

COLLECTIVE AGREEMENT

BETWEEN:

Goldcap Restaurant
D.B.A. Royal Garden Restaurant

On behalf of its members set forth in the schedule attached and those members added from time to time by notice given to the Union.

(Hereinafter referred to as "Employer")

PARTY OF THE FIRST PART

AND:

**Hotel, Restaurant and Culinary Employees and
Bartenders Union, Local 40**

Province of British Columbia

(Hereinafter referred to as "Union")

PARTY OF THE SECOND PART

Effective May 1, 2002 to April 30, 2005

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IT IS MUTUALLY AGREED:

**ARTICLE 1
PURPOSE**

- 1.01 The purpose of this Agreement is to promote and maintain harmonious relations between the Employer and employee, to stabilize the industry, to elevate the trade, to facilitate the peaceful adjustment of all disputes and grievances to prevent strikes and lockouts, waste unnecessary expense and avoidable delays in carrying on the work.
- 1.02 In the event of failure to reach settlement between the Union and the Employer in regards to the following Articles and Clauses in this Agreement, the matter or matters in disagreement shall be submitted to the Grievance Procedure as set out in this Agreement. This clause shall bind all other clauses, appendices and other understandings or interpretations, now or in the future, that shall be or are part of this Agreement.

**ARTICLE 2
DURATION OF AGREEMENT**

- 2.01 This Agreement shall be for the period from and including **May 1, 2002 up to and including April 30, 2005** and from year to year thereafter subject to the right of

either party of the Agreement within four (4) months immediately preceding the expiry of this Agreement (**January 1, 2005**) or immediately preceding the first day of **May** in any year thereafter, by written notice to require the other party of the Agreement to commence collective bargaining. Should either party give written notice aforesaid, this Agreement shall therefore continue in full force and effect and neither party shall make any changes in the terms of the said Agreement (or increase or decrease the rate of pay of any employee for whom collective bargaining is being conducted or alter any other term or condition of employment) until:

- 1) the Union goes on strike;
- 2) the Employer shall lock out its employees; or
- 3) the parties shall conclude a renewal or revision of this Agreement

whichever is the earliest.

2.02 The operation of Section **50(2) and (3)** of the Labour Relations Code of British Columbia is hereby excluded.

2.03 The Union agrees during the term of this Agreement there will be no slowdown or strike, stoppage of work, or refusal to work, or to continue to work. The Employer agrees that during the term of this Agreement there will be no lockout.

ARTICLE 3 RECOGNITION

3.01 The Union is recognized as the sole bargaining agency for all employees certified in the Bargaining Unit, and all such employees within the scope of this Agreement are referred to whenever the term “employee” is used in this Agreement and the Employer agrees not to bargain with any other labour organization for such employees specified in this Agreement during the life of it.

3.02 The Employer agrees that all work coming under the jurisdiction of this Union in the certified area, performed by anyone, on behalf of, or at the instance of the Employer, directly or indirectly under the contract or subcontract, shall be performed by employees who are members of this Union or who shall become members in accordance with the terms and conditions as set out in this Agreement.

3.03 The Employer undertakes, wherever possible to use services, products and other materials necessary to the proper functioning of his establishment, manufactured and produced under fair labour conditions.

3.04 Refusal on the part of Union members to work with non-union employees, pertaining to the Bargaining Unit, shall not be deemed a breach of this Agreement. In all such cases the Employer involved will be given prior notice. Such notice will come in writing from the

Union office.

- 1) No employee shall be required to cross a legal picket line arising from a strike or lock-out.

3.05 The Union shall appoint from among the employees, and the Employer shall recognize, a Shop Steward in each of the Employer's operations. The duties of the Shop Steward will be to assist in the reporting and resolution of all grievances as well as disseminating bonafide information of the Union to the employees.

- 1) The Union will promptly notify the Employer of the name of the Shop Steward and any changes thereto from time to time.
- 2) The Employer will notify the Union of the names of management persons and any changes thereto from time to time with whom the Shop Steward should deal with in each operation.
- 3) The Shop Steward, in carrying out his duties shall do so in a reasonable manner that will not interfere with the proper operation of the place of business.
- 4) The Shop Steward shall not be discriminated against or disciplined for carrying out his duties.
- 5) The Employer agrees that Shop Steward letters and official communications from the Union to its members shall be posted on the staff bulletin board in all departments which are certified.

