technique.

An employee who is not an Assistant Trainer and who is engaged in providing training may qualify for Assistant Trainer premium when that employee is authorized by the supervisor to conduct the training and that same employee is accountable for the training (evaluating proficiency and documenting the training).

## ARTICLE IX

### HIRING AND REHIRING

**Section 1 - Non-Discrimination:** Both parties agree that they will not discriminate against a present or prospective employee or member because of race, color, national origin, religious belief, Union affiliation, age, sex, handicap, or Vietnam era veteran status.

**Section 2 – Recall and Rehire:** In hiring employees for positions within the classifications specified in Supplemental Attachment No. 2, the Company will first rehire, if available, qualified former employees in order of their seniority. Upon being rehired, an employee's seniority shall be restored if the interval off the payroll has not continued more than twelve months or 20% of the total time worked whichever is the greater, and the time off the payroll shall not be deducted from total seniority in determining the total length of service. In its discretion, the Company may rehire as a new employee any former employee who left voluntarily. Nothing in this paragraph shall be construed to compel the Company to rehire a former employee who leaves voluntarily or is discharged for just cause.

**Section 3** - The rights given under Section 2 of this Article IX are subject to the following conditions:

- (a) Whenever a vacancy occurs for which a laid off employee is physically able and qualified, and to which he is entitled by seniority, the Company shall mail him a certified notice (a copy of which shall go to the Union by fax) of the vacancy to his last address on record. If the employee has not responded within 5 working days, the Company shall notify the Union that the employee has failed to respond and that his seniority and/or recall rights shall cease, unless, at the discretion of the Company, an extension is justified.
- (b) The Company's offer to rehire a former employee to fill a vacancy must be accepted within 48 hours after the employee contacts the Company and the employee must report to work as soon as directed by the Company, or such offer shall be deemed rejected and the laid off employee's seniority rights shall cease.
- (c) Any failure by the Company to comply with the foregoing provisions shall be subject to the same grievance procedure as that provided in Section 1 of Article VII with respect to discharges for cause, except that the maximum limit upon the period of any back-pay awards made as a result of such procedure shall be 5 weeks.
- (d) The Union shall be notified in writing by the Company of each employee laid off, and each laid off employee rehired. If within one week of such notification, the Union has not protested, it will be deemed that the layoff and rehire were in proper seniority order.

**Section 4** - The Company will give consideration to applicants for employment referred by the Union. Failure to hire such applicants shall not be subject to the grievance procedure.

**Section 5 - Employment of Relatives:** Relatives of an employee may be employed by the company under the following conditions:

- (a) Relatives or spouses should not be assigned to the same general work area or in a close working relationship.
- (b) Relatives or spouses of a supervisor or manager may not report directly to the supervisor or manager, nor can they work in an area in which the supervisor or manager has jurisdiction.
- (c) The company has a right to determine whether a conflict of interest is created when employees become relatives through marriage, adoption or other means, or when relatives or spouses are moved into the same area as a result of reorganization or restructuring. Each situation is reviewed by the site human resources representative to evaluate the following criteria:

1. A compromise of the company's best interests.
2. A compromise of either employee's effectiveness at work.
3. The effect on morale of other employees.

The Company and Union will discuss these issues before any action is taken.

- (d) After the initial hire of a relative or spouse, or in the event of a conflict created when existing employees become related, the Company may continue to monitor each situation and make changes it deems necessary by applying the criteria stated above in paragraph (c).

The Company and Union will discuss these issues before any action is taken. The company may require one of the employees to transfer to another position if the seriousness of the situation warrants.

- (e) For the purposes of this provision the definition of "relative" shall be the same as that for the provision related to bereavement leave.

**Section 6 - New Hire Orientation:** The Company will schedule new hire orientation sessions in such a way so as to make available to a representative from the Union reasonable time to acquaint the new employees with the structure, functions and representatives of Local #6.

## ARTICLE X

### LEAVES OF ABSENCE

(Refer to Supplemental Attachment No. 3 - Group Benefits, for information concerning pay during a leave of absence.)

**Section 1 – Seniority Accumulation and Return to Work:** Leaves of absence may be granted upon application by the employee and approval by the Company. There shall be no loss of seniority by reason of such absence and any employee granted a leave of absence in accordance with Sections 2 and 3 of this Article X, or a leave of absence because of his own illness, shall continue to accumulate seniority during the authorized period of such leave, provided that in the case of a leave of absence granted because of illness, seniority shall cease to accumulate after the first six (6) months of such leave. Seniority shall continue to accumulate during the first seven (7) days of the authorized period of any leave of absence granted for other reasons than illness of the employee or the reasons specified in Sections 2 and 3 of this Article X, but thereafter it shall cease to accumulate. Upon return from leaves of absence, employees shall be reemployed in their old classifications whenever possible.

The employee's position will be protected for up to six consecutive months. In the event the employee's position has been filled temporarily, the employee will return to that position. When the employee returns after the six consecutive-months period, the employee shall be re-employed in the old classification whenever possible or fill a vacancy by seniority and qualification, or bump the least senior employee in a position in the plant for which the employee is qualified, or have the option of a layoff-recall status.

**Section 2 – Bereavement Leave:** When employees ask for time off because of the death of a close relative, supervisors will normally grant up to three consecutive workdays with pay. Close relatives are: father, mother, sister, brother, spouse, child, stepfather, stepmother, stepchild, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparents, grandchild, any relative/domestic partners living in the employee's house. If an employee must travel more than 250 miles one way to attend the funeral, he or she may be given up to five consecutive workdays off with pay. Additional unpaid leave may be granted for up to five (5) additional, consecutive days so that the employee is able to participate in a memorial service, attend to the immediate affairs of the deceased or for other personal or travel considerations. Any employee who is on vacation when the death occurs may, if desired, have the vacation extended.

**Section 3 - Union Leave:** Any officer or delegate of the Union, whose duties in connection with the Union take him away from his employment with the Company, and who has been employed for one year, shall be granted a temporary leave of absence without pay and without loss of seniority, not to exceed twenty (20) working days in any one contract year. Of this leave, ten (10) consecutive working days may be taken upon the written notification by the Union, the remainder to be taken as mutually agreed upon by the Company and the Union. Not more than one (1) person from a department nor more than five (5) persons in all shall be absent on such leaves at any one time. Union members elected or appointed to full-time positions in the Union may have a leave of absence without pay or loss of seniority upon written request by the Union and agreement by the Company. Any such leave shall not extend beyond the term of this Contract.

**Section 4 - Company Meetings:** When an hourly bargaining unit employee is required to attend a Company business meeting or event to represent the Company, that employee will be made whole for any straight-time wages lost. In those instances where the employee's presence is made voluntary by the Company, there will be no payment of wages.

## **ARTICLE XI**

### **GRIEVANCE PROCEDURE**

Should differences arise between the Company and the Union, or any of the employees covered by this Agreement relative to any provision of this Agreement or its application, an earnest effort shall be made to settle such differences in the following manner:

#### **Section 1 - (Step 1 Oral)**

An employee believing he has cause for a grievance shall discuss the matter with his supervisor. At the employee's option, his Union Steward may be requested to participate in such discussion and a meeting will be set for that purpose as soon as it is reasonable and practical to do so. Upon notification by the supervisor, the Steward will be relieved from his regular duties to take part in the discussion of the grievance. Every reasonable effort shall be made to settle problems promptly at this point through discussions.

#### **Section 2 - (Step 2 Written)**

- (a) If the matter is not disposed of in the oral first step discussion, the grievance may be reduced to writing on an "Employee Grievance" form. Such written grievance must state with reasonable clarity the nature of the grievance and the basis for the claimed contractual violation and the remedy requested. Written grievances at the Second Step must be signed by the aggrieved employee(s) and

presented to the Plant Human Resources Office within ten (10) days from the date the employee(s) should have known about the event giving rise to the claim.

- (b) Within five (5) working days from the date of this appeal exclusive of Saturdays, Sundays and holidays, a meeting shall be held to discuss such grievance(s).
- (c) This meeting will normally be attended by the Chief Steward, Assistant Chief Steward or a member of the Union Grievance Committee, Department Steward, the aggrieved employee, the department supervisor, the Labor Relations Manager, and one (1) other representative of the Company or their designated representatives.
- (d) The Company shall present the Chief Steward and Business Agent with a written disposition within five (5) working days exclusive of Saturdays, Sundays and holidays from the date of the Second Step meeting.

### **Section 3 - (Step 3 Pre-Arbitration)**

- (a) If the Union is not satisfied with the Company's Second Step disposition, it may appeal the grievance to the Third Step.
- (b) Such appeal must be in writing to the Manager Labor Relations, or designee, within five (5) days from the date of the Company's Second Step disposition, exclusive of Saturdays, Sundays and holidays.
- (c) Within five (5) working days exclusive of Saturdays, Sundays and holidays from the date of written appeal a meeting shall be held to discuss such grievance(s).
- (d) This meeting will normally be attended by the Business Agent, Chief Steward, Assistant Chief Steward, up to three (3) additional members of the Union's Grievance Committee, the Department Steward, the aggrieved employee, the department supervisor, the Labor Relations Manager, the Department Head and one (1) representative of the Company Negotiating Committee.
- (e) The Union's Grievance Committee shall have the power to withdraw any grievance and the Company's Committee the power to adjust any grievance.
- (f) The Company shall give its decision in writing to the Chief Steward and Business Agent within five (5) working days exclusive of Saturdays, Sundays and holidays from the date of the Third Step meeting.

### **Mediation**

Prior to arbitration, either party may request to meet with a mediator. Where mediation is mutually agreed to by the parties, both parties must agree to submit the specific issue(s) and all relevant information and documents. The Company and the Union will share any cost for such mediation equally.

### **Section 4 (Step 4 - Arbitration)**

If any grievance as defined in Section 1 of the grievance procedure is not satisfactorily settled in the first three (3) steps of the grievance procedure, the Union may within thirty (30) calendar days following the date of the Company's Third Step disposition, or any mutually agreed upon extension, give written notice to the Labor Relations Manager of its desire to arbitrate. Such notice will state the specific issue(s) which are to be arbitrated. The Union may request that the grievance be considered in either the Regular or Expedited Arbitration Procedure, and the grievance shall then be referred to an arbitrator whose decision shall be final and binding upon the parties as follows:



### **Regular Arbitration**

- (a) A neutral Arbitrator shall be chosen by one of the following methods:
  - 1. Mutual agreement between the parties.
  - 2. The Company and the Union shall jointly request the Federal Mediation and Conciliation Service to submit a panel of seven (7) arbitrators in accordance with its rules and practices. Either the Union or Company may reject this panel of arbitrators and may request another panel of seven arbitrators from the Federal Mediation and Conciliation Service. The Arbitrator will be chosen by alternate elimination by one of the parties striking a name followed by the other party until one remains. That person shall be the Arbitrator and the first striking shall be determined by lot.
- (b) Only grievances on behalf of the Union and its members and claiming relief for violations of specific provisions of this Agreement may be appealed by the Union to arbitration. The Company may submit an issue to arbitration for the purpose of agreement clarification or to seek relief and appropriate remedy for violations of specific provisions of this Agreement.
- (c) The arbitration shall be conducted and administered pursuant to the voluntary rules of the Federal Mediation and Conciliation Service.
- (d) All salaries and expenses as may be incurred by the Arbitrator shall be borne equally by the parties.
- (e) Any dispute as to whether or not a grievance or issue is properly before the Arbitrator shall be determined by the Arbitrator.
- (f) The Arbitrator shall have no power to amend, add, alter, ignore, change or in any way modify any provision(s) of this Agreement. His decision shall not exceed the expressed terms of this Agreement.
- (g) Within these limitations, the Arbitrator may award to either party the remedy and relief he considers appropriate to the circumstances.

### **Expedited Arbitration**

- (a) The Company shall have three (3) calendar days to consider the Union's request for Expedited Arbitration and to either agree to proceed in that manner or to deny that request and divert the grievance to the Regular Arbitration process.
- (b) Where expedited arbitration is mutually agreed to by the parties, the following hearing procedures and rules shall apply:
  - 1. The parties (Plant Labor Relations and Local 6 Business Agent) will attempt to agree upon the selection of the Arbitrator. Failure to reach agreement will result in the Arbitrator being appointed by the Federal Mediation and Conciliation Service in accordance with its expedited rules and procedures.
  - 2. The hearing will be scheduled no later than thirty (30) days following the date of submission.
  - 3. The hearing shall be informal.

4. No briefs shall be filed or transcripts made.
  5. The Company's case shall be presented by a representative designated by the Company, and the Union's case by a representative designated by the local Union.
  6. The arbitrator shall have no power to amend, add, alter, ignore, change or modify any provision of the Collective Bargaining Agreement. His decision shall in no way exceed the authority granted him by the expressed provisions contained in this Agreement, but within this limitation the arbitrator shall have the power to award to either party the remedies he considers appropriate to the circumstances.
- (c) The arbitrator may issue a bench decision at the hearing but in any event he shall render his decision within fifteen (15) calendar days after the conclusion of the hearing. His decision shall be based on the record developed by the parties before and at the hearing and shall include a brief written explanation of the basis for his conclusion. The arbitrator's decision shall be final and binding on the parties.
  - (d) Salaries and expenses which may be incurred by the impartial arbitrator and the administrative fees of the Federal Mediation and Conciliation Service for coordinating this procedure, shall be equally borne by the Company and the Union.
  - (e) The Federal Mediation and Conciliation Service shall coordinate and fix a mutually convenient time and place for the holding of the hearing, the notice of which must be given at least twenty-four (24) hours in advance. Such notice may be given orally.
  - (f) Any grievance appealed to this Expedited Labor Arbitration procedure must be confined to issues which do not involve novel problems and which have limited contractual significance or complexities.
  - (g) Decisions by the arbitrator in this Expedited Labor Arbitration Procedure shall be applicable to the settlement of that grievance only and shall not establish precedent for any subsequent grievance activity nor contractual obligation. These decisions will not be cited nor considered pertinent to the later resolution of any subsequent grievance or arbitration matter.
  - (h) All other questions pertaining to this procedure shall be governed in accordance with the Federal Mediation and Conciliation Service Expedited Arbitration rules.

#### **Section 5 (Miscellaneous Grievance Procedure Rules)**

- (a) Settlements reached at either the First or Second Steps of the procedure shall be applicable to only that grievance and shall not in any way be binding upon the parties with respect to precedent setting considerations.
- (b) Third Step dispositions shall be final and binding upon the parties unless specifically stated to be made "without prejudice."
- (c) The retroactive adjustment of any grievance covering any period prior to its presentation at Step 1 shall be by mutual agreement only.

- (d) In the case of an overpayment by the Company of which the employee was unaware, the Company will attempt to work out a mutually acceptable repayment schedule prior to invoking legal deductions. The repayment schedule will be agreed to in writing by the Company and the employee.
- (e) Any grievance not appealed by the Union to the next step of the procedure within the prescribed time limits shall be deemed settled on the basis of the Company's last disposition.
- (f) Failure by the Company to meet the time limits prescribed for dispositions shall result in that grievance(s) automatically progressing to the next step of the procedure.
- (g) The time limits applicable to each step of the grievance procedure may be extended at any time by mutual agreement.
- (h) Witnesses may be called to participate in Second and Third Step discussions for the purpose of furthering the parties understanding of the case at hand.
- (i) It is understood that the Union's Business Agent may participate at Second and Third Step meetings.
- (j) In cases involving disciplinary layoff, suspension or discharge, the Company shall notify the Chief Steward or his designated representative of the circumstances surrounding such case(s).
- (k) Grievances involving discharge may be initiated by the Union directly at the Third Step of the procedure.
- (l) In the case of reinstatement as a result of arbitration, the total back-pay award allowable shall be limited to the full-time regular pay of the employee for the period they were off the payroll or for the period ending (30) thirty days after the transcript of the arbitration hearing is transmitted to the parties' respective attorneys by the court reporter, whichever period is shorter, less any gross earning or unemployment compensation received or earned during such period.
- (m) When appropriate, a grievance may result in a monetary settlement.

