

Negotiated Agreement  
between  
The Adjutant's General Department,  
State of Texas National Guard  
and  
Texas Lone Star Chapter #100  
of  
The Association of Civilian Technicians  
March 8, 2018

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# ARTICLE ONE

## PREAMBLE

1.1 The following articles constitute an Agreement by and between The Adjutant General (TAG), State of Texas, hereafter referred to as the Employer, Agency, TAG or Texas Army National Guard (TXARNG), and the Association of Civilian Technicians Texas Lone Star 100 (ACT 100), and hereafter referred to as the Union, Labor Organization (LO) or Association of Civilian Technicians Texas Lone Star 100 (ACT 100). Collectively the TXARNG and the Union will be referred to as the Parties.

1.2 This Agreement of the Parties hereto, has the intention and purpose to:

a. Promote and improve the efficient administration of the TXARNG and the well-being of its employees.

b. Provide for the highest degree of efficiency in the accomplishment of the operation of the TXARNG.

c. To establish a basic understanding relative to personnel policy, practices and procedures, and matters affecting other conditions of employment within the jurisdiction of the TAG.

d. To provide the means for amicable discussion and adjustment to matters of mutual interest.

e. Promote employee communication and information of personnel policy and procedures.

## ARTICLE TWO

### EXCLUSIVE RECOGNITION AND COVERAGE

#### 2.1 BARGAINING UNIT

The TXARNG recognizes that the Association of Civilian Technicians is the exclusive representative of all employees in the bargaining unit.

a. INCLUDED: All Wage Grade and General Schedule employees employed by the Texas Army National Guard statewide.

b. EXCLUDED: Professional employees, management officials, supervisors, and employees described in 5 USC 7116(b)(2), (3), (4), (5), (6), and (7).

NOTE: In applying this paragraph, Chapter 71 of Title 5, herein after referred to as the "Statute", supervisors and others who must be excluded from the bargaining unit will prevail. In addition, changes to the bargaining unit will be through mutual consent or as determined by a FLRA clarification of the bargaining unit.

#### 2.2. APPLICATION

This agreement, to include all articles herein, is applicable to bargaining unit employees in the Texas Army National Guard without discrimination and without regard to membership in the Labor Organization.

#### 2.3. SPOKESPERSON

For the Union: Those individuals designated in writing by the President of ACT 100 as being authorized to conduct the affairs of the Union.

For the TXARNG: The Labor Relations Specialist (LRS) or his/her designee will serve as the primary contact regarding labor related issues.

2.4. All provisions in this agreement that refer to duties or responsibilities of specific supervisors, managers, or organizational elements are intended as a guide as to how to handle a particular situation. The TXARNG retains the discretion to determine which personnel and/or organizational elements will perform the work. The union retains the discretion to bargain procedures and appropriate arrangements relating to the impact on working conditions where applicable.



## ARTICLE THREE

### MANAGEMENT RIGHTS

#### 3.1. LAW

In accordance with 5 USC 7106:

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws—

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(C) with respect to filling positions, to make selections for appointments from—

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

## ARTICLE FOUR

### EMPLOYEE RIGHTS

#### 4.1. LAW

In accordance with 5 USC 7102:

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

## ARTICLE FIVE

### LABOR ORGANIZATION RIGHTS AND DUTIES

#### 5.1. EXCLUSIVE REPRESENTATIVE

In accordance with 5 USC 7114(a)(1):

(a) (1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

#### 5.2. REPRESENTATION

In accordance with 5 USC 7114(a)(2):

(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

(ii) the employee requests representation.

## ARTICLE SIX

### IMPACT AND IMPLEMENTATION BARGAINING

6.1 The Employer's exercise of a management right, that changes a condition of employment, is subject to impact and implementation (I&I) bargaining in accordance with 5 USC 7106.

6.2 The Employer will notify the Labor Organization (LO), in writing, of its plan to exercise a management right that changes a condition of employment. The Employer will hold implementation of the change in abeyance, pending completion of I&I bargaining unless:

a. The LO fails to inform Employer within fourteen (14) calendar days of receipt of the notice that the LO demands bargaining;

b. The necessary functioning of the agency or the need to end a legal violation requires that implementation occur prior to completion of bargaining; or

c. The change is covered by the contract.

d. This does not preclude the Agency from taking any other actions or implementing changes to conditions of employment during an emergency.