3.06 No person whose regular job is not in the Bargaining Unit will work on any job for which rates are established by this Agreement except for the purpose of instruction, experimentation, management training, in which case trainees shall not displace or replace any employee in the aforesaid classifications except in cases of emergency when regular employees are not available.

3.07 It is agreed that in the event the Employer institutes a training programme the Employer must first receive permission from the Union in each and every instance. This programme shall not exceed thirty (30) days. Failure on the part of the Employer to receive permission from the Union there shall be no training programme. The established hourly rate for such training programmes shall be ten (10%) percent less than the established rate for each classification contained within this Agreement. Management will be responsible for supervision of the training programme.

3.08 The parties hereto agree that all Union members may wear the Union button on duty, but the manner in which such button is worn shall not distract from the style of the uniform or costume normally worn by the employee.

ARTICLE 4 HOURS OF WORK

4.01 No employee shall be employed for a greater number of hours than:

- 1) Eight (8) hours in any one day;
- 2) Five (5) days in any one week;

- 3) Forty (40) hours in any five (5) day period

except in the case of emergency when any employee can be required to work overtime provided double the regular rate be paid.

4.02 No employee shall be called in for less than four (4) hours in any day. No shift less than seven (7) hours to be split, and that seven (7) hour split shift qualifies for eight (8) hours pay, and that eight (8) hour split shift qualifies for nine (9) hours pay. No part of a seven (7) hour split shift shall be less than two (2) hours, and no part of an eight (8) hour split shift shall be less than three (3) hours. A break of two (2) hours shall constitute a split shift. A split shift shall be deemed to be seven (7) or eight (8) hours work within a spread of twelve (12) hours with one split.

4.03 The recognized shifts for all classifications shall be four (4), five (5), six (6), seven (7) or eight (8) hours. Minimum four (4) hour shift.

4.04 The Employer must offer and give all eight (8) hour shifts before instituting a seven (7), six (6), five (5), or four (4) hour shift.

4.05 The employees within their classification and department shall have the right to bid and receive hours of work determined by seniority within the respective four (4), five (5), six (6), seven (7) or eight (8) hour shifts. The right of the employees shall not extend to the creation of sixth or seventh days of continuous employment or overtime.

4.06 All employees shall receive two (2) consecutive days off in each seven (7) day period where there is five (5) continuous days of employment. Where there is not five (5) continuous days of employment they will be called in by seniority as per Article 4.01 (b).

4.07 A casual employee shall be one who is temporarily hired to perform work in addition to the steady shifts already established by the Employer.

4.08 Double time shall be paid for all work performed on an employee's sixth (6th) and seventh (7th) consecutive day of employment.

4.09 Employees who by design of shift cannot get rest periods and/or meal breaks shall be paid:

five and one-half (5½) hours worked, six (6) hours pay
six (6) hours worked, six and one-half (6½) hours pay
seven and one-half (7½) hours worked, eight (8) hours pay
eight (8) hours worked, eight and one-half (8½) hours pay

There shall be no bankrolling of purported violations of this clause by any employee.

4.10 Employees working a six (6), seven (7) or eight (8) hour shift shall be granted a luncheon period between the third (3rd) and fifth (5th) hour of work of not less than one-half (½) hour nor more than one (1) hour on the employee's own time.

4.11 All employees working the following shifts shall be allowed rest periods each day aside from meal time:

- 1) eight (8) hours - two (2) ten minute breaks
- 2) seven (7) hours - two (2) ten minute breaks
- 3) six (6) hours - one (1) ten minute break
- 4) five (5) hours - one (1) ten minute break
- 5) four (4) hours - one (1) ten minute break

Such rest periods to be taken on the Employer's time.

ARTICLE 5 MANAGEMENT OF EMPLOYEES

5.01 The entire management of the operation and the direction of the work force is vested exclusively in the Employer at his place of business, which includes the right to discipline. The Union shall not interfere with these rights and management in exercising its rights will observe the provisions of this Agreement.

ARTICLE 6 UNION SECURITY

6.01 a) Out of town (defined as all areas outside of B.C. Hotels Association's Vancouver zone).

The Employer agrees that only competent and satisfactory members of said Local 40 shall perform the work over which the Union claims jurisdiction.