## **ARTICLE XII**

### **BUSINESS AGENT**

The Business Agent of the Union shall have the right to visit the Company's premises on problems or issues arising out of this Agreement and to conduct normal business in administering this Agreement. This right shall be exercised reasonably. The Business Agent of the Union shall report to the Management at the office before proceeding to the plant. In the event he wishes to interview an employee, he shall be permitted to interview him privately in the office. In the event the Business Agent wishes to visit specific areas of the plant, if permission is obtained from an authorized Company representative, he may do so with a representative of the Company accompanying him. He shall not interfere with the normal conduct of the work of the Company.

**ARTICLE XIII**

**SEVERANCE PAY**

**Section 1** - The Union recognizes that the Company has the right to transfer operations to other parts of the country, reduce its workforce or subcontract operations when it becomes necessary. Before taking such action, the Company will meet with the Union and give the Union reasonable notice of its intended action. The Company will meet and confer with the Union to consider potential alternatives that may be suggested by the Union. Such a meeting will take place within five (5) working days following notice at a mutually acceptable time and a suitable place to meet provided by the Company. The Company agrees that when such cases arise and employees lose their job and their seniority or are laid off, then severance pay will be made in accordance with the schedule listed below.

The weekly benefit shall consist of the employee’s straight time pay for the last full week of work preceding the layoff based on their normal shift and regular code. For employees on 12 hour shifts, overtime regularly scheduled as a normal shift assignment will be included into the benefit calculation.

(a) Employees will be eligible for either two (2) weeks advance notice or pay in lieu thereof prior to any layoff or termination.

(b) Severance Pay will be made in accordance with the following schedule:

<u>Years Service Completed</u>	<u># Weeks Benefits</u>
Less than 3	2 weeks
3 years	3 weeks
4 years	4 weeks

and for all years of service after four years, one week of severance pay per completed year of service.

(c) An additional performance bonus will be granted to all employees who provide loyal and efficient service up to the time the Company releases them according to the following schedule:

<u>Years Service Completed</u>	<u>Bonus</u>
Less than 15	\$1,000
15	\$1,700
20	\$2,200
30	\$2,700
40	\$3,200
50	\$5,400

(d) Extended Coverage – For medical, dental, non-contributory life, contributory life, and contributory personal accident insurance will be offered on the same basis as for active employees for a period of six (6) full months following the end of the month during which separation occurs, provided the employee makes the appropriate contributions as the active employee for such coverage during this period. Not included in this extended coverage are:

- Non-contributory accidental death and dismemberment

- Short term disability
- Long term disability

An employee may elect either of the following options for payment:

1. An employee may request a lump sum payment (less legal deductions) of severance pay. In such case, the Company will pay the lump sum, but the employee will forego any right to extended medical coverage as outlined above; or
2. An employee may request that severance pay be paid on a regular basis. In such case, the Company will pay severance on a regular basis, and the employee will receive six (6) months of extended coverage. At the expiration of the six (6) month period, the balance of severance pay, if any, shall be made by the Company to the employee as a lump sum (less legal deductions).

To be eligible for the severance pay, performance bonus, and extended benefits coverage listed above, affected employees must continue to work in a loyal and efficient manner until released by the Company and separation must be for other than cause.

Employees will be paid for all unused vacation with current year accrual determined on a prorated basis.

Outplacement services will also be made available after separation occurs.

In the event this Agreement becomes applicable for any reason stated above, employees will be offered severance on the basis of seniority, with the most senior employee given the first option, if the reduction in force is viewed as permanent.

**Section 2** - If the employee elects to take severance pay at time of layoff, all seniority and other rights shall cease. Should he be rehired after receiving severance pay, his seniority date shall be that date on which he is rehired.

**Section 3** - The employee may elect to forego severance pay at time of layoff. In such cases the employee's name remains on the seniority list for call-back purposes for one (1) year or twenty percent (20%) of time worked, whichever is greater. If the employee is rehired prior to the expiration of his rehiring time, then the Company is not obligated to pay severance pay. In cases where the employee is not returned to work during the rehiring time he shall be paid severance pay as outlined above.

**Section 4** - When temporary transfer of operations occurs due to factors outside Management hands, then severance pay will not be paid. Examples of this are fire, flood, earthquake, strikes or governmental requirements.

**Section 5** - This severance pay program is a plan governed by ERISA. Therefore, except as otherwise specified, the provisions of Supplemental Attachment No. 4 also apply to these severance pay benefits.

## ARTICLE XIV

### STRIKES AND LOCKOUTS

There shall be no strikes, lockouts, slowdowns or other cessation of work resulting from any dispute between the parties during the period of this Agreement, nor shall there be any sympathy strikes, secondary boycotts, or political strikes.

Insofar as it may be permitted by law, the Company hereby waives any right that it may have to sue the Local Union or the International Union with which it is affiliated for damages resulting from any strike, boycott, slowdown, or cessation of work occurring during the period of this Agreement which is participated in by any employees of the Company:

- (a) If such strike has not been officially authorized by the Local Union or said International Union. In any case, the Company shall have the right to take disciplinary action against the employees involved, but the Union shall have the right, in its discretion, to subject such action as the Company may take to the first three steps of the grievance procedure (which shall not include arbitration).
- (b) If such strike, boycott, slowdown or cessation of work was caused by an act of the Company, or of the supervisor or supervisors (as such term is defined in Article I, Section 1 of this Agreement) of the employees involved, which act was deliberately and intentionally designed to provoke such strike, boycott, slowdown or cessation of work. Any dispute as to whether any such strike, boycott, slowdown or cessation of work was caused by an act of the Company, or of the supervisor or supervisors of the employees involved, which act was deliberately and intentionally designed to provoke such strike, boycott, slowdown or cessation of work shall be referred to arbitration in accordance with the procedure specified for grievances in Article XI of this Agreement.
- (c) The Union agrees that it will submit the Company's last offer to the members of the Union within the Bargaining Unit employed at the Bayer HealthCare LLC. Berkeley, California Plant, prior to strike action. A majority vote of the secret ballots cast by such members shall govern.

## **ARTICLE XV**

### **EFFECTIVE DATE**

The effective date of this Agreement shall be **August 25, 2015**. The subject of wages or any other term or condition of employment shall not be opened for negotiation between the Company and the Union during the term of this Agreement, except as provided in Article XVI of this Agreement.

## **ARTICLE XVI**

### **DURATION OF AGREEMENT**

**Section 1** - This Agreement shall remain in full force and effect from **August 25, 2015**, to and including **August 25, 2019**, until twelve o'clock noon, and shall continue in effect thereafter from year to year unless not more than ninety (90) and not less than sixty (60) days prior to **August 25, 2019**, or not more than ninety (90) and not less than sixty (60) days prior to August **25** of any subsequent year, either party shall give written notice to the other party of its desire to amend, modify, or terminate this Agreement.

**Section 2** - Within the period during which negotiations may be reopened, the party upon whom notice of reopening is served shall meet not more than once with the other prior to August 1, for the purpose of defining the issues on which amendments or new conditions are desired. After August 1, negotiations shall

proceed as rapidly as possible, with both parties making every effort to conclude the new Agreement before the anniversary date of this Agreement. If such negotiations do not result in agreement prior to the anniversary date, the terms and conditions of this Agreement shall govern the relationship of the parties until another Agreement is executed by the Company and the Union, provided that either party may terminate this Agreement by serving forty-eight (48) hours written notice upon the other party at any time subsequent to noon, August 25. It is further understood and agreed that two (2) full eight (8) hour day shifts will be worked subsequent to the receipt of such notice by either party.

**Section 3** - The arbitration provisions of this Agreement shall not apply to any dispute concerning proposals for a new Contract, or for the amendment, modification, or termination of this Agreement.

**Section 4** - Any provision of this Agreement which conflicts with any federal or state statute, or executive order having the effect of law, not in force or hereafter enacted, shall be automatically modified to such extent as is necessary to remove such conflicts and the fact that any provision(s) as originally written is determined to be invalid shall in no way affect the validity, applicability, nor continuation of all the remainder of this Agreement.

**Section 5** - The Company and the Union agree that each of the parties during the negotiation of this Agreement had an opportunity to raise and negotiate any and all issues or questions concerning hours, wages, and conditions of employment; therefore, the Company and the Union jointly waive, for the term of this Agreement, the right to insist on the negotiation of any further matters which either were or were not discussed during the negotiations. All other Agreements both written and verbal heretofore made between the Union and the Company shall, upon the signing of this Agreement, be null and void except the following understandings which are included in this Agreement via the Supplemental Attachments:

1. Basic Rates of Pay
2. Job Classification Schedule
3. Group Benefits
4. Pension Plan
5. Bayer Retirement Plan and Savings Plan
6. Maintenance Trainee Program
7. Family and Medical Leave Act
8. Americans with Disabilities Act
9. Substance Abuse

This Agreement is made and entered into as of the date first above written.

**BAYER HEALTHCARE LLC**

**FOR THE COMPANY:**

\_\_\_\_\_  
Maria Miller

\_\_\_\_\_  
Maria Anastas, Esq.

\_\_\_\_\_  
Amador Alviz

\_\_\_\_\_  
Jatin Khatri

\_\_\_\_\_  
Stuart Glaun

\_\_\_\_\_  
Brienne Fernandez

\_\_\_\_\_  
Leesa Zias

\_\_\_\_\_  
Paulina Barranco Morales

\_\_\_\_\_  
Vincent Tannura

\_\_\_\_\_  
Date Signed

**INTERNATIONAL LONGSHORE AND WAREHOUSE UNION, LOCAL #6**

**FOR THE UNION:**

\_\_\_\_\_  
Maureen McManus, Business Agent

\_\_\_\_\_  
Russell Baugh

\_\_\_\_\_  
Damon Beacham

\_\_\_\_\_  
Donal Mahon

\_\_\_\_\_  
Manny Rodriguez

\_\_\_\_\_  
David Jones

\_\_\_\_\_  
Robert Collins

\_\_\_\_\_  
Scott Higgins

\_\_\_\_\_  
Surafeal Amare

\_\_\_\_\_  
Joe Lamaestra

\_\_\_\_\_  
Mark Barrow

\_\_\_\_\_  
Peter Wasonga

\_\_\_\_\_  
Date Signed



**SUPPLEMENTAL ATTACHMENT NO. 1**

**BASIC RATES OF PAY**

PAY SCALE

<b>Code</b>	<b>Effective 8/24/2014</b>	<b>Effective 8/25/2015</b>	<b>Effective 8/25/2016</b>	<b>Effective 8/25/2017</b>	<b>Effective 8/25/2018</b>
CBY04	\$16.46	\$16.99	\$17.53	\$18.11	\$18.71
CBY05	\$23.82	\$24.58	\$25.37	\$26.21	\$27.07
CBY06	\$26.59	\$27.44	\$28.32	\$29.25	\$30.22
CBY07	\$28.57	\$29.48	\$30.43	\$31.43	\$32.47
CBY08	\$28.75	\$29.67	\$30.62	\$31.63	\$32.67
CBY09	\$29.05	\$29.98	\$30.94	\$31.96	\$33.01
CBY10	\$29.34	\$30.28	\$31.25	\$32.28	\$33.34
CBY11	\$29.95	\$30.91	\$31.90	\$32.95	\$34.04
CBY11*	\$30.39	\$31.36	\$32.37	\$33.43	\$34.54
CBY12	\$32.17	\$33.20	\$34.26	\$35.39	\$36.56
CBY12*	\$32.81	\$33.86	\$34.94	\$36.10	\$37.29
CBY14	\$34.83	\$35.94	\$37.09	\$38.32	\$39.58
CBYA	\$37.42	\$38.62	\$39.85	\$41.17	\$42.53
CBYB	\$35.54	\$36.68	\$37.85	\$39.10	\$40.39
CBYC	\$33.67	\$34.75	\$35.86	\$37.04	\$38.27
CBYSR	\$40.49	\$41.79	\$43.12	\$44.55	\$46.02

**SUPPLEMENTAL ATTACHMENT NO. 2**

**JOB CLASSIFICATION SCHEDULE**

DEPARTMENT NAME

JOB TITLE

Sanitation

**Code 4:**  
General Worker

Sanitation

**Code 5:**  
General Worker

Production  
Quality  
Research

Code 6  
Production Cleaners  
Production Cleaners  
Production Cleaners

Sanitation	Production Cleaners
Quality	<b>Code 7:</b>
Quality	Biological Analyst Trainee
	Chemical Analyst Trainee
	<b>Code 8:</b>
Quality	Raw Material Inspector IV
	<b>Code 9:</b>
Quality	(RB) Biological Analyst III
Quality	(RB) Chemical Analyst III
Plasma Processing	(RB) Production Technician – Plasma Proc. III
Media/Fermentation	(RB) Production Technician – Media/Ferm III
Purification	(RB) Production Technician – Purification III
Cell Culture B	(RB) Production Technician Kovaltry/Bay94- Cell Culture III
Media/Solution Prep B	(RB) Production Technician Kovaltry/Bay94 – Media/Sol III
Purification B	(RB) Production Technician Kovaltry/Bay94- Purification III
Filling and Freeze Drying	(RB) Aseptic Processing Technician III
Quality	Raw Material Inspector III
Quality	Quality Control Central Processing Operator
Quality	Finishing Line Inspector II
Warehouse	Shipping Clerk
Maintenance	Spare Parts Technician II
Sanitation	Site Facilities Support Worker
All Departments	Material Handler
Packaging	Packaging Operator
Packaging	Checker
	<b>Code 10:</b>
Plasma Processing	(RB) Production Technician – Plasma Proc. II
Media/Fermentation	(RB) Production Technician – Media/Ferm II
Purification	(RB) Production Technician – Purification II
Cell Culture B	(RB) Production Technician Kovaltry/Bay94- Cell Culture II
Media/Solution Prep B	(RB) Production Technician Kovaltry/Bay94 – Media/Sol Prep II
Purification B	(RB) Production Technician Kovaltry/Bay94- Purification II
Filling and Freeze Drying	(RB) Aseptic Processing Technician II
Maintenance	(RB) Spare Parts Technician I
Quality	(RB) Biological Analyst II
Quality	(RB) Chemical Analyst II
Warehouse	(RB) Shipping Clerk
Quality	Raw Material Inspector II
Quality	Finishing Line Inspector I
	<b>Code 11:</b>
Plasma Processing	(RB) Production Technician – Plasma Proc. I *

Media/Fermentation	(RB) Production Technician – Media/Ferm I *
Purification	(RB) Production Technician – Purification I *
Cell Culture B	(RB) Production Technician Kovaltry/Bay94- Cell Culture I*
Media/Solution Prep B	(RB) Production Technician Kovaltry/Bay94 – Media/Sol Prep I*
Purification B	(RB) Production Technician Kovaltry/Bay94- Purification I*
Filling and Freeze Drying	(RB) Aseptic Processing Technician I
Quality	(RB) Biological Analyst I
Quality	(RB) Chemical Analyst I
Quality	Raw Material Inspector I

**Code 12:**

Plasma Processing	(RB) SR Production Technician – Plasma Proc. *
Media/Fermentation	(RB) SR Production Technician – Media/Ferm *
Purification	(RB) SR Production Technician – Purification *
Cell Culture B	(RB) SR Production Technician Kovaltry/Bay94- Cell Culture*
Media/Solution Prep B	(RB) SR Production Technician Kovaltry/Bay94 – Media/Sol Prep*
Purification B	(RB) SR Production Technician Kovaltry/Bay94- Purification*
Filling and Freeze Drying	(RB) SR Aseptic Processing Technician
Quality	(RB) Sr. Biological Analyst
Quality	(RB) Sr. Chemical Analyst
Quality	(RB) SR Finishing Line Inspector
Quality	SR Raw Material Inspector

**Code 14:**

Plasma Processing	(RB) Certified Sr. Production Technician - Plasma Proc. *
Media/Fermentation	(RB) Certified Sr. Production Technician - Media/Ferm*
Purification	(RB) Certified Sr. Production Technician - Purification*
Filling and Freeze Drying	(RB) Certified Sr. Aseptic Processing Technician

**MAINTENANCE CLASSIFICATIONS**

Maintenance/All Depts.	(RB) Maintenance Trainee
Maintenance/All Depts.	Maintenance Mechanic C
Maintenance/All Depts.	Maintenance Mechanic B
Maintenance/All Depts.	Maintenance Mechanic A
Maintenance/All Depts.	(RB) Sr. Maintenance Mechanic

**Positions marked with an asterisk (\*) will be paid as outlined in Supplemental Attachment 1 appropriate to their Code level, also marked with an asterisk.**

**Miscellaneous Provisions:**

1. Maintenance skilled trade employees working more than 50% in fabrication will be classified as "Fabricator".
2. **Sanitation:**
  - A. Effective January 1, 2015, an employee initially hired as a Code 4 General Worker (Sanitation) shall not be eligible to bid on a higher level position until he/she has been employed by Bayer as a Code 4 for a minimum of twelve (12) months, unless mutually agreed to the by Company and the Union.
  - B. Code 4 General Workers who have been employed by Bayer for five (5) years or more will receive a \$0.50 per hour increase, in addition to the union wage progression, as long as they have not received a Final Written Warning in the past 12 months.
  - C. For each Code 4 General Worker who is hired during the term of the contract and who successfully completes his/her probationary period, the Company will provide a one-time payment of \$850, less standard deductions.