## ARTICLE SEVEN

### UNFAIR LABOR PRACTICES

7.1. The Parties agree to attempt to solve matters at the lowest level possible, but in the event that an Unfair Labor Practice (ULP) is considered, the following procedures will be adhered to. Nothing here precludes either party from exercising their rights in filing a ULP.

7.2. The Parties agree that prior to filing a ULP charge, the charging Party will serve upon the charged Party, written notice of the alleged ULP charge. If the charged Party requests the opportunity to discuss the issue(s), the Parties will attempt resolution within 15 working days, unless more time is mutually agreed to. The Agency will mediate and attempt to have both parties come to a mutual agreement.

7.3. A ULP is defined in 5 USC 7116.

## ARTICLE EIGHT

### LABOR ORGANIZATION AND STEWARDS

#### 8.1 STEWARDS

The steward is the official Labor Organization representative for the bargaining unit members and will be consulted by management officials regarding changes in conditions of employment. It is understood that the stewards may speak for the employees of the section regarding the provisions of the contract but will not make decisions on the intent of any contractual language.

#### 8.2 STEWARD SELECTION

Stewards will be assigned by the Labor Organization on the basis of one steward per each 30 bargaining unit members. Each steward will normally represent the employees in his/her area, with a goal of statewide coverage of stewards. In the event that the above ratio proves inadequate, the Parties agree to renegotiate the ratio.

#### 8.3 LIST OF OFFICERS AND STEWARDS

The Labor Organization will furnish a complete list of officers and stewards and their designated areas after each election or anytime a change occurs.

## ARTICLE NINE

### BUSINESS OFFICE AND ADMINISTRATIVE COOPERATION

#### 9.1 OFFICE

The TXARNG will provide the Labor Organization with temporary work space for official business. Usage of this work space shall be coordinated through the local supervisor and/or the LRS prior to its use.

#### 9.2 BULLETIN BOARDS

The Labor Organization shall be afforded bulletin board space for the display of Labor Organization material as follows:

a. On existing "consolidated" bulletin board, sufficient space to allow for posting of Labor Organization material.

b. If sufficient space is not available or there is no "consolidated" bulletin board in the facility, or building, the Labor Organization may place one bulletin board per building. Agreement will be reached with the area supervisor(s) and the shop steward as to appropriate location, size and type.

c. Existing bulletin boards will remain in place.

d. If a shop/work area does not have a bulletin board, wall space will be made available in a high visibility area for the purpose of identifying the shop steward. The Labor Organization agrees that if such additional space is required, agreement will be reached with the area supervisor(s) and the shop steward as to appropriate location, size and type.

#### 9.3 AGENCY COMMUNICATION SYSTEMS

a. The TXARNG will provide access to agency telephones and facsimile machines for local calls. Long distance calls will be paid for, at the time the call is placed, by the Labor Organization.

b. The TXARNG will provide two individuals in the Labor Organization with agency laptop computers, with agency image, for the labor organization to use to conduct representational duties. These individuals are responsible for maintaining the computers in accordance with TXARNG G6 requirements. The Labor Organization will also have access to agency computers when they are not being used for government official business and/or mission requirements, and to the agency's intranet.

c. The Labor Organization may use official military email accounts for correspondence with TXARNG management, and with employees when related to representational duties regarding grievances or employee performance or disciplinary issues. The TXARNG email accounts may not be used for internal Labor Organization business such as soliciting membership, collecting dues, electing

officers, and meetings. When corresponding with management, Labor Organization officials will use a distinct signature block with full name, union position, and the name of the Labor Organization. This signature block will not contain any information related to the official's employee or military job. Additionally, the below disclaimer will be included below the signature block:

John Doe  
Steward  
Association of Civilian Technicians  
Texas Lone Star 100

*This use of TXARNG email accounts is related to representational duties with either management or bargaining-unit members. The TXARNG email account will not be used for internal Labor Organization business.*

d. The TXARNG agrees to allow the Labor Organization to email bargaining unit employees on their official agency .mil email address if the employee chooses to opt-out of email, they will inform labor union. If the message concerns a matter for which under 5 U.S.C. § 7131 use of official time would be lawful, the subject heading of the message will include, "ACT Official Time Message" plus further indication of the subject of the message. If the message concerns any other matter, the subject heading of the message will include, "ACT Internal Message; Read Only on Non-Duty Time," plus further indication of the subject of the message. The TXARNG also agrees to allow the Labor Organization to email non-bargaining unit employees on their official agency .mil email address if the message concerns a matter for which under 5 U.S.C. § 7131 use of official time would be lawful, the subject heading of the message will include, "ACT Official Time Message" plus further indication of the subject of the message.