- 6.02 The Employer reserves the right to recommend any competent employees to the Union for the purpose of taking out a Union card or permit. Upon obtaining a card or permit the employees may be hired.
- 6.03 All employees who are now members of the Union or who may become members shall remain members in good standing as a condition of employment. All new employees shall be required to become members of the Union. For the purpose of this clause the term “good standing” is defined to refer only and be limited to the payment of Union fees. Notwithstanding the foregoing, all new employees will be engaged for a trial period not to exceed thirty (30) days to determine capabilities as a regular employee.
- 6.04 All employees as a condition of employment shall sign an authorization of check-off before commencing work.
- 6.05 The Employer agrees to deduct initiation fees, union dues, assessments and arrears upon receipt of an authorization signed by an employee. Such authorization is to be signed and completed upon commencement of employment. The monies so deducted are to be forwarded to the Secretary of the Union together with a list of employees to whom the monies are to be credited, a list of those who have terminated and the names, addresses and social insurance numbers of the employees hired, on or before the 15th day of the month in which the monies were deducted. The Union agrees to supply the Employer with application forms and authorization of deduction forms.
- 6.06 The Employer shall allow the properly authorized representative of the Union to investigate the standing of all employee conditions to see that the agreement is being enforced, however, no interview shall be held without first obtaining permission from management. Such permission may not be unreasonably withheld.
- 6.07 In the event of a suspension, expulsion for cause or resignation from the Union of employees covered by this Agreement, upon notice in writing from the Union to that effect, the Employer shall immediately discontinue the employment of such employee.
- 6.08 Members of this International Union but not members of Local 40 before being permitted in establishments within the scope of this Agreement, shall not be permitted work until they have deposited the International Travelling Card at the office of the local Union, unless such approval is granted by the local Union.

**ARTICLE 7
SENIORITY**

- 7.01 For the purpose of this Agreement “seniority” shall only apply to an employee who works

at least twenty (20) hours per week for a period of thirty (30) days within the classification and department or who:

- 1) Derives his primary source of income from his employment with the Employer; or who
- 2) Continues to be available for a regularly scheduled shift within his classification and department of at least twenty (20) hours per week.
- 3) Where an employee works in more than one (1) department he will accrue seniority if his total number of hours worked in the combined departments is in excess of twenty (20) hours per week for a period of thirty (30) day.
- 4) Employees who restrict their hours of employment shall not be considered eligible for seniority so long as such restrictions continue.

7.02 When layoffs occur within any department the last employee hired shall be the first to be laid off, based on length of service with the particular classification, it being understood that:

- 1) Employees in a higher classification may be demoted to a lower classification; and
- 2) An employee who has been promoted from one classification to another and subsequently demoted to the lower classification shall within that classification have seniority according to length of service in the department and shall, if a layoff occurs, be laid off accordingly, and shall be recalled in inverse order to that in which he was laid off. For the purpose of this sub-section, an employee means a person who derives his main source of income from his employment with the Employer.
- 3) Employees shall be returned to service in the order of their seniority within their classification and department. Employees desiring to avail themselves of this rule must file their names, phone numbers, and addresses with the Employer and thereafter keep the Employer informed of their current address and telephone number. Employees failing to report for duty within sixty (60) hours, excluding Saturday and Sunday, from the time of notification by direct contact, registered mail or telegraph, shall be considered to have resigned.
- 4) The Employer agrees to post a seniority list covering all employees showing commencement date and classification in each department. The Employer shall post such list on or before the 1st day of September in each and every year.

7.03 The Employer shall grant leave of absence to the employees who are appointed or elected

to Union office for a period up to and including five (5) years. The employee who obtains this leave of absence shall return to his employment within thirty (30) calendar days after the completion of his employment with the Union, as directed by the Union.

- 7.04 The Employer upon written notice from the Union, shall grant leave of absence without pay to employees who are elected as delegates to attend Union conventions, shop stewards to attend Union meetings, members of negotiating committees or as delegates to Union educational courses. Such notice shall be given at least seven (7) days prior to absence.
- 7.05 No employee shall have the right to claim seniority if he or she has been on a leave of absence in excess of three (3) months, except as provided in 7.03.

**ARTICLE 8
DISCRIMINATION**

- 8.01 No discrimination shall be shown an employee active in the affairs of the Union. Should an occasion arise as to doubt the reason for discharge, the Union shall be permitted to investigate.
- 8.02 No employee shall be laid off for the simple reason of changing the work force from male to female or from female to male.