**SUPPLEMENTAL ATTACHMENT NO. 3**

Group Benefits

**GROUP BENEFIT INDEX**

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In the interest of clarity, these benefit plans have been described informally. If any conflict should occur between these summaries and the provisions of the actual plan documents (or if any point is not covered in these summaries), the actual plan documents, available on line will govern.

These benefit plans are summarized in this Supplement as a matter of convenience. Except for certain benefit provisions that were the subject of collective bargaining, as evidenced by a Memorandum of Agreement between the Union and the Company, these summaries constitute summary plan descriptions of the benefit plans, and are not considered to be a part of the Agreement.

The Company will provide Summary Plan Descriptions (SPD) to the employees by posting the Bayer SPDs on the Bayer intranet / internet site.

\* Effective January 1, 2009, bargaining unit employees will participate in the Bayer Corporation Disability Plan which includes Short Term Disability (STD) and Long Term Disability (LTD) benefits on the same basis as the non-bargaining unit employees at the Berkeley site here: <http://mybenefitessentials.bayerweb.com/>.

**SUPPLEMENTAL ATTACHMENT NO. 3**

**GROUP BENEFITS**

**Section 1 - Outline**

Group Benefits shall be provided for employees in accordance with the following:

**EMPLOYEE ONLY:**

Life Insurance	
Non-contributory	\$50,000
Contributory	\$25,000 or \$50,000
Accidental Death and Dismemberment Insurance,	
Non-contributory Business Travel	\$100,000
Disability Benefits	
Short-Term, Noncontributory	Up to 100% of base pay
Long-Term, Contributory	Up to 60% of base pay

**EMPLOYEE & ELIGIBLE DEPENDENTS:**

Personal Accident, Contributory	Up to \$150,000
Group Medical Plans	ILWU Plans A & B, Company Salaried Plan Options,
Group Dental Plans	ILWU Plans, Company Salaried Plan Options
Group Vision Plan	ILWU Plan

## Section 2 - Eligible Employees

Employees who are members of the Collective Bargaining Unit represented by Local 6, International Longshore and Warehouse Union, are eligible for the Group Benefits set forth herein if they normally work for the Company at least 20 hours a week and for one month or more on a regular full-time basis.

## Section 3 - Effective Date of Group Benefits

- (a) Employees - Unless otherwise specified herein, all group benefits take effect on the later of: the first day the employee commences work with the Company; or, agrees to make required contributions, if any.
- (b) Dependents - Group benefits for dependents of employees take effect on the later of:
1. The date the group benefits take effect for the employee or,
  2. The date the dependent becomes an eligible dependent as defined in Section 4.

## Section 4 - Definition of Eligible Dependents

Dependents - Eligible dependents for the Company's Group Plans are the covered employee's spouse, if not legally separated, any of such **employee's children under age 26**. An eligible dependent child includes:

- (a) Natural child
- (b) Stepchild
- (c) Adopted child or child placed with you for adoption
- (d) Child for whom you are a permanent legal guardian

Coverage for a child age **26** or older can continue provided he or she becomes totally and permanently disabled while continuously covered as a dependent under a company-sponsored medical and/or dental plan, is supported by you, and is incapable of self-support because of a mental or physical handicap. You must provide proof of the child's disability within 31 days of the date coverage would otherwise end. Periodic proof of the child's disability may be required for this coverage to continue.

- (b) Domestic Partners – A qualified domestic partner is a person of the same or opposite sex who has resided with you for at least one year (proof required). Current active employees who elect either the Company or Union Group Plans will have the option to cover a domestic partner and any dependent children of the domestic partner providing you and your partner meet the following eligibility requirements.
- Both parties should be at least 18 years of age
  - Both parties are not married under the common law of the state in which they reside, or legally separated
  - Both parties are not related by blood to a degree which would prohibit them from getting married in the state in which you legally reside
  - Both parties are jointly responsible for each other's common welfare and financial obligations (proof required).

Also, there are tax consequences (imputed income) that apply to this benefit. You pay tax on the premium difference between your prior coverage category (i.e., prior to covering a domestic partner) and your newly elected coverage category. Example: You pay on a pre-tax basis the employee contribution for the coverage category "employee + 1" (assuming no additional dependents). Your imputed income is based on the premium (i.e., not just your employee contribution) difference between single and employee +1 coverage categories.

- (c) Hospital Confinement - Any dependent confined to a hospital or other covered institution (except for birth) when that dependent would normally become eligible, will become eligible only upon discharge from the hospital or covered institution.

**Section 5 - Group Life Insurance**

- (a) Coverage for Employees:

1. The amount of non-contributory life insurance is \$50,000. Upon attaining age 65 an employee's non-contributory life insurance will be determined according to the following schedule:
 

Age 65 but less than 70	=	\$33,000
Age 70 but less than 75	=	\$20,000
Age 75 but less than 80	=	\$13,000
Age 80 or older	=	\$ 8,000
  
2. The employee may select contributory life insurance of either \$25,000 or \$50,000. The cost is 35 cents per month for each \$1,000 of coverage. Upon attaining age 65, an employee's contributory life insurance will be determined according to the following schedule:

		<u>\$50,000</u>	<u>\$25,000</u>
Age 65 but less than 70	=	\$33,000	\$17,000
Age 70 but less than 75	=	\$20,000	\$10,000
Age 75 but less than 80	=	\$13,000	\$ 7,000
Age 80 or older	=	\$ 8,000	\$ 4,000

3. When an employee retires at age 55 and older and ten years of service after age 40, his non-contributory life insurance will be \$10,000. Contributory life insurance terminates at retirement but may be converted [see (f) below].

- (b) Eligibility:

1. Non-contributory Life Insurance takes effect on the employee's effective date specified in Section 3. Contributory Life Insurance also takes effect on the employee's effective date specified in Section 3 provided enrollment for the contributory coverage is within 31 days of an employee's initial effective date.
  
2. If enrollment for optional Contributory Life Insurance occurs after the first 31 days of an employee's initial effective date specified in Section 3, or if the employee chooses to increase the amount of optional Contributory Life Insurance coverage, the effective date will be the date the insurance company approves the employee's application for the coverage. A physical examination may be required at the employee's expense.<sup>3</sup> An employee may, at any time,

cancel or decrease the amount of his Contributory Life Insurance by contacting the Bayer Benefits Center.

- (c) Payment of Benefits - All life insurance benefits are payable at the time of death to the beneficiary as named by the insured employee. Payment will be made in a single sum or, if requested, installments.
- (d) Change of Beneficiary - An employee may change the beneficiary designation on this coverage at any time online or by contacting the Bayer Benefits Center.
- (e) Disability Benefit - In the event a covered employee becomes totally disabled by bodily injury or disease prior to age 65 so as to be prevented from engaging in any occupation for compensation or profit, the non-contributory life insurance will be extended up to the first anniversary of the commencement of the disability. This protection may be extended further if proof of continued total disability is submitted three months prior to each anniversary prior to the date of disability. Upon attaining age 65, the amount of non-contributory life insurance will be reduced by 35% and this amount will reduce according to the schedule in (a)1 above during the continuation of the disability to age 70. At age 70, if still disabled, insurance will be reduced to \$10,000 or the amount in effect if less than \$10,000. Contributory life insurance ceases if a covered employee becomes totally disabled, but may be converted [see (f) below].

The insurance company has the right to have a medical representative examine the disabled employee when it may be reasonably required; but after life insurance has been extended two full years, not more often than once a year. Proof that total disability continued to death must be submitted within one year after the date of the disabled's death in order for the beneficiary to receive payment. The extension of life insurance will be discontinued if the employee is no longer disabled, fails to submit to an examination, or fails to furnish required proof.

- (f) Conversion Privilege - In the event an employee's insurance is to be terminated as a result of change in status as set forth in Section 11 (a), life insurance continues until the end of the month in which employment terminated. Upon termination or reduction of an employee's coverage, conversion of the life insurance coverage to an individual life policy with the Company's life insurance carrier may occur during the 31 day period thereafter without the requirement of providing proof of insurability. An employee can convert up to the amount of the coverage reduction or the amount of coverage terminated.
- (g) Plan Year - The plan year is on a calendar year basis.

### **Contributory Life Insurance for Spouses & Dependent Children**

You can elect one of the following life insurance options for your spouse:

Option	Coverage
1	No Coverage
2	\$10,000
3	\$20,000
4	\$30,000
5	\$40,000
6	\$50,000

**The value of spouse life insurance is considered imputed income** and is subject to federal income tax.



### Dependent Child Life Insurance Options

You can elect one of these life insurance options for your eligible dependent children:

Option	Coverage
1	No Coverage
2	\$5,000
3	\$10,000

The cost of dependent child life insurance depends on the option you choose; not how many children are covered.

### Section 6 - Accidental Death and Dismemberment Insurance

(a) Non-contributory Coverage for Employees:

1. Benefit Payable - Accidental Death and Dismemberment Insurance providing coverage 24 hours a day traveling on Company business is provided by the Company. The amount of insurance is for a principal sum of \$100,000. Should you work after age 69, coverage will be reduced according to the following schedule:

Age 70 but less than 75	=	\$65,000
Age 75 but less than 80	=	\$45,000
Age 80 but less than 85	=	\$30,000
Age 85 or over	=	\$15,000

An additional \$10,000 will be payable to your beneficiary if you are killed on Company business in an automobile while wearing a seat belt as verified in the police report.

2. Payment of Benefits - The principal sum is payable for loss of life or two or more members (hand, foot, or eye). One-half of the principal sum is payable for loss of one member. One-fourth is payable for loss of thumb and index finger on one hand.
3. Change Beneficiary – An employee may change the beneficiary designation on this coverage at any time by completing the appropriate form available from the Bayer Benefits.
4. Conversion Privilege – This benefit does not contain the privilege of continuance on an individual basis and may not be converted.
5. Limitations - Commuting to and from work is not covered. Additional exclusions include loss resulting from suicide. Benefits are payable only if the loss occurs within 365 days of the accident. Benefits are payable as the result of – and within 365 days of – an accident that occurs while you are traveling on authorized Company business. Coverage begins when you leave your normal work place or your home, whichever occurs last. It ends when you return to your normal work location or your home, which ever occurs first. Normal commuting between home and work is not covered; nor is any travel while you are on vacation. The most that can be paid in any one accident is 100% of your benefit amount.
6. Exclusions – No benefit is payable for

- a) Personal travel not reasonably related to your business
- b) Loss caused by war or acts of war
- c) Suicide, attempted suicide, or intentionally self-inflicted wounds, while sane or insane
- d) Travel or flight in any spacecraft
- e) Active duty in the armed forces
- f) Piloting an aircraft on company business if other than a specifically named employee pilot.

(b) Contributory Personal Accident Insurance:

1. Coverage - Optional Contributory Personal Accident Insurance is available according to the following schedules:

**EMPLOYEE ONLY**

<b>Principle Sum</b>	<b>Monthly Cost*</b>
\$ 10,000	\$ .15
\$ 25,000	.375
\$ 50,000	.75
\$100,000	1.50
\$150,000	3.75

**EMPLOYEE AND FAMILY**

<b>Employee</b>	<b>Spouse</b>	<b>Each Child</b>	<b>Monthly Cost*</b>
\$ 10,000	\$ 5000	\$ 1,000	\$ .25
25,000	12,500	2,500	.625
50,000	25,000	5,000	1.25
100,000	50,000	10,000	2.50
150,000	75,000	15,000	3.75

\* The monthly cost may change in accordance with changes in the cost of the plan for other employees. New rates will take effect as soon as practical after approval.

Should you work after age 69, coverage will be reduced according to the following schedule:

- Age 70 but less than 75 = 65% of age 69 coverage
- Age 75 but less than 80 = 45% of age 69 coverage
- Age 80 but less than 85 = 30% of age 69 coverage
- Age 85 or over = 15% of age 69 coverage

2. Family Coverage - Family coverage, as shown in the table above, insures the spouse for 50% of the employee's principal sum and each eligible child for 10% of the employee's principal sum. If there are no dependent children and the employee has family coverage, the spouse will be insured for 55% of the principal sum. If the employee does not have a spouse but has family coverage, each eligible child will be insured for 15% of the principal sum. If both husband and wife are employed by the Company, only one of you may cover your children for this benefit.
3. Eligibility - Eligible dependents are those as described in Section 4.
4. Beneficiary - The beneficiary for the Contributory Personal Accident Insurance will be as designated for non-contributory Life Insurance. The employee is always the beneficiary of any benefits when family coverage is elected.

5. No Conversion - This benefit does not contain the privilege of continuance on an individual basis and may not be converted.

6. Payment of Benefits:

a) If an accidental injury results, directly or indirectly of all other causes, in any of the following losses within one year of the accident, the Company will pay for loss of:

Life	Principal Sum
Both hands or both feet, or sight of both eyes	Principal Sum
One hand and one foot	Principal Sum
Either hand or foot and sight of one eye	Principal Sum
Either hand or foot	One-half of Principal Sum
Sight of one eye	One-half of Principal Sum
Thumb and index finger of either hand	One quarter of Principal Sum
Speech and hearing in both ears	Principal Sum
Speech or hearing(both ears)	One-half of Principal Sum
Quadriplegia (total and irreversible paralysis of both legs)	Three quarters of Principal Sum
Hemiplegia (total and irreversible paralysis of one arm and one leg on the same side)	One-half of Principal Sum

b) Loss -"Loss" means with regard to:

- (1) Hands and feet, actual severance through or above wrist or ankle joints;
- (2) Sight, speech or hearing, complete and permanent loss thereof;
- (3) Thumb and index finger, actual severance at or above the metacarpophalangeal joints.
- (4) Exposure to the elements is considered accidental injury.

7. Exclusions – In certain circumstances, the loss of life, and, foot, finger, thumb, sight, speech, or hearing is not covered. No AD&D benefits will be paid for such losses that result from:

- a) Suicide or attempted suicide, while sane or insane.
- b) Intentionally self-inflicted injuries, or any attempt thereof
- c) Sickness, or medical or surgical treatment of sickness. This will not apply to accidental injuries sustained during a medical or surgical treatment.
- d) Any infection, unless it is pyogenic and occurs through and at the time of an accidental cut or wound or is bacterial and results from an accidental ingestion of a contaminated substance.
- e) War, or any act of war. "War" means declared or undeclared war and includes resistance to armed aggression.