## ARTICLE TEN

### EMPLOYEE CHAIN OF SUPERVISION

#### 10.1 ESTABLISHMENT/POSTING

- a. Each unit/activity supervisor will establish an employee chain of supervision.
- b. The facility organizational chart will be posted at each activity as a permanent document on the Bulletin Board where notices to employees are customarily posted.

#### 10.2 ADDRESSING EMPLOYEES/SUPERVISORS

- a. Communications, either verbal or written, when directed to an employee in their capacity as a labor organization representative shall not include any reference to that employee's title, status or rank within any other organization outside of the recognized bargaining unit.
- b. This same consideration will also be extended to a bargaining unit member who is involved in any dispute relative to the bargaining unit member's employment or condition of employment. The appropriate title will be "Mr." or "Ms."
- c. Military customs and courtesies will be maintained when addressing members of management.

## ARTICLE ELEVEN

### UNIFORMS

#### 11.1 MILITARY UNIFORMS

a. The TXARNG will provide uniforms in the quantities authorized by applicable service regulations, as military clothing issue. TXARNG units will provide a direct exchange program for worn, torn, or soiled clothing, which occurs as a result of normal wear and tear, and which is in too bad a condition to be rendered clean and presentable in the performance of day to day duties. It will be each individual employee's responsibility to ensure that unserviceable uniforms are turned over to the unit, in such manner to preclude not having sufficient uniforms for daily performance. It will be the military unit responsibility to promptly order and obtain replacement uniforms. Work time will be authorized for the purpose of exchanging unserviceable uniforms when the Employee's unit of assignment supply function is co-located with the work site. In situations where uniforms cannot be acquired during drill, or during the course of other routine business, the supervisor may approve on-duty time to acquire replacement uniforms.

b. When replacement uniforms are requested, after 30 days, if the status of uniforms are not made to employee, the 2nd level supervisor or his/her designee will inquire into the reason for delay.

c. Commissioned and warrant officer employees will not be provided uniforms, IAW NGB guidance (currently TN Letter 12-12). Any uniform allowances will be in accordance with 37 USC 415, 416 and 417, AR 385-10, CTA 50-900 and AR 700-84.

#### 11.2 ACCOUTERMENTS

The military unit will provide all nametags, military rank insignia, and other accouterments for enlisted Soldiers only.

## ARTICLE TWELVE

### PERTINENT INFORMATION

#### 12.1 TXARNG INFORMATION

The TXARNG and Labor Organization agree that all appropriate agency regulations, publications, directives, personnel policies concerning employee employment, and job announcements, will be posted on a website accessible to all members of the TXARNG.

#### 12.2 BARGAINING UNIT, SUPERVISOR and MANAGER INFORMATION

The TXARNG will provide the Labor Organization with a quarterly list of names and work locations of all new bargaining unit members and a second list of supervisors and managers. Annually or when requested the TXARNG will supply a full list of bargaining eligible members to the union.

## ARTICLE THIRTEEN

### NEW EMPLOYEE ORIENTATION PROCEDURES

#### 13.1 GENERAL

a. The TXARNG will ensure that new employees receive a New Employee Orientation (NEO) as soon as possible after hiring. The web address to the current collective bargaining agreement will be included in the NEO packet.

b. During the New Employee Orientation briefing, management will inform new TXARNG employees that ACT 100 is the exclusive representative for bargaining unit members.

c. During this briefing, and as provided by the LO, a current list of LO officers and stewards will be provided to each new bargaining unit employee.