**ARTICLE 9
MODE OF DRESS**

- 9.01 Where an unconventional mode of dress or uniform is required by management, it is agreed the dress or uniform shall not be such to cause discomfort, ridicule or embarrassment to the employee.
- 9.02 If any special uniform shall be required, such as tuxedo, white jackets, etc., it is agreed that the Employer shall supply same and be responsible for the cleaning thereof. All uniforms or special articles or wearing apparel worn by the employee while on duty shall be supplied and laundered by the Employer free of cost to the employee.

**ARTICLE 10
WAGE SCALE**

- 10.01 The minimum wage rates provided in the attached applicable appendix shall cover the job description and classification of labour within the jurisdiction of Local 40 and shall

remain in effect throughout the specified or extended term of this Agreement.

- 10.02 Where an employee works twenty (20) hours or less in any one (1) week in any higher classification than that in which he or she is regularly employed, he or she shall be paid by the hour for the hours worked at the higher classification.
- 10.03 When an employee works more than twenty (20) hours in any one (1) week in any higher classification than that in which he or she is regularly employed, he or she shall be paid at the rate of the highest classification for all hours worked in such a week.
- 10.04 The wage scale outlined in the attached appendix is based on a minimum and does not prevent the Employer from paying a higher rate if he so desires. No employee at present receiving a higher wage than called for in this Agreement shall have his wage reduced. Casual employees shall receive the current hourly rate as outlined in this Agreement. Fringe benefits shall be paid on their behalf to the appropriate funds for each shift as a casual employee.
- 10.05 It is agreed that job classifications and wage rates not specifically set out in this Agreement shall be included in the schedule by mutual consent of both parties to this Agreement. If unable to agree either party may invoke the Grievance Procedure as defined in this Agreement.
- 10.06 When an employee is laid off or his services are terminated he shall be paid within twenty-four (24) hours, exclusive of Sundays or holidays. He shall be given reason for layoff or dismissal on request.

ARTICLE 11

CAFETERIA, KITCHEN AND DINING ROOM MEAL ENTITLEMENT

- 11.01 A wholesome meal shall be supplied by the Employer with no deduction from the employee's wages on the following basis:

All shifts in excess of four (4) hours worked shall receive one (1) meal per day.

ARTICLE 12

STATUTORY HOLIDAYS

- 12.01 For all work performed on the following statutory holidays:

New Years Day

Labour Day

Good Friday

Thanksgiving Day

Victoria Day

Remembrance Day

Canada Day

Christmas Day

B.C. Day

Boxing Day

One Floating Holiday effective May 1, 1982 after one (1) year of continuous service, the Floating Holiday will be taken at a time mutually agreeable to the employee and the Employer, payable at straight time for each hour the employee would normally have worked. Should Heritage Day or any other day be proclaimed as mandatory during the term of this Agreement, it shall be substituted for the Floating Holiday.

The employees shall be paid at the rate of double and one-half (2½) time for all hours worked.

- 12.02 No wages shall be deducted for time lost on election days. The regular work schedule will prevail for Federal and Provincial elections.
- 12.03 In the event that an employee's day off falls on a statutory holiday, the employee shall receive his normal day's wages as calculated in 12.06.
- 12.04 Where an Employer requires an employee to work less than his normal schedule he shall receive straight time monies for his hours not worked in addition to applicable premium rate for hours worked on such statutory holidays.
- 12.05 Where an employee is not required to work on a statutory holiday defined in this Agreement, the employee shall receive a normal day's wages.
- 12.06 For the purpose of this Article, a normal day's wages shall be deemed to be an employee's hourly earnings exclusive of overtime for the hours worked in the two (2) week period immediately preceding the week in which the statutory holiday occurs divided by ten (10) to establish the hours to be paid for such holiday. Regular part-time employees will only qualify for statutory holiday pay if they meet the requirements of 7.01.
- 12.07 In the week where a statutory holiday occurs the normally scheduled work week must prevail.
- 12.08 Employees shall qualify for holiday pay only if he or she has worked on his or her regular scheduled shift immediately prior to the holiday and on his or her regular scheduled shift immediately after the holiday. This clause shall not be effective in the case of a bonafide sickness or accident and the Employer reserves the right to require a doctor's certificate as proof of a sickness or accident. Any abuse of this provision may be cause for dismissal.
- 12.09 If an employee is scheduled to work on a paid holiday but fails to report for work on the day of the holiday, he or she shall not receive any holiday pay.