- f) Travel or flight in any vehicle used for aerial navigation (including getting in, out, on or off any such vehicle) if you are either riding as a passenger in any aircraft not intended or licensed for the transportation of passengers, or you are performing as a pilot or crew member or receiving training on any aircraft that is not owned, leased or operated by the company.
  - g) Driving or riding in any four wheeled vehicle used in a race or a speed or endurance test, or for acrobatic or stunt driving.
  - h) Commission of or any attempt to commit a felony.
  - i) Being legally intoxicated or under the influence of any narcotic unless administered or consumed on the advice of a doctor.
  - j) In addition, your spouse or child is not your qualified dependent while on active duty in the armed forces of any country.
8. Limitations – For benefits to be payable, the loss suffered must be the direct result of the accidental injury and from no other cause and occur within 365 days of the accident. The most one can receive on AD&D benefits as the result of one accident is 100% of your covered amount. The Company reserves the right to make changes to this plan if the plan changes for all covered employees and in the same manner in which it changes for those employees.
9. Additional AD&D Benefits – The plan pays an additional benefit if any of the following occur:
- a) If a covered person dies in a motor vehicle accident while wearing a seat belt, the beneficiary will receive an additional 10% of the AD&D benefit to a maximum of \$25,000.
  - b) If a covered person dies in a motor vehicle accident while wearing a seat belt and the car is equipped with a factory installed airbag system, the beneficiary will receive an additional 10% of the AD&D benefit to a maximum of \$25,000.
  - c) If a covered dependent child suffers dismemberment, the Plan pays an additional benefit equal to the amount payable for that child's loss.
  - d) If a covered person becomes comatose within 31 days of the covered accident and remains in a total, continuous and permanent coma for at least 31 days, the Plan will pay an additional 1% benefit for up to 100 months that the covered person remains in a coma. Coma means a profound state of unconsciousness from which the person cannot be aroused, even by powerful stimulation, as determined by the person's physician.
  - e) If the body of a covered person has not been found within one year after the disappearance, stranding, sinking or wrecking of any vehicle in which the covered person was a passenger, the beneficiary will receive an amount equal to 100% of the deceased person's AD&D coverage.
  - f) If a covered person dies in a covered accident, the Plan pays an additional benefit for the preparation and transportation of the deceased person's body for cremation or burial if the death occurs outside the 150-mile radius of that person's home. The benefit is the lesser of the actual expenses or \$5000.
  - g) If you or your spouse die in a covered accident, the Plan will pay a tuition reimbursement benefit for up to four years (but not beyond the date the child turns age 24) for a covered dependent child.
    - 1. The amount payable is the lesser of the following:  
The actual tuition (excluding room and board) or 5% of the deceased's coverage

amount or \$15,000 each year

2. In order to qualify, your child must be enrolled in an institute of higher learning within 365 days of your or your spouse's death. If your eligible dependent child is not enrolled in an institute of higher learning, the additional benefit is \$5,000.
- h) If you die in a covered accident, the Plan will provide your spouse with a tuition reimbursement benefit for a professional or trade program that prepares him or her for work.
1. The amount payable is the lesser of:  
The actual tuition (excluding room and board) or 5% of your coverage amount or \$10,000 (lifetime maximum)
  2. In order to qualify, your spouse must enroll in the program within 30 months of your death.
- i) If you or your spouse die in a covered accident, the Plan will pay a benefit for day care expenses for a dependent child under age 13, for up to four consecutive years or until the child reaches age 13.
1. The amount payable is the lesser of the following:  
The actual day care cost or 5% of the deceased's coverage amount or \$7,500 each year.
  2. In order to qualify, your child must be enrolled in a licensed or certified day care center within 365 days of your or your spouse's death. If your dependent child does not meet these requirements, the additional benefit is \$2,500 payable to the child's parent or legal guardian.
- j) If you or your dependent dies in a covered accident which occurs outside a 150 mile radius of a person's home and in the United States or Canada, the plan will pay covered expenses up to \$5,000 to return the person's remains home. Covered expenses include embalming, cremation, a coffin and the transportation of the remains.
- k) Any accidental losses or illnesses not listed here are not covered as additional benefits. Additional benefits are payable for a dependent child's loss only if the child is insured for dependent's coverage on the date of the accidental injury.

## **Section 7 - Disability Benefits / Sick Pay / Kin Care**

### **(a) Non-Contributory Short Term Disability (STD)**

1. Bargaining unit employees will participate in the Bayer Corporation Disability Plan, which includes Short Term Disability (STD) and Long Term Disability (LTD) benefits, on the same basis as the non-bargaining unit employees at the Berkeley site.
2. Any bargaining unit employees receiving benefits from the bargaining unit disability plan as of December 31, 2008, will remain covered by that program until they return to work or are no longer considered disabled.

### **b) Sick Pay**

The following sets forth the provisions of the Company's paid sick pay. The purpose is to (1) supplement short term illness or injury benefits, or any disability benefits which are provided pursuant to state law and (2) serve as an incentive to reduce unnecessary absenteeism.

1) Definitions:

- a) Sick Day – “Sick Day” means a day of paid sick leave calculated by multiplying hourly straight time wage times regular applicable scheduled hours (8, 10, 12 hours) plus any applicable shift premium, less any applicable legal deductions.
- b) The employee's wage for this purpose is the base straight time hourly rate on the last day of work before absence for illness or injury plus any applicable shift premium. Sick days must be taken in increments of full days whenever possible, but in no case in less than one-half (1/2) day increments.
- c) Plan Month – “Plan Month” means from the first day of the calendar month through the last day of the same calendar month.
- d) Plan Year – The “Plan Year” means January 1 through December 31.
- e) Minimum Payable Absence – “Minimum Payable Absence” means a full (or one-half) workday's absence for which sick time is paid due to a non-work related injury or illness.
- f) Maximum Benefit – “Maximum Benefit” means eight (8) Sick Days per employee per Plan Year. These Sick Days may be drawn for a non work-related illness or injury, or for other permissible reasons in accordance with State law, but in no event will the Maximum Benefit per employee exceed eight Sick Days in a Plan Year, or fourteen (14) days with accumulated carryover from the previous year. Sick days must be taken in increments of full days whenever possible, but in no case in less than one-half (1/2) day increments.
- g) Eligibility – Employees must first complete their probationary period before receiving Sick Pay
- h) New Hire Sick Day Entitlement – New hires will be entitled to Sick Days based on item (g) above and the following schedule:

<u>Month Hired</u>	<u>Entitlement</u>
January	8
February	8
March	7
April	7
May	6
June	6
July	5
August	4
September	3
October	2
November	1
December	0

- i) Administration of Sick Pay: A covered employee who because of non work-related illness or injury is absent from work may receive sick pay for each full (or half) day of such absence until his return to work, Short Term Disability begins, or until his Maximum Benefit is exhausted, whichever occurs first. Once an employee has exhausted all of his/her sick days he/she may be required to use up to 14 days earned and unused vacation days and discretionary holidays before taking unpaid time off. This provision shall not be construed to mean that such absences do not count against attendance requirements.

- j) Employees shall be permitted to use in any calendar year the employee's accrued and available sick leave entitlement, in the amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, to attend to the illness of a child, parent, spouse, or domestic partner of the employee. The employer shall not deny an employee the right to use sick leave or discharge, threatened to discharge, demote, suspend, or in any manner discriminate against the employee for using, or attempting to use, sick leave to attend to an illness of a child, parent, spouse, or domestic partner of the employee. All other current provisions of California Labor Code Section 233 shall also apply to this Section.
- k) Year-End Benefits: Any portion of an employee's Maximum Benefit (up to 8 days max) which is not exhausted pursuant to (b) is payable in a lump-sum, less legal deductions, to the employee following the close of a Plan Year provided:
1. The eligible employee is an active employee of the Company on the last day of the Plan Year or is on an approved leave of absence on the last day of the Plan Year, or
  2. The eligible employee is on layoff status with reinstatement rights on the last day of the Plan Year. In calculating the amount to be paid, if any, to an employee following the close of the Plan Year, the Company will use the straight time hourly wage in effect for the employee on the last day of the Plan Year plus any applicable shift premium.

Additionally, employees may request that up to six (6) of their unused or unpaid sick days be rolled over into the subsequent year. In no event will an employee be allowed more than 14 days on January 1<sup>st</sup> of each year (8 days annual allotment, plus 6 rollover days). If an employee does not record his/her request in the manner and timeframe specified by the Company, the entire balance will be carried over up to the Maximum Benefit permitted.

- (k) Once an employee is placed on an approved STD leave, any sick days he/she has taken in connection with the illness or injury that is associated with the STD leave will be restored.

Long Term Disability Plan - Eligible employees are covered under the Bayer Corporation Disability Plan which is not convertible to individual policies.

## Section 8 - Group Medical Plans

- a) Bayer Group Plan

i) Effective January 1, and each anniversary, in order to participate in a Bayer Group Medical Plan, an eligible employee must make an election during the open enrollment period through the Bayer's Benefit Administrator.

ii) Changes in elections can be made only in the event of qualified life event, except during the annual enrollment period. Please refer to the Bayer SPD for a list of qualified life events.

iii) Employees participating in the Bayer Group Medical Plan will contribute 17% of the base plan cost (Aetna 80% PPO) and dependents pay 25% of the dependent-only portion of the base plan cost (Aetna 80% PPO). Then all other plan options have a 100% buy up or down depending on the plan cost of those plans, relative to the Aetna 80% PPO plan. Other plan

options may be higher or lower in cost depending on the relative value of the plan to the base plan. Contributions will be taken on a pre-tax basis through payroll deduction.

b) ILWU Plan

i) Eligible employees will be required to waive Bayer Group Medical coverage through Bayer's Benefit Administrator and elect ILWU Plan coverage through the ILWU Benefit Administrator. Failure to waive Bayer Group Medical coverage will result in enrollment into Bayer Medical default coverage.

ii) Employees participating in the ILWU Plan will contribute 17% of the cost. Contributions will be taken on a post-tax basis through payroll deduction as long as the employee has eligible earnings to offset the deduction. Employees will be responsible for paying the ILWU Benefit Administrator for any premiums which cannot be collected through payroll deduction.

iii) The ILWU Benefit Administrator will provide Bayer with employee's benefit deduction amounts by December 15th for elections effective January 1 of the following year, and by Friday of each week for the following Friday pay thereafter. In the event Bayer is not provided with the benefit deduction amounts timely, the current benefit amount will continue to be deducted.

iv) Employee and Bayer contributions will be funded to the ILWU on a monthly basis on the 5th business day of the month for all deductions taken within the previous month.

## Section 9 - Group Dental Plans

a) Bayer Group Plan

i) Effective January 1, and each anniversary, in order to participate in a Bayer Group Dental Plan, an eligible employee must make an election during the open enrollment period through the Bayer's Benefit Administrator.

ii) Changes in elections can be made only in the event of qualified life event, except during the annual enrollment period. Please refer to the Bayer SPD for a list of qualified life events.

iii) Employees participating in the Bayer Group Dental Plan will contribute 17% of the plan cost and dependents pay 25% of the dependent-only portion of the plan cost. Contributions will be taken on a pre-tax basis through payroll deduction.

b) ILWU Plan

i) Eligible employees will be required to waive Bayer Group Dental coverage through Bayer's Benefit Administrator. ILWU's dental coverage is provided along with the ILWU Medical Plan coverage through the ILWU Benefit Administrator. Failure to waive Bayer Group dental coverage will result in enrollment into Bayer Dental default coverage



ii) Eligible employees participating in the ILWU medical plan will be provided with coverage under the ILWU dental plan at no additional cost

## Section 10 - Vision Plan

### a) Bayer Group Plan

i) Effective January 1, and each anniversary, in order to participate in a Bayer Group Vision Plan, an eligible employee must make an election during the open enrollment period through the Bayer's Benefit Administrator.

ii) Changes in elections can be made only in the event of qualified life event, except during the annual enrollment period. Please refer to the Bayer SPD for a list of qualified life events.

iii) Employees participating in the Bayer Group Vision Plan will contribute 100% of the cost. Contributions will be taken on a pre-tax basis through payroll deduction.

### b) ILWU Plan

i) Eligible employees who have elected the Bayer Medical and Dental Plans, and have waived Bayer's Vision Plan, can elect the ILWU Vision Plan through the ILWU Benefit Administrator.

ii) The ILWU Benefit Administrator will provide Bayer with a listing of employees who have elected to participate in the ILWU Vision plan by December 15<sup>th</sup> for elections effective January 1 of the following year, and by Friday of each week for the following Friday pay thereafter. In the event Bayer is not provided with the employee listing timely, Bayer will not contribute to the coverage

iii) Bayer contributions will be funded to the ILWU on a monthly basis on the 5<sup>th</sup> business day of the month for coverage for the previous month.

Information on the Vision Plan is available from the ILWU Welfare Fund.

## Section 11 - Termination of Group Benefits

(a) Group benefits for an employee terminate on the last day of the month in whichever occurs first:

1. employment terminates;
2. an employee is no longer eligible;
3. the contract terminates;

However, if the employee is laid off, group benefits (excluding accidental death and dismemberment insurance, short-term disability, and long-term disability) continue through the last day of the sixth month after the month in which the layoff occurred, provided the employee continues to make any applicable employee contributions. The COBRA continuation period runs concurrently with this extended benefits period.

(b) Group benefits for dependents terminate when:

1. the employee's insurance coverage terminates;
2. when the spouse or dependent is no longer an "eligible dependent"

(c) Continuation benefits may be elected as described under Section 8(a) 4. c) for all Medical, Dental and Vision Plans.

(d) Retiree Medical Coverage

1. Employee hired after August 31, 2005 will not receive any company contribution towards retiree medical coverage. However, those employees would have access to company retiree medical coverage at 100% premium cost to be paid by employee / retiree if he/she is at least age 55 on last day worked with at least 10 years of continuous service after age 40.

2. Pre-65 Coverage

Employees who retire between age 55 and 65 with at least 10 continuous years of service earned after age 40, and their spouses under age 65 and dependents, who are covered under any of the active medical plan options, will be eligible for pre-65 retiree medical coverage. Eligible retirees may elect the same plan options available to non-union retirees. Retiree contributions (for employee coverage/dependent coverage) will be based on age and continuous service after age 40 at termination:

Points at Retirement	Contribution Percentage
80 or more	17%/25%
75 – 79	27%/35%
70 – 74	<b>37%/45%</b>
<b>65 – 69</b>	<b>47%55%</b>

The retiree’s coverage will terminate when he or she turns age 65, unless eligible for post-65 coverage as described below. Coverage for spouses and dependents will terminate when they turn age 65 or otherwise become ineligible, unless the retiree was eligible for post-65 coverage as described below.

3. Post-65 Coverage

Only those employees who retire at or after age 62 with at least 20 years of service will be eligible for post-65 retiree medical coverage once the retiree turns age 65. Coverage will be through Medicare supplemental plans and Medicare advantage plans provided by the company. Details on coverage are available from the Bayer Benefits Center. Retiree contributions for covered individuals age 65 or older will be 50% of the company’s cost. Employees eligible for access only (pay 100% of the cost) to retiree coverage will be able to elect from any of the options available to Bayer non-bargaining employees

4. The Company reserves the right to change future retiree contributions and plan coverage, subject to obligations of the current collective bargaining agreement.

**Section 12 - Non-Duplication of Benefits**

If a covered employee or dependent is entitled to any medical or dental benefits or services from another source (excluding any individual policy which is not arranged on a group basis), benefits under this Plan may be reduced to an amount, which, together with all other benefits, will not exceed 100% of any usual, reasonable, and customary item of expense covered under this Plan or any other Plan. (Any expenses

covered under Medicare will be considered in calculating benefits only if a portion of these expenses is also covered under a plan other than Medicare, if Medicare is selected as primary.)