## ARTICLE FOURTEEN

### SUPERVISOR'S WORK FOLDER

#### 14.1 GENERAL

Employees will be notified when a document is placed in their Supervisor's Work Folder.

a. Upon verbal request, an employee or their representative designated in writing, may inspect the employee's Supervisor's Work Folder.

b. Employees will be given the opportunity to initial, request, and obtain a copy of the document(s) placed in their Supervisor's Work Folder. The employee's initials on the Supervisor Brief certifies that he or she has reviewed the document and received a copy, if requested. No document or record from their Supervisor's Work Folder may be used against the employee unless he/she has been afforded the opportunity to review the document.

c. Only the employee or their officially designated representative (in accordance with item 1(a) above), or those persons designated in governing regulations, will be allowed access to an employee's Supervisor's Work Folder, or to any information extracted therefrom. This restricted access does not prevent access as required under law or a court order.

## ARTICLE FIFTEEN

### DUES AUTHORIZATION AND REVOCATION PROCEDURES

#### 15.1. DUES WITHHOLDING

a. The voluntary allotment for payment of dues will be managed as follows:

(1) The Labor Organization (LO) will obtain and furnish SF 1187 forms for eligible members desiring to authorize an allotment for withholding of dues from their pay.

(2) The form will be completed and certified as to eligibility to have such deduction, and the member will be advised of the content of the form.

(3) The factored amount will be noted on the SF 1187 prior to being submitted.

(4) The completed SF 1187 will be submitted at any time to the Labor Relations Specialist. Normally the effective date for withholding will be not later than the first pay period after receipt in the USPFO.

b. USPFO will, upon receipt of an SF 1187, process the request in a timely manner, normally not to exceed one (1) pay period after receipt.

c. If the National Organization directs a change in dues deductions (currently 0.008), the LO will notify the Defense Finance Accounting Service in writing with the new deduction factor and effective date.

#### 15.2. REVOCATION OF LABOR ORGANIZATION DUES

Bargaining unit members who wish to revoke their dues will complete an SF 1188. These forms will be available from the LO or on-line. The SF 1188 will be completed and turned into a LO official for processing. The form will be held by the LO until the last pay period prior to the effective date, at which time, the LO will provide the form to the USPFO. In accordance with LO by-laws, the requirements for revocation are:

a. A member may not revoke their allotment until after their anniversary date, (that date which the member first started the allotment). The member must submit an SF 1188, prior to the anniversary date but it will not become effective the first full pay period after the anniversary date.

b. After the first anniversary a member may revoke their allotment for payment of dues at any time by submitting an SF 1188 prior to 1 September. Revocations will become effective on the first full period after the first day of September.

## ARTICLE SIXTEEN

### WORK SCHEDULE AND HOURS OF WORK

#### 16.1 GENERAL

The TXARNG establishes the work schedule necessary to accomplish its mission consistent with current applicable laws, regulations and directives.

#### 16.2 THE WORKDAY

The basic “workday” is considered 8-10 duty hours plus time for a duty-free, unpaid meal period. The workday will typically be divided into two 4-5 hour “work periods” with a meal break in between.

#### 16.3 THE WORKWEEK

The basic “workweek” shall not extend over more than 6 of any 7 consecutive days and must conform to the established payroll schedule requirements.

#### 16.4 THE PAY PERIOD

The “pay period” is defined as two consecutive workweeks conforming to the payroll schedule.

#### 16.5 THE STANDARD WORK SCHEDULE

a. Consistent with mission requirements, the TXARNG shall establish a standardized work schedule of duty days, shifts and hours per day, that ensures 80 hours during each pay period. Generally, unless mission requirements dictate otherwise, the work schedule will be crafted to include two work periods per day, with 4-5 days per workweek, with 8-10 duty hours per day between 0600-1800 hours. Exceptions may be requested. In any case, work schedules should be consistent with guidelines found in 5 CFR 551.411 – Workday, 5 CFR 610.111 - Establishment of workweeks and 5 CFR 610.121 - Establishment of work schedules.

b. The Agency shall establish work schedules to best meet mission needs while contributing to the quality of life of Agency employees. The Agency agrees to provide maximum notification when a work schedule change is required, and the notification will be no less than 7 calendar days.