ARTICLE 13
ANNUAL VACATIONS

- 13.01 a) Employees with less than one (1) year of service will receive holidays with pay in accordance with the Employment Standards Act.
- b) All casual help will receive their holiday pay at conclusion of shift.
- 13.02 a) Employees who have worked one (1) year but less than three (3) years of consecutive service shall receive two (2) weeks annual vacation with pay, which shall be computed on the basis of four (4%) percent of the gross earnings for the preceding year.
- b) Employees who have worked three (3) consecutive years but less than seven (7) consecutive years shall receive three (3) weeks annual vacation with pay, which shall be computed on the basis of six (6%) percent of the gross earnings for the preceding year.
- c) Employees who have worked seven (7) or more consecutive years shall receive four (4) weeks annual vacation with pay, which shall be computed on the basis of eight (8%) percent of the gross earnings for the preceding year.
- d) Consecutive years of work as used above in a), b) and c) must be with the same establishment subject to 7.03 and 13.06 of this Agreement.
- 13.03 Should any statutory holiday occur during an employee's vacation period, an extra day of vacation with pay will be granted either the working day preceding or the working day following the vacation period.
- 13.04 Employees shall have preference in respect to annual vacation within their classification and department according to the seniority list. They shall be taken at a time to be mutually agreed upon by the Employer and the employee on or before the 1st day of October in each and every year.
- 13.05 Applications for annual vacation filed in September of each year shall be given preference insofar as it is practical to do so in order of seniority of the applicants.
- Applications for annual vacation received after September 30th will not be given preference.
- 13.06 Where an Employer owns, operates or has shares in other hotels covered by this Agreement and transfers and employee to such an operation, all vacation and severance benefits shall continue.

- 1) It is clearly understood that where an employee requests a transfer, section 13.06 shall not apply.

ARTICLE 14 GENERAL

- 14.01 The Employer agrees to sign the Union house or bar card contract and upon signing the Employer shall receive the appropriate card and display same.
- 14.02 It is mutually agreed that the general terms of this Agreement will remain in full force and effect in accordance with the Labour Relations Code of British Columbia.
- 14.03 Any employee covered by this Agreement who may be required by the Employer to attend any commission, court or hearing to give evidence in any case, civil or criminal, shall be compensated at the same hourly rate as called for in this Agreement, with a minimum of four (4) hours pay.
- 14.04 When an employee is authorized to cash cheques, credit cards or credit accounts, he or she will not be held responsible for any losses provided he or she has followed management's instructions, but where an employee assumes responsibility for cashing cheques, honouring credit cards or credit accounts, without such authorization from management, he or she will be held responsible.
- 14.05
 - a) No employee shall be compelled to or allowed to enter into any individual contract or agreement with his Employer concerning the conditions of employment varying the conditions of employment contained herein.
 - 2) No employee shall be asked to make a written verbal agreement with the Employer covering hours of work, wages or conditions during the term of this Agreement.
- 14.06 There shall be placed in a conspicuous place a work schedule specifying the names and classifications of each employee, days off of each employee, and the starting and finishing time of each employee, and the Employer shall keep said schedule up to date.
- 14.07 All posted work schedules pertaining to shifts of employees shall be on proper Provincial Department of Labour forms of the Province of British Columbia. All employees are entitled to forty-eight (48) hours notice of any changes of their respective work schedule.
- 14.08 In the case of an employee being off for sickness or accident, when the said employee is declared physically able to resume occupation by either a physician or the Workers'

Compensation Board, the said employee shall be reinstated to former position with all rights and conditions which he formerly enjoyed.

14.09 It is mutually agreed that the Employer will post working house rules and file copy of same with the Union office before enforcing same.

14.10 All working conditions at present in force which are not specifically mentioned in this Agreement and which are not contrary to its general purpose and intent shall continue in full force and effect.

14.11 BEREAVEMENT WHEN DEATH OCCURS TO A REGULAR EMPLOYEE'S IMMEDIATE FAMILY:

The employee will be granted upon request an appropriate leave of absence and shall be compensated at the employee's regular straight time hour rate for hours lost from the employee's regular schedule on the three (3) calendar days immediately following the date of such death, provided the said employee attends the funeral.

Immediate family to be determined as: Mother, Father, Son, Daughter, Brother, Sister, Spouse, Grandparents, and Grandchildren.