### **Section 13 – Dependent Day Care Spending Account**

#### **(a) Eligibility and Limits**

1. You can contribute a maximum of \$5,000 per calendar year on a pre-tax basis to your Dependent Day Care Spending Account. If you are married and you and your spouse file separate tax returns, your individual maximum annual contribution to the Dependent Day Care Account is \$2,500. Also, if your spouse uses a similar account, your combined annual contributions cannot exceed \$5,000.
3. If you are married and use the Dependent Day Care Account, your spouse must work (either full- or part-time), be a full-time student, or be incapacitated. To determine your maximum contribution if your spouse is a student or incapacitated, your spouse is automatically treated as earning an income of \$200 per month if you have one eligible dependent and \$400 per month if you have two or more eligible dependents.
4. If you pay dependent day care expenses, you may be eligible for a tax credit on your federal income tax return. Depending on your situation, the tax credit for dependent day care expenses may give you greater savings than the Dependent Day Care Spending Account. Keep in mind that you can't apply the same expenses to both the Spending Account and this credit. If you have questions, you should discuss these issues with a qualified tax advisor.

#### **(b) Eligible Day Care Expenses**

1. Your Dependent Day Care Spending Account can be used to reimburse costs for caring for your dependents so that you and/or your spouse can work, actively look for work, or attend classes as a full-time student. To be eligible, your dependent must live full-time with you in your home and be:
  - a. A dependent child age 12 or under whom you claim as a dependent on your federal income tax return
  - b. A disabled spouse who is physically or mentally incapable of self-care
  - c. A disabled dependent age 13 or over (your elderly parent, for example) who is physically or mentally incapable of self-care and for whom you pay more than one-half the cost of support
2. Expenses can be reimbursed only for the calendar year in which services are provided – and not when you are billed or pay for the care. Also, expenses for services provided prior to the date on which you began contributing to your Dependent Day Care Spending Account cannot be reimbursed.
3. Expenses that satisfy the requirements for a dependent day care tax credit on your federal income tax qualify as Dependent Day Care Spending Account expenses. Most dependent day care expenses are covered, including care in a private home or day care center.

#### **(c) Important Notes**

1. Remember these rules:
  - a. You must make an active election each calendar year you want to participate in a Dependent Day Care Spending Account. There is no automatic enrollment.
  - b. You can't carry unused account balances forward from one calendar year to the next.
  - c. You have until March 31 of the following calendar year to submit claims for the previous calendar year.
  - d. Only expenses incurred in the previous calendar year can be paid from your account balance for that previous calendar year.
  - e. Any unused balance will be forfeited.

2. These forfeiture rules make it very important that you plan your use of the Spending Accounts carefully. Any forfeited Spending Account contributions will be used to offset the company's costs for administering the Plan.

#### **Section 14 – Health Care Spending Account**

The Company provides a Health Care spending account that qualifies for pre-tax treatment under Internal Revenue Code Sections 125.

You may contribute a minimum of \$50 and a maximum of **maximum of \$2,550 (or IRS maximum if it changes)** per year to your Health Care Spending Account.

##### **(a) Eligible Dependents**

You can use the Health Care Spending Account to reimburse yourself for certain expenses incurred by you, your spouse and other eligible dependents. Eligible dependents for healthcare spending accounts include:

1. Your dependent children.
2. Other eligible dependents you claim as dependents on your federal income tax return. This includes parents, grandparents, and other family members who depend on you for at least one-half of their support, and other members of your household who live with you and receive more than one-half of their support from you.

Domestic partners and children of domestic partners are not eligible dependents under this program.

##### **(b) Eligible Healthcare Expenses**

In general, your Health Care Spending Account can reimburse you for any eligible expenses you incur for the diagnosis, cure, relief, treatment and prevention of a sickness or injury.

Generally, an eligible expense is one that is deductible on your federal income tax return as a medical expense, under rules of the Internal Revenue Service. If you have any questions about whether an expense is eligible, you should contact your tax advisor. Expenses that are also covered by a medical or dental plan (including the medical or dental plan of your spouse) must be submitted to that medical or dental plan first for payment. Your Health Care Spending Account will reimburse you for eligible expenses which are not paid by a medical or dental plan.

Eligible expenses include, but are not limited to:

- Abortion
- Acupuncture
- Alcoholism/drug addiction - payment made to a treatment center, for medically directed or supervised treatment, including meals and lodging provided by the center
- Ambulance service
- Amounts over the reasonable and customary charge of any health plan
- Artificial limbs
- Birth control pills
- Braille books and magazines
- Chiropractic services
- Christian Science practitioners
- Contact lenses and solutions
- Deductibles and copayments not paid by a health plan

- Dental services not covered by a dental plan
- Eye examinations
- Eyeglasses
- Fertility drugs
- Guide dog for blind or deaf
- Health care equipment and appliances (purchase or rental)
- Hearing aids
- Hospital services, including private hospital room charges
- Laboratory services
- Lead-based paint removal
- Lifetime care - advance payment to a facility for care, treatment, and training of a physically or mentally handicapped dependent in the event of your death (these payments may, in some cases, be limited to the portion of the payment attributable to medical care)
- Mental health care
- Nursing home if dependent requires medical care
- Nursing services
- Optometrist services
- Orthodontia
- Osteopath services
- Oxygen
- Physical therapy
- Physician services, including routine physical exams
- Podiatrist expenses
- Prescription drugs
- Psychoanalysis
- Psychologist expenses
- Special education and training for physically or mentally handicapped dependent
- Special equipment and design of car for operation by handicapped person
- Special equipment for telephone or television for use by deaf person
- Special home for mentally retarded dependent to help transition to community living
- Speech therapy
- Sterilization
- Syringes, needles, and injections
- Transplant
- Wheelchair
- X-ray fees

(c) Ineligible Expenses

Expenses can be reimbursed only for the calendar year in which services are provided – and not when you are billed or pay for the care (this does not apply to "lifetime care" - that is, payment made for medical expenses in connection with prepaid long-term care). Also, expenses for services provided prior to the date on which you began contributing to your Health Care Spending Account cannot be reimbursed.

Medical expenses which are not recognized as legitimate medical expenses by the Internal Revenue Service, are not eligible for reimbursement from your Health Care Spending Account.

Ineligible expenses include, but are not limited to, insurance premiums for health coverage, marriage or family counseling, funeral and burial expenses, health club dues, YMCA dues, bottled

water, toiletries, cosmetics, cosmetic surgery, electrolysis, hair transplant and liposuction, to name a few.

(d) Important Notes

Remember these rules:

1. You must make an active election each calendar year you want to participate in a Healthcare or Dependent Day Care Spending Account. There is no automatic enrollment.
2. Up to \$500 in the healthcare FSA can be carried over into the next calendar year. You have until March 31 of the following calendar year to submit claims for the previous calendar year.
3. Only expenses incurred in the previous calendar year can be paid from your account balance for that previous calendar year.
4. Any unused balance over \$500 will be forfeited.
5. You cannot use money left in one account to cover expenses in the other account.

These forfeiture rules make it very important that you plan your use of the Spending Accounts carefully. Any forfeited Spending Account contributions will be used to offset the company's costs for administering the Plan.

**Section 15 - General**

- (a) The Company reserves the unilateral right to retain the insurance underwriter or underwriters of its choice, to self-insure or to self-fund any benefit plan providing benefits are equivalent to those set forth herein.
- (b) In the interest of clarity, these benefit Plans have been described informally. All limitations, exclusions, and qualifications may not necessarily be shown. The actual benefits payable under all Plans will be determined according to provisions of the Plan documents as they may be amended from time to time; these legal documents are thus controlling.

**Section 16- Summary Plan Description**

- (a) The Employee Retirement Income Security Act of 1974 (ERISA) was established to protect your rights under certain of your employee benefit plans. All the plans provided in this Supplemental Attachment No. 4 - the Company's group life insurance, accidental death and dismemberment insurance, business travel accident insurance, short and long term disability, medical, dental and vision plans, including ILWU plans, and the severance pay program provided in Article XIII, are covered by ERISA.
  1. Plan Name - These plans, excluding the ILWU plans, are collectively named the Bayer Corporation Welfare Benefits Plan. The STD and LTD benefits are provided in accordance with the Bayer Corporation Disability Plan
  2. Plan Type - These plans are considered welfare plans for government purposes.
  3. Plan Number - The plan number for these plans is 501.
  4. Plan Year - The plan year for these plans ends on December 31.
  5. The plan sponsor is:  
Bayer Corporation

100 Bayer Road  
Pittsburgh, PA 15205-9741  
(412) 777-2000

6. The plan administrator is:

Bayer Corporation  
100 Bayer Road  
Pittsburgh, PA 15205-9741  
(412) 777-2000

The plan administrator has the exclusive discretionary authority to interpret the terms and provisions of the Welfare Benefit Plan and the Disability Benefit Plan and to determine any and all questions arising under the plan. (This does not apply to the ILWU Welfare Benefit Plan.)

7. Eligible employees of Bayer HealthCare LLC participate in the Plan. Service of legal process may be made upon the plan administrator at the above address.
8. The insurers or administrators for the individual plans can be found online. The ILWU Plans A, B, Vision Plan and Dental Plan is as follows:

ILWU Plans A, B, Vision Plan and Dental Plan - administered by:

Dan Costa, Administrator  
ILWU Warehousemen's Welfare Fund  
6601 Koll Center Parkway, Ste. 240  
Pleasanton, CA 94566  
510-639-4888

Severance Pay Program - self-insured by Bayer HealthCare

9. The Company pays all premiums for insured Company plans, makes the benefit payments under self-insured Company plans from its general assets, and contributes to the cost of ILWU plans as agreed to by the Company and the Union. The Company also pays administrative costs of company plans from general assets, including costs of outside administrative services. Some plans also require contributions or other cost-sharing by plan participants.
- (b) Collective Bargaining Agreement - The various benefits listed herein are provided to eligible employees pursuant to a Collective Bargaining Agreement between Bayer HealthCare LLC, and Local 6, International Longshore and Warehouse Union. A copy of this Agreement may be obtained by Plan participants and beneficiaries upon written request to the plan administrator and is available for examination by participants and beneficiaries.
- (c) Rights of Participant - The Company has established the Welfare Benefits Plan described in this booklet in order to protect its employees against the financial problems brought on by death, disability, or illness and has every intention to fulfill its obligations in maintaining the Plans so that some security will be achieved.

As a participant in the Welfare Benefits Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants shall be entitled to:

#### Receive Information About Your Plan and Benefits

1. Examine, without charge, at the plan administrator's office and at other specified locations, such as worksites and union halls, all documents governing the plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.
2. Obtain upon written request to the plan administrator, copies of all documents governing the operation of the plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The plan administrator may make a reasonable charge for the copies.
3. Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.

#### Continue Group Health Plan Coverage

Continue health care coverage for yourself, spouse or dependents if there is a loss of coverage under the plan as a result of a qualifying event. You or your dependents may have to pay for such coverage. Review this summary plan description and the documents governing the plan on the rules governing your COBRA continuation rights.

Reduction or elimination of exclusionary periods of coverage for pre-existing conditions under your group health plan, if you have creditable coverage from another plan. You should be provided a certificate of creditable coverage, free of charge, from your group health plan or health insurance issuer when you lose coverage under the plan, when you become entitled to elect COBRA continuation coverage, when your COBRA continuation coverage ceases, if you request it before losing coverage, or if you request it up to 24 months after losing coverage. Without evidence of creditable coverage, you may be subject to a pre-existing condition exclusion for 12 months (18 months for late enrollees) after your enrollment date in your coverage.

#### Prudent Actions by Plan Fiduciaries

In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called "fiduciaries" of the plan have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a welfare benefit or exercising your rights under ERISA.

#### Enforce Your Rights



If your claim for a welfare benefit is denied or ignored, in whole or in part, you must have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the plan administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the plan's decision or lack thereof concerning the qualified status of a medical child support order, you may file suit in federal court. If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees for example, if it finds your claim is frivolous.

### **Assistance with Your Questions**

If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Pension and Welfare Benefits Administration.

#### **d. COBRA Notice**

### **Introduction**

You are receiving this notice because you are or have recently become covered under a group health plan (the Plan). This notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan. This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it.

The right to COBRA continuation coverage was created by a federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you when you would otherwise lose your group health coverage. It can also become available to other members of your family who are covered under the Plan when they would otherwise lose their group health coverage. For additional information about your rights and obligations under the Plan and under federal law, you should review the Plan's Summary Plan Description or contact the Plan Administrator.

## What is COBRA Continuation Coverage?

COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a “qualifying event.” Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a “qualified beneficiary.” You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the Plan is lost because of the qualifying event. Under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

If you are an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because either one of the following qualifying events happens:

- Your hours of employment are reduced, or
  - Your employment ends for any reason other than your gross misconduct.
- If you are the spouse of an employee, you will become a qualified beneficiary if you lose your coverage under the Plan because any of the following qualifying events happens:
- Your spouse dies;
  - Your spouse’s hours of employment are reduced;
  - Your spouse’s employment ends for any reason other than his or her gross misconduct;
  - Your spouse becomes entitled to Medicare benefits (under Part A, Part B, or both); or
  - You become divorced or legally separated from your spouse.
- Your dependent children will become qualified beneficiaries if they lose coverage under the Plan because any of the following qualifying events happens:
- The parent-employee dies;
  - The parent-employee’s hours of employment are reduced;
  - The parent-employee’s employment ends for any reason other than his or her gross misconduct;
  - The parent-employee becomes entitled to Medicare benefits (Part A, Part B, or both);
  - The parents become divorced or legally separated; or
  - The child stops being eligible for coverage under the plan as a “dependent child.”

Sometimes, filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to Bayer HealthCare LLC, and that bankruptcy results in the loss of coverage of any retired employee covered under the Plan, the retired employee will become a qualified beneficiary with respect to the bankruptcy. The retired employee’s spouse, surviving spouse, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the Plan.

### **When is COBRA Coverage Available?**

The Plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction of hours of employment, death of the employee, commencement of a proceeding in bankruptcy with respect to the employer, or the employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), the employer must notify the Plan Administrator of the qualifying event.

### **You Must Give Notice of Some Qualifying Events**

For the other qualifying events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you must notify the Plan Administrator within 60 days after the qualifying event occurs. You must provide this notice to Bayer Benefit Center.

### **How is COBRA Coverage Provided?**

Once the Plan Administrator receives notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children.

COBRA continuation coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, the employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), your divorce or legal separation, or a dependent child's losing eligibility as a dependent child, COBRA continuation coverage lasts for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. For example, if a covered employee becomes entitled to Medicare 8 months before the date on which his employment terminates, COBRA continuation coverage for his spouse and children can last up to 36 months after the date of Medicare entitlement, which is equal to 28 months after the date of the qualifying event (36 months minus 8 months). Otherwise, when the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA continuation coverage generally lasts for only up to a total of 18 months. There are two ways in which this 18-month period of COBRA continuation coverage can be extended.

#### **Disability extension of 18-month period of continuation coverage**

If you or anyone in your family covered under the Plan is determined by the Social Security Administration to be disabled and you notify the Plan Administrator in a timely fashion, you and your entire family may be entitled to receive up to an additional 11 months of COBRA continuation coverage, for a total maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. Notice must be provided to Bayer Benefit Center.

#### **Second qualifying event extension of 18-month period of continuation coverage**

If your family experiences another qualifying event while receiving 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if notice of the second qualifying event is properly given to the Plan. This extension may be available to the spouse and any dependent children receiving continuation coverage if the employee or former employee dies, becomes entitled to Medicare benefits (under Part A, Part B, or both), or gets divorced or legally separated, or if the dependent child stops being eligible under the Plan as a dependent child, but only if the event would have caused the spouse or dependent child to lose coverage under the Plan had the first qualifying event not occurred.