#### 16.6 SCHEDULE EXCEPTIONS

- a. If an employee requests an exception to the established schedule because of personal hardship, they will submit a written request with justification,



including supporting evidence, to the immediate supervisor, or official who may approve based on the needs of the organization. This information must be sufficient to enable verification of the request.

- b. An employee may request an exception to the established schedule to attend school. They will submit a written request with justification, including supporting evidence, to the immediate supervisor, or official who may approve, based on the needs of the organization. If the request is granted, the employee must furnish supporting documentation, as determined by the immediate supervisor, from the registrar or other comparable official of the academic institution in which enrolled. If the employee fails to furnish the supporting statement within fourteen (14) days after enrolling, or withdraws from the academic institution, the schedule change will be revoked. This process is used for each semester or school session.
- c. The employee will be notified of disapproval in writing within three (3) workdays.

## 16.7 BREAKS

The following breaks will be incorporated into the workday, as appropriate:

- a. An unpaid meal break (not less than 30 minutes) will be included in the standard workday. The meal break should be consistent with normal meal times or at mid-shift, as appropriate.
- b. A paid rest break shall be incorporated into each work period. Any work period of 5-hours or greater will include a 20-minute break. Any work period less than 5-hours will include a 15-minute break. Other rest deemed essential for reasons of health, safety or productivity are authorized, at the supervisor's discretion.
- c. Supervisors may allow the standard break to be split into smaller break periods to accommodate tobacco users.

## 16.8 CLEAN-UP TIME

Up to eight minutes paid personal clean-up time will be incorporated prior to the meal break and at the end of the workday.

## 16.9 COMPENSATORY TIME

- a. Title 32 Technicians: Compensatory Time will be requested, authorized and earned in accordance with applicable laws and regulations (currently TPR 630).
- b. Title 5 Employees: Compensatory Time and Overtime pay will be requested, authorized and earned in accordance with applicable laws and regulations (currently 5 CFR Part 551).

## 16.10 STAND-BY DUTY AND ON-CALL STATUS

Consistent with 5 CFR (currently 551.431), time spent on standby duty or in an on-call status;

a. Stand-by Duty (paid):

(1) An employee is on duty, and time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order to a designated post of duty and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. A finding that an employee's activities are substantially limited may not be based on the fact that an employee is subject to restrictions necessary to ensure that the employee will be able to perform his or her duties and responsibilities, such as restrictions on alcohol consumption or use of certain medications.

(2) An employee is not considered restricted for "work-related reasons" if, for example, the employee remains at the post of duty voluntarily, or if the restriction is a natural result of geographic isolation or the fact that the employee resides on the agency's premises. For example, in the case of an employee assigned to work in a remote wildland area or on a ship, the fact that the employee has limited mobility when relieved from duty would not be a basis for finding that the employee is restricted for work-related reasons.

b. On-Call Status (unpaid): An employee will be considered off duty and time spent in an on-call status shall not be considered hours of work if:

(1) The employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or

(2) The employee is allowed to make arrangements such that any work which may arise during the on-call period will be performed by another person.

## ARTICLE SEVENTEEN

### SENIORITY

17.1 The TXARNG will create and maintain a seniority list based on a bargaining-unit members service computation date (SCD National Guard Tech). Seniority procedures will be used as follows:

- a. Volunteers determined by management to be qualified (hereafter, "volunteers") will be selected first. If more employees volunteer than are needed, the most senior employee (by SCD National Guard Tech) will be selected first unless this procedure would preclude the accomplishment of the mission.
- b. If a sufficient number of volunteers cannot be obtained, assignment will be made on the basis of least seniority (by SCD National Guard Tech). The qualified employee with the least seniority will be selected.
- c. When fewer employees volunteer than are needed, non-volunteers will be selected from the roster. Employees completing the assignment will be placed at the bottom of the roster, least senior first. Volunteers desiring to stay on the assignment may remain, providing no one else will want to take his place and at Management's discretion.
- d. Will be applied in determining priority for granting competing or conflicting requests for annual leave or compensatory time off by employees deemed by the TXARNG, in its sole discretion, to be eligible for grant of such requests.
- e. Will be used as a tiebreaker when necessary.
- f. Will be used to set up rotations, if necessary.
- g. Management reserves the right to assign work and to make personnel decisions based on the individual job-related characteristics such as judgement and reliability to determine which employee to assign to particular assignments.