14.12 All articles and clauses referred to in this agreement apply equally to both male and female employees.

14.13 It is mutually agreed between the Union and the Employer that all terms and conditions of the Deed of Trust between the Union and the **British Columbia and Yukon Hotels Association** in regards to health, welfare and pension shall be binding on the signing parties. This shall at no time determine the hourly rates as defined within the Collective Agreement, Article 17.

14.14 All employees upon termination shall receive twelve (12) hours pay for each year of continuous service in the establishment.

Employees who qualify under this clause must be employed and work a minimum of one thousand, eight hundred and twenty (1,820) hours per year to qualify for twelve hours pay.

Employees working less hours will receive pro rata severance pay for the year based on the actual hours worked as a percentage of one thousand, eight hundred and twenty (1,820) hours, i.e., a person working nine hundred (900) hours will receive six (6) hours pay.

Regular hours not worked as a result of a bona fide sickness or accident will be credited to the hours worked.

14.15 CASH OUT IN THE EVENT OF SALE:

In the event a hotel is sold or transferred, all employees shall be paid severance pay up to the date of such sale by the outgoing owner or lessee. After payment has been made continuous service for the purpose of severance pay commences anew starting from date of each sale. No supplantation or pyramiding of payments is intended.

14.16 The Employer agrees to provide adequate lock-up facilities for employee's personal effects, namely purses and/or wallets.

14.17 Employees who serve on a jury or as a witness for the Crown shall be granted leave of absence for this purpose and provided that the employee concerned deposits with the Employer any pay received the employee shall continue to receive his full wages for such period of time. To be eligible for this clause, the employee must have completed six (6) months or more with his present Employer.

14.18 Proper washroom and locker facilities to be provided for employees.

**ARTICLE 15
PARTNERS AND SHAREHOLDERS**

15.01 Shareholders and partners in excess of two (2) and managers working in an operation covered by this Agreement shall join the Union and be governed by the terms and conditions as defined in this Agreement.

15.02 Shareholders, partners and/or managers who may be required to join the Union shall not displace or replace a member of this Union.

15.03 Clause 15.01 of this Article shall not apply to shareholders, partners or managers whose duties are supervisory and/or administrative in nature.

**ARTICLE 16
GRIEVANCE PROCEDURE**

16.01 Any complaint, disagreement or difference of opinion between the parties hereto concerning the interpretation, application, operation or any alleged violation hereof, or concerning discharge of an employee which may be alleged to be unjust, shall be considered a grievance.

16.02 Where there is any grievance or dispute by an employee or the Union, notice thereof in writing must be given to the Employer within ten (10) days of the occurrence, excluding

Saturday, Sunday and holidays. Where there is any dispute or grievance by the Employer, notice in writing thereof must be given to the Union within ten (10) days of occurrence, excluding Saturday, Sunday and holidays. The agreed procedure for adjusting all grievances or disputes should be as follows:

- 1) By a discussion between the Employer or employee concerned, a party designated by the Union and the Employer or General Manager concerned.
- 2) Failing to reach an agreement under 16.02 subsection a), the grievance or dispute shall then be submitted to a Board of Arbitration.

16.03 Seven (7) days (excluding Saturday, Sunday and holidays) shall be allowed for the setting up of a Board of Arbitration. It shall be composed of one (1) representative of the Employer and one representative of the union and these two (2) representatives shall then select an impartial Chairman. In the event of failure of these two (2) representatives agreeing on a Chairman, the Minister of Labour shall be asked to appoint one.

16.04 Within five (5) days of the appointment of the Chairman, the Board shall commence hearing and render a decision within fourteen (14) days. Matters to be placed before the Arbitration Board are to be submitted in writing by both parties. Each party to the dispute will bear the expense of their appointee and half the expense of the Board of Arbitration shall be binding and enforceable on all parties. A decision of the majority of the Board of Arbitration shall be deemed to be a decision of the Board.

16.05 If the Arbitration Board finds (or if at an earlier stage of the grievance procedure it is found) that an employee has been unjustly suspended or discharged, that employee shall be reinstated by the Employer without loss of pay and with all his rights, benefits and privileges which he would have enjoyed if the suspension or discharge had not taken place, or if an Arbitration Board finds (or if at an earlier stage of the grievance procedure it is found) that an employee should have been rehired, that ex-employee shall be re-employed and paid all pay which he would have enjoyed if he had been hired at the proper time, provided that if it is shown to the Board that the employee has been in receipt of wages during the period between the discharge or suspension and reinstatement or date of failure to rehire and rehiring, the amount so received shall be deducted from wages payable by the Employer pursuant to this clause, less any expenses which the employee has incurred in order to earn the wages so deducted and provided that the Arbitration Board, if circumstances are established before it which, in the opinion of the Arbitration Board, makes it just and equitable to do so, shall have authority to order the Employer to pay less than the full amount of wages lost.