### **If You Have Questions**

Questions concerning your Plan or your COBRA continuation coverage rights should be addressed to the contact or contacts identified below. For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa). (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

### **Keep Your Plan Informed of Address Changes**

In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

- e. Newborns' and Mothers' Health Protection Act - Group health plans and health insurance issuers generally may not, under federal law, restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery, or less than 96 hours following a cesarean section. However, federal law generally does not prohibit the mother's or newborn's attending provider, after consulting with the mother, from discharging the mother or her newborn earlier than 48 hours (or 96 hours as applicable). In any case, plans and issuers may not, under federal law, require that a provider obtain authorization from the plan or the insurance issuer for prescribing a length of stay not in excess of 48 hours (or 96 hours).
- f. Women's Health and Cancer Act Notice - As required by the Women's Health and Cancer Rights Act of 1998, the plan provides benefits for mastectomy-related services including all stages of reconstruction of the breast on which the mastectomy was performed, surgery and reconstruction of the other breast to produce a symmetrical appearance and prostheses and treatment of physical complications of the mastectomy, including lymphedema.

### **Section 17 – Educational Assistance Program**

The Employer will offer bargaining unit employees the Education Assistance Program benefits to the same extent all other Bayer employees may be entitled to these benefits (with no additional benefits, guarantees or entitlements). The Employer's eligibility determinations will not be subject to the grievance procedure.

**Supplemental Attachment No. 4**  
**PENSION PLAN INDEX**

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## SUPPLEMENTAL ATTACHMENT NO. 4

### PENSION PLAN

The following is a description of the Pension Plan designated as Bayer Corporation Retirement Plan for Hourly Employees (ILWU Local #6) as in effect from and after January 1, 2009. Benefits earned after January 1, 1979 are provided wholly from contributions made by the Company. The rights and benefits, if any, of employees retired or terminated prior to January 1, 2009, will be governed and determined by the terms and provisions of the Plan in effect on the date of retirement or termination of service.

This Plan is summarized in this Supplement as a matter of convenience. Except for certain benefit provisions that were the subject of collective bargaining, as evidenced by a Memorandum of Agreement between the Union and the Company, this summary constitutes a summary plan description of the Plan, and is not considered to be a part of the Agreement. If there are any discrepancies between this summary and the official written Plan documents, the Plan documents will govern.

**Section 1 - Employees Covered Under This Plan – effective January 1, 2009, this Plan is closed and frozen to new participants and the accrual of additional credited service ceases as of December 31, 2008. Only employees who participated in the Plan on December 31, 2008, will be eligible for a benefit under the Plan.**

#### Section 2 - Service

Eligibility to participate in the Plan, the right to future benefits upon leaving the Company prior to retirement (vesting), and benefit accrual are all based upon periods of service. Service is based upon the number of "hours of service" in each Plan year:

- (a) Eligibility Service:
1. An employee must receive credit for 1,000 hours of service in a 12-month period prior to December 31, 2008, in order to be credited with a year of service for eligibility purposes. The first 12-month period begins with the first day of employment. If an employee fails to complete 1,000 hours of service in the first 12 months of employment, then eligibility service will be measured starting with the Plan anniversary date (January 1) following the date of employment.
  2. An "hour of service" is any hour for which an employee is paid or entitled to be paid, including vacation, holidays, disability/sick pay, layoff, jury duty, military duty, or approved leave of absence, and including back-pay agreed to by the Company. If an individual is absent from work for any of these reasons, a maximum of 501 hours of service will be credited for each such absence.
  3. If an individual has met the eligibility requirements but subsequently terminates employment, he will be eligible to participate again immediately following reemployment by the Company provided the eligibility requirements are again satisfied.
- (b) Credited Service - The amount of retirement income will be based in part on credited service accrued through December 31, 2008. In order to earn a full year of credited service, a participant must complete a minimum of 1,801 hours of service in a Plan year (January 1 - December 31). If the hours

of service are less than 1,801, a partial year of credited service will be given according to the following table:

<u>Hours of Service</u>	<u>Percentage of a Full Year of Credited Service</u>
Less than 1,000	0
1,000	50%
1,001 - 1,200	60%
1,201 - 1,400	70%
1,401 - 1,600	80%
1,601 - 1,800	90%
1,801 and over	100%

(c) Vesting Service:

1. A year of vesting service will be credited for each Plan year in which a participant completes 1,000 hours of service.
2. In any Plan year where a participant completes at least 501 hours but less than 1,000 hours, a participant will not receive a year of vesting credit. However, Plan participation will continue.
3. If in any Plan year, a participant completes less than 501 hours of service a break in service will occur. A one year break in service will only affect vesting service if (i) a participant has less than 5 years of vesting service, and (ii) the number of consecutive "one year breaks-in-service" equals or exceeds the greatest of five or, the years of vesting service credited prior to such break. In such a case, a participant will lose the vesting service, credited service, and benefits based on the Company's contributions only which had previously been credited.
4. Vesting service will also include periods of employment with any Bayer Company.
5. If a participant is absent on a maternity or paternity leave, as defined below, or on a leave under the Family and Medical Leave Act, the leave will count as vesting service (but not as benefit service), but only to the extent necessary to prevent a break in service (up to 501 hours in a Plan year). A participant is considered to be on a maternity or paternity leave if she or he is absent from work due to her pregnancy, to the birth of the participant's child, to placement of a child for adoption with the participant, or to child care immediately after the child's birth or placement for adoption.

**Section 3 - Types of Retirement**

- (a) Normal Retirement Date - Normal retirement date is the month coinciding with or next following the date a participant attains age 65, or, if later, completes the earlier of five years of vesting service or five years of participation.
- (b) Early Retirement Date - An early retirement date may be the first of any month between the ages of 55 and 65 provided a participant has completed ten years of vesting service at that time. If a participant elects to retire early, the benefit which would otherwise be paid will be reduced 5% per year (5/12 % per month) for each year the early retirement date precedes normal retirement date. These benefits are reduced to reflect the longer period over which the retirement income will be





Added to this amount would be the primary Social Security benefit in order to determine total retirement income, as follows:

Paid By Plan (alternate) = \$ 953  
Paid by Social Security = \$1,265

Total Income = \$2,218

(c) Early Retirement Calculation - Each employee will be eligible for a benefit equal to the monthly pension calculated under (a) above reduced by 5% per year (5/12% per month) for each year the early retirement date precedes the normal retirement date. However, effective January 1, 1991, an employee who retires after attaining age 62 with 20 or more years of vesting service may retire with an unreduced benefit.

(d) Early Retirement Example - Assuming the same facts as in (b) above but with retirement at age 60 and 25 years of credited service, benefits would be calculated as follows:

Normal Retirement Benefit = \$953  
Early Retirement Reduction at  
age 60 (5% x 5 = 25%) - \$238  
Plan Benefit at Age 60 = \$715

#### Section 6 - **Optional Forms of Benefit Payments**

(a) The Plan provides a number of benefit payment options as follows:

1. Life Annuity - This is the normal form of payment and provides the maximum benefit which is payable to the retiree only, with the last payment being made in the month in which the retiree's death occurs.
2. Fifty Percent Joint and Survivor Annuity - This form of retirement income will provide benefits to both retiree and the retiree's eligible survivor. The benefit is reduced from that payable as a life annuity to recognize that the benefit will be payable over 2 lifetimes. Then, in the event of the retiree's death, one half of this amount would be continued to the eligible survivor for his lifetime.
3. One Hundred Percent Joint and Survivor Annuity - A 100% joint and survivor annuity operates on the same principle as the 50% joint and survivor annuity except that the benefit payable to the retiree or the eligible survivor is the same, regardless of which person dies first.
4. Seventy Five Percent Joint and Survivor Annuity - A 75% joint and survivor annuity operates on the same principle as the 50% joint and survivor annuity except the benefit is reduced from that payable as a life annuity to recognize that the benefit will be payable over 2 lifetimes. Then, in the event of the retiree's death, 75% of this amount would be continued to the eligible survivor for his lifetime.
5. Fifty Percent Last Survivor Annuity - The 50% last survivor annuity form provides for a reduced monthly benefit payable during the joint lives of the participant and his joint annuitant and, upon the death of either, 50% of such monthly benefit is payable to the survivor for the survivor's lifetime.

- (b) If a participant is married on his retirement date and has been married for at least one year, the form of benefit payable will be the 50% joint and survivor annuity unless another form of benefit is elected and consented to by the spouse in writing, and notarized. The participant must make an election prior to the commencement of benefits. Any election involving a survivor annuity is automatically canceled in the event of the death or legal divorce of the survivor before benefits commence.
- (c) If the present value of a Plan benefit (not the monthly payment) is \$5,000 or less, it will be paid in one lump-sum payment. For distributions occurring after March 28, 2005, if the present value of a Plan benefit exceeds \$1,000 but is not more than \$5,000, then, unless the participant elects otherwise, the Plan benefit will be automatically rolled over into an individual retirement account in accordance with procedures adopted by the Plan Administrator. This also applies to benefits that are to be paid to someone else, such as a spouse or children, due to death or a qualified domestic relations order.
- (d) If a Plan benefit is paid as a lump-sum payment equaling at least \$200, a participant may elect to have the Plan transfer the payment directly to an individual retirement account (IRA) or another qualified plan. If eligible for this "direct rollover" election, the participant will be notified by the Company. The participant must make the election within 90 days of being notified by the Company.

#### Section 7 - **Death Benefits**

- (a) In the event a retiree dies after retiring from the Plan, the death benefit would be determined by the form of retirement income selected. If a life annuity has been selected, no death benefits would be payable with the exception of employees who contributed to the Plan before 1974. In such case, a death benefit will be payable to the beneficiary equal to the excess of accumulated employee contributions with interest over retirement benefits paid. The Plan provides pre-retirement death benefits for married Plan participants in certain categories as follows:
  1. Before completion of required vesting service - No benefits will be paid in the event of death before completion of required vesting service, except in the case of employees who contributed to the Plan before January 1, 1974, a benefit will be payable to an employee's beneficiary equal to the employee's unrefunded contributions with interest.
  2. Eligible to Retire Early at Age 55 or Over - In the event of the death of an active employee who had been married for one year or more, the Plan will pay a benefit to the employee's surviving spouse equal to the amount he would have received under the 50% joint and survivor form had the employee elected this form and retired on the day before his death.
  3. Actively Employed and Age 65 or Over - Same as 2. above.
  4. After Completion of five years of vesting service - In the event of the death of an active employee who has completed the required years of vesting service and who had been married for one year or more, the Plan will pay a benefit to the employee's surviving spouse equal to the amount he would have received under the 50% joint and survivor form had the employee attained age 55, elected this form and retired on the day before his death. This benefit is payable at the time the participant would have attained age 55 if she/he had ten years of vesting service at his or her date of death; otherwise, it's payable at the time the participant would have attained age 65.

5. Separated from service after completion of required years of vesting service - Same as 2. or 4. above as applicable. This benefit is payable to any former participant with vested benefits who participated in the Plan on or after January 1, 1976, if such participant dies before retirement benefits begin.

(b) Example of Death Benefit - An example of how the death benefit described in (a) 2. above would be payable as follows:

Assume an employee's accrued benefit (payable at age 65) is \$500 per month and the employee dies at age 61 after completing at least 10 years of vesting service leaving a wife, age 60. The surviving spouse benefit would be calculated accordingly:

Accrued Benefit Payable at Age 65	\$ 500.00
Reduction for Age 61*	
(4 x 5% = 20%)	<u>- 100.00</u>
	\$ 400.00
Reduced Benefit for 50% Joint and Survivor (.902 x \$400)	\$ 360.80
50% of \$360.80 Payable to Surviving Spouse During Her Lifetime	\$ 180.40

\* No reduction if employee was age 62 with 20 years vesting service.

(c) In the event of the death of an unmarried employee who is vested and who has a dependent child, the actuarial equivalent of the surviving spouse's benefit will be paid monthly to the child (or divided in equal parts if there is more than one dependent child). The benefit will be calculated by assuming that there was a surviving spouse who was the same age as the deceased employee. For a definition of a dependent child, see the definition of "children" in Section 4 of Supplement 10 - Definition of Eligible Dependents."

**Section 8 - Vesting**

(a) If a participant leaves the Company before retirement, the benefits to which he is entitled will depend upon the years of vesting service. Generally, in order to retain a vested interest in the Plan, an employee must have completed five years of employment consisting of 1,000 hours of service in each year. If, in any Plan year, a participant completes less than 1,000 hours of service, no credit will be received for a year of vesting service. If a participant completes less than 501 hours in any one Plan year, a "break in service" may be suffered.

(b) For the purpose of determining vesting service, up to 501 hours is granted for periods of disability and, if on an approved leave of absence, up to 501 hours of service will be granted for each period absent.

(c) A participant whose employment has terminated and who is reemployed by the Company shall again become a participant as of the date of his reemployment. The separate periods of employment of an employee who completes one year of vesting service following his reemployment shall be taken

into account for determining benefit service and vesting service provided that an employee who is not vested incurs a break in service and is reemployed after a number of years has elapsed which equals or exceeds his prior vesting service, his prior period of employment shall be disregarded in determining his benefit service and vesting service unless his vesting service is less than five years.

- (d) An employee may repay any portion of his vested accrued benefit paid to him in the event of separation from service within the earlier of: five years after reemployment; or, five one-year breaks in service. In all other events, within five years from the date of payment.

#### **Section 9 - Employee Contributions Before January 1, 1979**

Effective January 1, 1979, the entire cost of the Plan is paid by the Company. Employees who were participants in the Plan before January 1, 1979, received a refund of contributions with interest for periods of participation from January 1, 1974 through December 31, 1978. Employee contributions before January 1, 1974, are subject to the following provisions:

- (a) Such contributions may not be withdrawn while in active employment with the Company.
- (b) Upon retirement or termination of employment and upon completion of 5 years of vesting service, a participant may elect to withdraw contributions with interest and receive a smaller retirement benefit based upon Company contributions only.
- (c) Accumulated contributions with interest may be left in the Plan and thus a participant will receive a larger retirement benefit.
- (d) If (c) above is elected, it is guaranteed that benefits will be payable to the participant (or beneficiary) at least equal to contributions with interest. Thus, if death occurs before benefits are paid equal to contributions with interest, the balance will be paid to the beneficiary in a lump sum.
- (e) Upon termination of employment without required vesting service, contributions will be returned with interest in lieu of any other benefits in the Plan.
- (f) The rate of interest on employee contributions has varied from time to time. Currently, contributions are credited with varying interest rates as prescribed by law.

#### **Section 10 - Trust Fund**

All contributions to the Plan are held in trust funds administered by Bank of New York Mellon, One Mellon Bank Center, Pittsburgh, PA 15258. The assets of the Plan are invested in stocks, bonds and other securities with the objectives of safety of principal and long term growth. The Company retains professional counselors to provide advice on the investment of Plan assets.

#### **Section 11 - Administration**

- (a) **Bayer Corporation** is the Administrator of the Plan and has complete discretionary authority to administer the Plan, including the authority to interpret the Plan, to make any finding of facts and to resolve ambiguities, inconsistencies or omissions. (This does not apply to ILWU Medical and Dental Plans.)

## Section 12 - **Claim Procedure**

- (a) A participant should contact the Bayer Benefits Center 90 days before he/she plans to retire, for information on how to claim benefits. They will provide information about the monthly benefit amounts available under the various payment methods. The payment method selected may not be changed once payments begin. To ensure prompt payment and receipt of the year-end tax statement, a participant must keep the Company informed of his or her current address.
- (b) All participants and beneficiaries have a right to appeal denied claims for benefits. Claimants will be notified of any full or partial claim denial by the Bayer Benefits Center in writing. Written notice of a denied claim will be given within 90 days after filing. Special circumstances may require this 90-day period to be extended to 180 days. The notice will explain:
  - 1. The reasons for the denial;
  - 2. The Plan provisions on which it is based;
  - 3. Any additional material or information needed to make the claim acceptable and the reason it is necessary; and
  - 4. The procedure for requesting a review of the claim.
- (c) Any claimant whose claim has been denied may file a written notice of appeal with the Plan Administrator within 60 days of notification of claim denial. Within this period, you or your representative may look at relevant Plan documents, and submit issues and comments in writing, setting forth all the facts upon which the appeal is based. Any appeal not filed in a timely manner shall not receive consideration except to the extent that the appeal was delayed for unavoidable cause.
- (d) The Plan Administrator shall make its decision on review not later than 60 days after the receipt of the request for review. Special circumstances may require this period to be extended to 120 days. The Plan Administrator will provide a written decision, including the specific reasons for it and references to the Plan provisions upon which the decision is based.