16.06 The Arbitration Board shall have the power to determine whether a particular issue is arbitrable under this Agreement.

16.07 Where notice of a grievance or dispute has not been initiated in writing by the grievor

within the ten (10) days as set forth in 16.02 above, or processed further on behalf of the grievor under the time limits set forth in 16.03 above, the said grievor shall be deemed to have forfeited his right to proceed in grieving on that particular incident. The time limits in 16.02 and 16.03 may only be extended by mutual consent in writing by the parties in the Collective Agreement.

ARTICLE 17 FRINGE BENEFITS

17.01 The total cost of fringe benefits will be **one dollar and sixteen (\$1.16) cents** for each hour of employment performed by an employee covered by this Agreement to be paid by the Employer as of **May 1, 2002**.

17.02 Specific allocation of the Employer's contributions specified in Article 17.01 shall be as follows:

- 1) Effective **May 1, 2002, one dollar and two (\$1.02) cents** to the **Health Care Plan** provided for in the Deed of Trust between the Union and **British Columbia and Yukon Hotels Association**;
- 2) Nine (9¢) cents per hour to the Pension Plan provided for in a certain Trust Agreement known as the Hotel, Restaurant and Culinary Employees and Bartenders Union, Local 40 Pension Plan.

17.03 Pension Plan Qualifications:

The Employer agrees that all employees who qualify for benefits under the provisions of the Trust Agreement known as Hotel, Restaurant and Culinary Employees and Bartenders Union, Local 40 Pension Plan shall be covered by the pension fund as set out in the said Trust Agreement.

17.04 Pension Deed of Trust:

It is mutually agreed between the Union and the Employer that all terms and conditions of the Deed of Trust between the Union and **British Columbia and Yukon Hotels Association** in regards to health, welfare and pension shall be binding on the signing parties. This shall at no time determine the hourly rates as defined within the Collective Agreement.

17.05 The Employer agrees that monies shall be contributed to the Monthly Assessment Account by him, for each hour worked by each employee covered by this Agreement, and that the allocation shall be five (5¢) cents.

- 17.06 The Employer agrees to forward all monies by him in respect of fringe benefits on or before the 10th day of the month following the actual performance of work, and shall forward said contributions to the Administrator.
- 17.07 The Employer agrees to remit the contributions together with a monthly statement setting out the names of the employees in respect of which said contributions are made, together with the hours of work credits or amounts paid in respect of employees.
- 17.08 In the event an Employer fails to remit contributions to these plans in conformity with the clause of the Agreement, the Employer shall, if in default more than ten (10) days after notification by the Union, pay these plans a penalty in the amount of fifty (\$50.00) dollars. The Employer shall be responsible for any loss of benefits to any employee because of the Employer's default action.
- 17.09 The Employer shall allow the properly authorized representative of the Union to investigate his time book to see that proper contributions to the health, welfare and pension plans are being remitted.

DEPARTMENTS:

Defined as:

Kitchen

Restaurant

Casual Employee: An employee who works from time to time but not on regular scheduled shifts.

Regular Part-time: An employee who meets the requirements of 7.01 of this Agreement.

Bank Rolling: Is defined as accumulating penalty time beyond the pay period immediately following the period in which the violation occurred.

APPENDIX "A"

WAGE RATES

May 1, 2002

1 st Cook	\$10.65
Cook	\$10.23
Kitchen Help	\$ 8.88
Waitress/Waiter	\$ 8.16

Restaurant Supervisor

\$ 9.56

It is understood and agreed by the parties that should the provincial minimum wage exceed the wages listed above then the provincial minimum wage shall apply.

IN WITNESS WHEREOF the parties hereto have hereunder caused their seals to be affixed under the hands of the proper officers.

THIS _____ DAY OF _____, 2003 A.D.

SIGNED ON BEHALF OF:

**GOLDCAP RESTAURANT DBA
ROYAL GARDEN RESTAURANT**

**HOTEL, RESTAURANT & CULINARY
EMPLOYEES & BARTENDERS
UNION,
LOCAL 40**