## Section 13 - **Future of the Plan**

It is expected that the Plan will continue in effect indefinitely; however, the Company reserves the right to amend or to terminate the Plan. If the Plan is terminated, all of the assets of the trust fund will be used to provide benefits for active and retired participants, beneficiaries and surviving spouses. None of the assets of the Plan may revert to the Company until all liabilities are satisfied. Some of the benefits under the Plan are insured by the Pension Benefit Guaranty Corporation in the event of Plan termination.

## Section 14 - **Limitations**

Under certain circumstances, benefits may be lost or forfeited including:

- (a) Termination of employment before having met the vesting requirements;
- (b) Failure to meet, or continue to meet, the eligibility requirements;
- (c) Failure to make a timely election for a survivor benefit option;

- (d) In the event of death before having qualified for pre-retirement death benefits or after meeting those requirements but with no surviving spouse;
- (e) Termination of the Plan to the extent benefits are not fully funded by Plan assets or the Pension Benefit Guaranty Corporation.

#### Section I5 - ERISA Information

The Employee Retirement Income Security Act of 1974 (ERISA) requires that the following information be included in this Section:

- (a) General Information:
  - 1. The name of the Plan is the Bayer Corporation Retirement Plan for Hourly Employees (ILWU Local #6).
  - 2. The name and address of the Plan sponsor is Bayer Corporation, 100 Bayer Road, Pittsburgh, PA 15205-9741; 412-777-2000. Bayer HealthCare has adopted the Plan for its eligible employees and its address is 100 Bayer Road, Pittsburgh, PA 15205-9741.
  - 3. The type of Plan is a defined benefit pension plan.
  - 4. The Plan Number is 010.
  - 5. The Bayer Corporation Employer Identification Number is 25 1339219
  - 6. The trustee is Bank of New York Mellon, One Mellon Bank Center, Pittsburgh, PA 15258.
  - 7. Service of legal process may be made upon the Plan Administrator. The Plan Administrator is Bayer Corporation, LLC c/o ERISA Review Committee, 100 Bayer Road, Pittsburgh, PA 15205-9741. Legal process may also be served on the Plan trustee.
  - 8. All contributions to the Plan after January 1, 1979 are made by the Company.
  - 9. The Plan year is January 1 to December 31.
- (b) Qualified Domestic Relations Order – You may obtain, without charge, a copy of the Plan’s procedures for qualification of a domestic relations order relating to the Plan by contacting the Bayer Benefits Center at 1-800-334-7737.
- (c) Collective Bargaining Agreement - The Pension Plan is provided to eligible employees and maintained subject to a Collective Bargaining Agreement between the Company and International Longshore and Warehouse Union, Local #6. A copy of that Agreement may be obtained by Plan participants and beneficiaries upon written request to the Plan Administrator and is available for examination by participants and beneficiaries.

- (d) Rights of Participants under ERISA – As a participant in the Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

#### **Receive Information About Your Plan and Benefits**

1. Examine, without charge, at the plan administrator's office and at other specified locations, such as worksites and union halls, all documents governing the plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) files by the plan with the U.S. Department of Labor, and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.
2. Obtain upon written request to the plan administrator, copies of all documents governing the operation of the plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The plan administrator may make a reasonable charge for the copies.
3. Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.
4. Obtain a statement telling you whether you have a right to receive a pension at normal retirement age (age 65) and if so, what your benefits would be at normal retirement age if you stop working under the plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve months. The plan must provide the statement free of charge.

#### **Prudent Actions by Plan Fiduciaries**

In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called "fiduciaries" of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

#### **Enforce Your Rights**

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the plan administrator. If you have a claim for benefits which is denied or ignored in whole or part, you may file suit in a

state or federal court. In addition, if you disagree with the plan's decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in federal court.

If it should happen that the plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

### **Assistance with Your Questions**

If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement, or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. You may also obtain certain publication about your rights and responsibilities under ERISA by calling the publication hotline of the Pension and Welfare Benefits Administration.

5. The Plan is covered under Title IV of the Act (ERISA) and is thus insured by the Pension Benefit Guaranty Corporation (PBGC).

Your pension benefits under this plan are insured by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. If the plan terminates (ends) without enough money to pay all benefits, the PBGC will step in to pay pension benefits. Most people receive all of the pension benefits they would have received under their plan, but some people may lose certain benefits.

The PBGC guarantee generally covers: (i) normal and early retirement benefits, (ii) disability benefits if you become disabled before the plan terminates and (iii) certain benefits for your survivors.

The PBGC guarantee generally does not cover: (i) benefits greater than the maximum guaranteed amount set by law for the year in which the plan terminates, (ii) some or all of benefit increases and new benefits based on plan provision that have been in place for fewer than five years at the time the plan terminates, (iii) benefits that are not vested because you have not worked long enough for the company, (iv) benefits for which you have not met all of the requirements at the time the plan terminates, (v) certain early retirement payments (such as supplemental benefits that stop when you become eligible for Social Security) that result in an early retirement monthly benefit greater than your monthly benefit at the plan's normal retirement age and (vi) non-pension benefits, such as health insurance, life insurance, certain death benefits, vacation pay and severance pay.

Even if certain of your benefits are not guaranteed, you still may receive some of those benefits from the PBGC depending on how much money your plan has and how much the PBGC collects from employers.



For more information about the PBGC and the benefits it guarantees, ask your plan administrator or contact the PBGC's Technical Assistance Division, 1200 K Street, NW, Suite 930, Washington, DC 20005-4026 or call 202-326-4000 (not a toll-free number). TTY/TDD users may call the federal relay service toll-free at 1-800-877-8339 and ask to

be connected to 202-326-4000. Additional information about the PBGC's pension insurance program is available through the PBGC's website on the Internet at <http://www.pbgc.gov>.

**SUPPLEMENTAL ATTACHMENT NO. 5  
RETIREMENT PLAN and BAYER SAVINGS**

Effective January 1, 2009, Members of ILWU, Local Union #6 will be permitted to participate in the Bayer Corporation Savings & Retirement Plan.

**As it relates to employee contributions and the related company match, noted in the schedule below, the employee's participation will be on a voluntary basis. The Company will contribute a matching contribution for employee contributions as follows:**

<u>Employee Contribution (Percent of Compensation)</u>	<u>Company Matching Contribution (Percent of Compensation)</u>
1%	1%
2%	2%
3%	2.5%
4%	3%
5%	3.5%
6%	4%
7%	5%

As of January 1, 2009, members of the ILWU will also be eligible to receive a company retirement contribution of 5% deposited to their account each pay cycle. In addition, pension plan participants as of December 31, 2008, may also be eligible to receive an additional company retirement contribution based on their credited service and age as of December 31, 2008. If an employee is eligible to receive this additional company retirement contribution, it will also be deposited to their account each pay cycle.

It is understood that the Company, in its sole discretion, retains total and unilateral control over all aspects of the Plan with full decision making authority with respect to all aspects of the Plan, its administration, terms, conditions and provisions. The Union waives its right to bargain over the Plan, and the Plan is not subject to either the Grievance or Arbitration procedures of the Labor Agreement.

It is further understood that changes may be made to the Plan by the Company during the term of this Agreement without there being any requirement to bargain with the Union over those changes so long as the

Company's matching contribution and retirement contribution levels are maintained. The Company also reserves the right to place the Union participants in a separate Plan at any time on this same basis.

#### **SUPPLEMENTAL ATTACHMENT 6**

#### **MAINTENANCE TRAINEE PROGRAM**

1. The Maintenance Trainee Program is an 8,000 hour program of actual hours worked and hours of actual classroom study, if any. Correspondence classes may be substituted if agreed to by the Joint Training Committee (JTC).
2. The JTC will be comprised of:
  - Labor Relations Manager or designee
  - Maintenance Manager or designee
  - Chief Steward or designee
  - A Maintenance Mechanic A or Senior Maintenance Mechanic for the trade in which the Trainee position is open.

3. The selection criteria by the Joint Training Committee will be governed by the following:

JTC Interview - When specific openings occur, applicants meeting the minimum eligibility requirements will be interviewed by the JTC for the purpose of determining each applicant's:

- a) General training qualifications - The JTC will use in its evaluation its experience in and with the skilled trades, and on, but not limited to, the applicant's interview, experience, work record, motivation, and formal training. The Plant Human Resources Manager or the JTC may request documentation of experiences and formal training claimed.
- b) During the interview, the interviewer(s) will determine the applicant's qualifications in the areas of:
  1. Ability to learn
  2. Interest in the trade
  3. Ambition
  4. Willingness to accept instruction
  5. Related educational/training courses

The Committee will make a unanimous selection based on, but not limited to seniority, information obtained from interviews, work records, and the Committee's knowledge of the demands of the particular craft in question. The Committee will then select the candidates who merit the opening. During the selection interview, each member of the JTC shall maintain a written record of their individual evaluations and their reasons for those evaluations. The names of the selected candidates will be posted on the Company's bulletin boards.

4. Each trainee will have his/her progress monitored by the JTC. If their ongoing evaluation reveals that the trainee is not progressing satisfactorily, the trainee will be put on a 30-day warning. If satisfactory progress is not attained during the warning period, the trainee will be reduced from the classification. The former trainee may then:
  - Bid on an open job.

- Bump the least senior bargaining unit employee in the plant who holds a job for which the former trainee is qualified.
- Be laid off until a job for which the former trainee is qualified becomes open.

5. Maintenance Trainees will be paid as follows:

If satisfactory progress is continued throughout the period of hours training required, including recommended related instruction study hours, the trainee in each of the trades covered by these Trainee Standards shall be paid in accordance with the following schedule:

1st 1000 hours	81% of Maintenance Mechanic A Rate
2nd 1000 hours	82% of Maintenance Mechanic A Rate
3rd 1000 hours	85% of Maintenance Mechanic A Rate
4th 1000 hours	87% of Maintenance Mechanic A Rate
5th 1000 hours	90% of Maintenance Mechanic A Rate
6th 1000 hours	92% of Maintenance Mechanic A Rate
7th 1000 hours	95% of Maintenance Mechanic A Rate
8th 1000 hours	97% of Maintenance Mechanic A Rate

Maintenance Mechanic A Rate

Hours spent in related instruction study shall not be considered hours of work in computing overtime.

6. The Company will only hire an employee from outside the work force to fill a trainee position if no current reasonably qualified employee bids on the job.
7. When the Company determines it has a need to hire a Maintenance employee who is not qualified as Maintenance Mechanic A, but has appropriate formal education/vocational training, this person may be brought in at the 4,000 hour point or higher level of hours as determined by the Company.
1. A Joint Planning Committee will be formed to finalize the working details of the Maintenance Trainee Program in accordance with this agreement and the intent expressed by the parties. This Committee will consist of:
  - Labor Relations Manager or designee
  - Maintenance Manager or designee
  - Shop Supervisor of designated trade
  - Maintenance Shop Steward
  - Two Maintenance Mechanics, at least one from designated trade

9. - During the period an employee is in the Maintenance Trainee Program, he/she will be exempt from shift bidding.

**SUPPLEMENTAL ATTACHMENT NO. 7**

**FAMILY AND MEDICAL LEAVE ACT**

The parties will comply with the Federal Family and Medical Leave Act, 29 U.S.C. Section 2601, et seq., and also will comply with the California Family and Medical Leave Act to the extent that statute provides benefits greater than those provided under federal law. Further, the parties agree that questions and disputes arising in connection with the Federal and State FMLA may be resolved through the grievance handling procedures of this Agreement. If the arbitration procedure is used, the resolution shall be binding.

The following is intended to serve as a summary of FMLA leave. To the extent the statutes differ from this summary, the statutory language shall control and both the Employer and the employees agree to follow the requirements of the statutes.

The FMLA requires covered employers to provide up to 12 weeks unpaid, job-protected leave to “eligible” employees for certain family and medical reasons. Such leave may be taken all at once, or on an intermittent basis (as on a reduced work-schedule). Employees must have worked for at least one full year, and for 1250 hours over the previous 12 months for the covered employer.

Leave must be granted for any of the following reasons:

- 1) to care for the employee’s child after birth, or placement for adoption and must be taken within 12 months of the birth or adoption placement.
- 2) to care for the employee’s spouse, domestic partner, son or daughter, or parent, who has a serious health condition; or
- 3) for a serious health condition that makes the employee unable to perform the employee’s job.

The employee is required ordinarily to give 30 days advance notice when the leave is “foreseeable”, and to provide appropriate medical certification. The Employer may require a second opinion at the Company’s expense to verify an employee’s request for leave for a serious health condition. Such leave requested under the FMLA will not be unreasonably denied.

An eligible employee may elect, or the Employer may require the employee, to substitute any of the accrued paid vacation leave, **but no more than 10 days or 80 hours**, for unpaid leave under the FMLA. The employee’s health benefits will continue for the duration of the leave provided the employee agrees to make the appropriate employee contributions for such benefits. Upon return from FMLA leave, employees shall be restored to their original or an equivalently benefitted position.

## **SUPPLEMENTAL ATTACHMENT NO. 8**

### **AMERICANS WITH DISABILITIES ACT**

The parties will comply with the Americans with Disabilities Act, 42 U.S.C. Section 12102, et. seq., and also will comply with the equivalent California statute to the extent that statute provides benefits greater than those provided under Federal law. Further, the parties agree that questions and disputes arising in connection with the Federal or State ADA may be resolved through the grievance procedures of this Agreement. If the arbitration procedure is used, the resolution shall be binding.

## SUPPLEMENTAL ATTACHMENT NO. 9

### SUBSTANCE ABUSE

Bayer HealthCare LLC and the Union have a strong commitment to its employees to provide a safe work place and to establish programs that promote high standards of employee health. Consistent with the spirit and intent of this commitment, the Company has established a drug free work place policy regarding abuse of alcohol, drugs, and controlled substances. Our goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol, drugs and controlled substance abuse.

While the Company has no intention of intruding into private lives, employees are expected to be in condition to perform their duties throughout their workday. The Company recognizes that employees' off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on our ability to accomplish our goal of a drug free work place free from the effects of alcohol, drugs and controlled substance abuse.

As in the past, without jeopardizing their continued employment and before any disciplinary action, employees may voluntarily request assistance in dealing with a drug, alcohol, or other personal problem from Bayer HealthCare LLC's **Employee Assistance Program (EAP)**. Although an employee's decision to seek assistance from Bayer HealthCare LLCs **EAP** will not be used as the basis for disciplinary action, it will also not be allowed as a defense by the employee from the imposition of

appropriate disciplinary action where facts prove a violation of this policy or other Company rules of conduct such as, but not limited to: absenteeism, tardiness, insubordination, fighting, careless workmanship, work accident, safety, assault, battery, etc.

Bayer HealthCare LLC drug free work place policy for employees is as follows:

1. The unlawful manufacture, distribution, dispensing, possession, sale or use of illicit drugs or controlled substances without prescription on any Company or work sites is strictly prohibited.
2. The use, sale, transfer or possession of alcohol on any Company premises or work sites is strictly prohibited, except with prior approval by an appropriate official of the Company.
3. Any employee being at work impaired by alcohol, drugs, or controlled substances is strictly prohibited.
4. Post Injury or Accident Testing. The Company may require an employee to supply a blood or urine sample for testing if the employee incurred an injury to another employee or damages Company property or equipment. The testing for cause will not be implemented until the Company and Union jointly agree on recognized testing procedures.
5. Individuals applying for employment with the Company will be notified about and given an illicit drug and controlled substance screening test as a condition of employment. Applicants for employment who test positive or admit to current usage of illicit drugs or controlled substances without a current doctor's prescription will not be employed.
6. Any contractor or visitor found in violation of Section 1, 2 or 3 of this policy will be refused entry onto or removed from the Company's premises.

7. To ensure compliance with the Drug-Free Workplace Act, the following steps will be taken:
  - (a) The Company will post a statement notifying employees that the possession and use of drugs in the workplace is prohibited and that sanctions will be imposed for violating the policy;
  - (b) Each employee working on a government project will be given a copy of the published statement and told that as a condition of employment, the employee must abide by it;
  - (c) The Company will establish a drug-free awareness program, including information about the dangers of drug use and any available drug counseling programs;
  - (d) Employees are required to notify the Company of any criminal drug conviction for a violation occurring in the workplace no later than five days after the conviction;
  - (e) The Company will sanction the employee for the violation, which may include termination.

**Bayer Healthcare LLC**

**Berkeley, CA**

**Drug and Alcohol Testing Program**

**As agreed with Warehouse Union Local 6, ILWU**

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- II. Testing
  - A. Reasonable Suspicion/For Cause Testing
  - B. Post-Accident
  - C. Refusal to Submit
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  - H. Results
  - I. Opportunity to Retest
  - J. Education & Information
    - 1. Employee Assistance Program (EAP)
    - 2. Record Retention
    - 3. Confidentiality
    - 4. Contravention of Law
    - 5. Important Numbers

## I. Introduction

Bayer HealthCare LLC and ILWU Local 6 are committed to providing Bayer employees with a safe, drug-free workplace. Employees and contractors are expected to report to work able to perform their duties safely and effectively. Drug and alcohol misuse by employees or contractors will be regarded as an unsafe work practice by creating an increased risk to their safety and the safety of their fellow workers and the public.

This policy prohibits the use of alcohol, drugs, and controlled substances, any drug not lawfully prescribed by a physician or misuse of a lawfully prescribed controlled substance on Company premises or work sites. Any drug test required under this policy will test for the presence of the following substances:

1. Marijuana
2. Cocaine
3. Opiates (incl. semi-synthetic)
4. Amphetamines
5. Phencyclidine (PCP)
6. 6-Acetylmorphine (Heroin)
7. MDA Analogues

This policy also prohibits the use, sale, transfer, or possession of alcohol, on any Company premises or work site, except with prior approval by an appropriate Company official. It is up to the discretion of the Division President to determine if alcohol will be responsibly served at a company on-site special function. Employees are not allowed to operate a company vehicle or personal vehicle on company business while under the influence of alcohol. Individuals initially found to be in violation of the policy will be offered rehabilitation. An employee will only be offered rehabilitation once. A second occurrence will result in termination of employment. The parties will support drug and alcohol recovery programs provided through the Collective Bargaining Agreement, and / or by the Company, and / or by the Union.

## II. Testing

BAYER HEALTHCARE LLC – BERKELEY Drug Testing Program has two grounds for tests:

1. Reasonable Suspicion or "For Cause"
2. Post-Injury or Accident where a trained supervisor observes behavior that establishes "Reasonable Suspicion".

### A. Reasonable Suspicion/For Cause Testing

Where state law and the collective bargaining agreement allow, employees will be subject to testing when there is a reasonable suspicion/for cause to believe they are under the influence of drugs and/or alcohol. Reasonable suspicion/for cause is observed behavior that leads one to believe an employee is under the influence of drugs and/or alcohol. Training materials for reasonable suspicion will be made available to management officials, supervisors and Union Stewards. The Company will provide training initially and as needed thereafter to management officials, supervisors and



Stewards. This training will cover what constitutes reasonable suspicion, actions to be taken, and the full range of recovery services available to employees.

An employee will only be tested for reasonable suspicion/for cause after the employee has had a meeting with management / supervisor and their Union Steward. They will be advised as to the observations and have an opportunity to respond to them. Written observations will be provided to the individual and their Union Steward.

An employee tested for reasonable suspicion/for cause shall be transported to the collection site and thereafter home by the Company, a taxi, or other form of transportation not controlled by the employee or the Company employee **or the Company may utilize onsite collection by a licensed third party vendor**. The individual is required to remain off work until test results are received and shall receive pay for time off work, if the result of the test is negative.

## B. Post-Injury or Accident Testing

The Company will perform post-accident drug and alcohol testing in instances where for cause is established for: (1) The employee who caused an injury to another employee or damages to Company property/equipment. The employee(s) tested will be the employee(s) who caused the accident that resulted in an injury or equipment/property damage. The injured employee will not be tested. (2) The employee sustains a self inflicted injury beyond first aid treatment. Tests will be conducted as soon as possible although medical treatment will take priority. Employees who fall into this category shall be transported to the collection site and thereafter home by the Company, a cab, or other form of transportation not controlled by the employee **or the Company may utilize onsite collection by a licensed third party vendor**. These individuals are required to remain off work until test results are received and shall receive pay for the time off, if the result of the test(s) is negative.

### Refusal to Submit

Refusal to test/submit includes the following: failure to cooperate with the testing process; failure to report for a collection in a timely manner; or submitting an adulterated or substitute specimen.

If an employee refuses to test/submit as defined above, he/she will be informed that the refusal to test/submit will result in termination of employment with the Company.

## C. Collection

Sample collection for drug testing will observe the guidelines of the Department of Transportation drug testing procedures.

### 1. Drugs

The Union will be notified of the SAMHSA collection facility and analytical laboratory chosen.

When an employee is sent for a drug test the Occupational Health professional or designee must complete the donor information section of the chain of custody form. This form is then given to the employee. Both the designated company representative and the employee must follow the instructions on the Chain of Custody form. A copy of donor's (employee) copy of the Chain of

Custody form is to be given to the BAYER HEALTHCARE LLC – BERKELEY site designated official and placed in the proper file. The donor's copy will be provided to the employee.

The employee must be transported to the collection site and from the collection site to home or other appropriate location by the company, taxi, or other form of transportation not controlled by the employee.

## 2. Alcohol

A certified collection method for alcohol testing must be either breath alcohol (BAT) or urine testing.

The site designated official is responsible for assisting the employee in completing the donor information section of the breath testing form and delivering it to the testing site person when a breath test is used. The employee must be transported to the collection site and from the collection site to home or other appropriate location by the company, taxi, or other form of transportation not controlled by the employee.

## D. Forms

The use of Chain of Custody forms will follow the procedures of the Department of Transportation drug testing regulations.

All employees are required to sign a Drug Testing Authorization form for BAYER HEALTHCARE LLC – BERKELEY prior to being sent for their drug screen.

Copies of all forms to be used by the company pursuant to this policy will be provided to the Union prior to implementation of this Policy.

## E. Testing -Lab and Methodology

### 1. Drugs

All specimens to be tested for the presence of drugs will be analyzed by a laboratory certified under the Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs and under state law where applicable.

Every specimen is required to undergo an initial screen followed by confirmation of all positive screen results. This screen-confirmation process utilizes highly sophisticated techniques to detect specific levels of prohibited substances. This requires the use of immunoassay in the initial screening process. The following table shows the initial cutoff levels that are to be used by the laboratory when screening specimens to determine whether they are negative.

Initial Test	Initial Test Level Urine (ng/ml)
Marijuana metabolites	50

Cocaine metabolites	150
Opiate metabolites: Morphine Codeine	2,000
Pehncyclidine (PCP)	25
Opiates (Semi-Synthetic): Hydromorphone Hydrocodone	300
Oxycodones: Oxymorphone Oxycodone	100
Phencyclidine (PCP)	25
Amphetamines Amphetamine Methamphetamine	500
6-Acetylmorphine (Heroin)	10
MDA-Analogues	500

Any urine specimen identified as positive on the initial test screen will be confirmed by use of a gas chromatography/mass spectrometry (GC/MS) test.

The following are the cutoff levels for confirmatory testing to determine whether they are positive:

Confirmatory Test	Confirmatory Test Level by GC/MS (ng/ml)
Marijuana metabolite	15
Cocaine metabolite	100
Opiates: Morphine Codeine	2,000
Phencyclidine (PCP)	25
Opiates (Semi-Synthetic): Hydromorphone Hydrocodone	300
Oxycodones: Oxymorphone Oxycodone	100
Amphetamines Amphetamine Methamphetamine	250
6-Acetylmorphine (Heroin)	10
MDA-Analogues	250

\* Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

Before the laboratory reports any test result, it will first review the results of the initial test, confirmatory test or any relevant quality control data to certify that the test result is accurate. The laboratory will then report the test results to the company's Medical Review Officer (MRO) within five (5) working days after the receipt of the specimen and will forward to the MRO the original chain

of custody and control forms. Any specimen, which was negative on an initial or confirmatory test, will be reported as negative to the MRO. The only specimens reported as positive would be those which have been confirmed as positive through GC/MS and/or GC/MS/MS. Test results will not be reported verbally or by telephone and the laboratory will not report any test results directly to the Company, but only to its MRO. The laboratory and the Company will ensure that the data transmissions are confidential and will secure and limit access to its data transmission storage and retrieval system.

The MRO will then report to the Company only whether the test is positive or negative and, if positive, the identity of the drug(s) for which there was a positive result.

The laboratory will also provide the MRO with a statistical summary of the testing program, which will not include any personal identifying information, as required by any applicable regulation.

All positive specimens will be retained in long-term frozen storage (-20 degrees C or less) for a minimum of one (1) year, or as required by law.

## 2. Alcohol

The breath alcohol tests shall be conducted by a certified Breath Alcohol Technician using an Evidential Breath Measurement Device. The testing site will provide the designated company official with the results at the time of the test. The form will also be faxed to the MRO for tracking purposes.

If for some reason a breath test is not possible, a urine test will be conducted. The collection site must send the sample to the lab for testing. The lab will notify the MRO of the results and the MRO will use the same notification method as if it were a drug test. The results will be communicated directly to the designated company official.

An employee who has a .08 breath alcohol content is considered under the influence and test results at or above that level will be considered positive. Employees who test positive at or above .08 will be terminated unless they agree to and complete treatment as recommended by the Bayer HealthCare LLC EAP or ILWU EAP.

## F. Prescribed Medications

The prohibitions outlined above do not apply to the use of a controlled substance pursuant to the instructions of a licensed physician who is familiar with the employee's medical history and assigned duties. However, the physician must advise the employee that the use of such substances will not adversely affect the employee's ability to safely operate BAYER HEALTHCARE LLC – BERKELEY equipment. The employee must provide the physician's documentation to Occupational Health that medication will not adversely affect his/her ability to safely operate equipment.

Any employee requested to submit to a drug test under this policy will have the opportunity to discuss the use of this medication with the MRO. The employee will be required to identify the physician prescribing the medication and authorize the MRO to discuss the use of the medication

with that physician, including its possible side effects and its relationship to the employee's ability to perform the employee's job duties.

If it is determined that an employee is taking or is under the influence of a prescribed medication that will adversely affect the employee's ability to perform the functions of their job, the Company will address their employment complying with applicable state and federal laws regarding reasonable accommodations and State Disability Insurance or Worker's Compensation.

## G. Results

### 1. Prescription Medication:

When an initial result is positive, the MRO will contact the donor first to review any prescription medications that the donor may be taking which could alter the results and to give the employee a reasonable opportunity to explain a confirmed positive result. After conducting the interview with the donor, the MRO will either rule the sample positive or negative. If the donor has a legitimate prescription in his/her name the sample will be handled in accordance with "F" above.

### 2. Illegal Substances

Any employee who test positive above the threshold level for drugs or whose Breath/Urine Test shows a level at or above .08 shall be given a one-time opportunity to enroll in the current Bayer EAP program or ILWU EAP. The employee shall have the option of choosing their provider, so long it is acceptable to the chosen program's professional. If an employee refuses to avail themselves of available services their employment may be terminated. Participating in an employee assistance program will not absolve the employee from any appropriate discipline as the result of acts committed while intoxicated by alcohol, drugs, or controlled substances, or for the use, sale, possession or transfer of alcohol, drugs, and/or controlled substances.

At the end of the employee's treatment program and the employee is released to return to work by the appropriate EAP official, the employee must take a return-to-work drug/alcohol test. If negative the employee may return to work upon release of the Bayer HealthCare LLC Occupational Health Department and applicable EAP official.

If the sample is a confirmed positive, it will be reported to a designated company official. Results will not be given to anyone else at the location. Hard copies of all positive results will be forwarded to company official within approximately five working days. The Union will be provided with the names of the above mentioned contact person prior to the implementation of this policy and will be contacted, in writing, immediately upon any changes in such designated contacts by the Company.

The MRO will make every attempt to contact the donor to discuss the results. If, after several attempts, they are unable to make contact, they will report out the result as an "unable to contact" positive. This does not preclude any future contact between the donor and MRO or possible reversal of the findings.

Although the donor is already aware through talking to the MRO that his/her test was positive, the designated company official, Human Resources professional and Chief Steward or Business Agent will contact the employee to confirm and advise that the employee must opt for recovery treatment or

their employment will be terminated. In case of a second incident, the employee will be informed of the termination of employment.

#### H. Opportunity to Retest

When a confirmed positive drug test is received, the employee will be given the opportunity to retest one time the original specimen at a different lab. The employee must notify the MRO of their desire to retest the specimen within 72 hours of the date on which the MRO first contacts the employee. The cost of the retest will be the responsibility of the employee. The retest shall take place at a SAMHSA Certified Laboratory or as otherwise required by applicable state law.

##### 1. Adulterated or Substituted Specimens

Unless otherwise provided by applicable state law, adulterated or substituted specimens will be treated as a "refusal to test/submit."

#### I. Education & Information

Teamster's Assistance Program (TAP)  
510-562-3600  
300 Pendleton Way  
Oakland, CA 94621

##### Employee Assistance Program (EAP)

For assistance in addressing a substance abuse concern, BAYER HEALTHCARE LLC – BERKELEY Bargaining Unit employees may refer themselves to the Bayer HealthCare EAP or ILWU EAP. The Company will cooperate with the recommendations of the professional counselor directing treatment. An employee who self-refers into an inpatient drug/alcohol treatment program will be placed on leave and will not be subject to drug testing, and his/her employment will be administered pursuant to reasonable accommodation obligation. An employee granted Self-Referral Rehabilitation Status will be eligible for disability.

##### 2. Record Retention

Consent forms and Chain of Custody forms for employees who have negative test results shall be destroyed.

Consent forms and Chain of Custody forms for employees who have positive test results shall be retained in a separate medical file for four years or as legally required whichever is longer. After four years, or as required by law, all forms will be destroyed.

Strict confidentiality will be observed with all records. Results will be shared only on a need to know basis as defined by applicable law, or on written permission of the employee.

##### 3. Confidentiality

All records generated and information received on an employee are strictly confidential and will not be released by the Company to any person except as indicated in this policy or as otherwise permitted by applicable state or federal law.

4. Contravention of Law

If changes in applicable federal or state law occur which either negate, amend or supersede this policy, the changes will be implemented. The Union shall be informed of legally required changes immediately upon the Company receiving notification of such changes. No other changes will be made prior to negotiation with the Union, or as legally required due to changes in law.

5. Important Numbers

DARE..... (800) 772-8288

Bayer HealthCare LLC Employee Assistance Program (888) 327-4229

Medical Review Officers (MRO)

Lab: Quest Diagnostics Laboratories

Questions or concerns regarding the lab should be directed to

Test Results

For inquiries regarding drug test results

Point of Contact:

Designated Human Resources' Consultant .....

Any changes to the information in this Section J.5 will be immediately reported to the Union.

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