## ARTICLE EIGHTEEN

### EMPLOYEE ASSISTANCE PROGRAM

#### 18.1 GENERAL

The TXARNG will maintain an Employee Assistance Program (EAP) and employees may request services available through the Agency-sponsored EAP at any time. Appropriate regulations (currently TPR 792-2) and instructions and the Americans with Disabilities Act will govern this program for employee assistance in the TXARNG. The scope of this program includes, but is not limited to, substance abuse, emotional, financial, marital, legal and physical problems.

#### 18.2 CONFIDENTIALTY

An employee whose performance or conduct indicates a problem may be referred to the Employee Assistance Program Coordinator (EAPC).-All applicable HIPPA and PHI/PII guidelines apply IAW applicable laws.

## ARTICLE NINETEEN

### LEAVE AND ABSENCE PROGRAM

#### 19.1 GENERAL

The TXARNG must comply with applicable law, regulations (currently TPR 630) and policies relating to Leave, Leave Transfers, Administrative Closures and Absences.

#### 19.2 ABSENCES FOR FIRST RESPONDERS

a. An employee who is a volunteer law enforcement officer, firefighter, paramedic, emergency medical employee, rescue worker, or ambulance personnel may be authorized to perform volunteer duties in an emergency for short periods in an appropriate leave status, as mission permits.

b. Employees who are certified volunteers first responders must inform their supervisor of their volunteer status, in writing, including the employee's name, emergency unit designation name, position held in the unit, and expiration date of membership.

#### 19.3. ADMINISTRATIVE CLOSURES

Consistent with applicable laws and regulations (currently TPR 630), the TXARNG will establish policies for Administrative Closures due to administrative dismissals, facility closures and severe weather conditions.

## ARTICLE TWENTY

### OFFICIAL TIME FOR LABOR ORGANIZATION REPRESENTATIVES

#### 20.1 OFFICIAL TIME FOR UNION REPRESENTATION

GENERAL: "Official Time", or "time on the clock", as described in 5 U.S.C. 7131, is for use by an exclusive representative in the representation of bargaining unit employees. Bargaining unit employees who are approved for release from duty to consult with a LO representative will be considered on official time. LO representatives may be granted official time under the following circumstances:

- a. Representation of employees in grievances and adverse actions, or at formal meetings.
- b. Labor/ Management Forum meetings.
- c. Meetings and hearings before the Federal Labor Relations Authority (FLRA), if determined by the FLRA to be necessary.
- d. Travel time to and from meetings scheduled by the TXARNG.
- e. Collective bargaining agreement negotiation, including preparation time.
- f. Impact & Implementation bargaining, when a formal demand to bargain has been made and proposals have been presented by the LO to the TXARNG.
- g. Situations agreed to between LO and the TXARNG.
- h. If requested by TXARNG.

#### 20.2 PROCEDURES

a. LO representatives will be granted official time for the purposes listed in paragraph 1 of this article in an amount the TXARNG and the representative involved agree to be reasonable, necessary, and in the public interest.

b. Bargaining unit members requiring official time will obtain the immediate supervisor's approval prior to leaving their work area. Requests will include the purpose of the absence, the anticipated duration, and location where the member can be reached. The supervisor may delay the member's departure based on mission requirements. If delayed, the Parties shall arrive at a mutually agreeable time for release.

c. If the member anticipates being delayed in returning beyond the time granted, they will immediately contact the immediate supervisor to determine whether the

supervisor can extend the time granted, or require the member to return to work. Upon return to the work area, the member will report to the immediate supervisor to announce their return to duty.

d. If the immediate supervisor is unavailable the next level supervisor will be notified.

e. In no case will internal LO business such as the solicitation of membership, election of labor organization officials, and collection of dues, be performed during the time the member is on official time.

### 20.3 REPRESENTATIVE TRAINING

a. The TXARNG agrees that appropriate training is valuable. To maximize man-hour efficiency, the TXARNG authorizes five days of training per LO officer and steward per year. Additional training days can be requested and considered. The LO will submit a request for official time to the TXARNG Labor Relations Specialist (LRS) a minimum of thirty (30) calendar days in advance of the scheduled program. Requests made inside the thirty (30) calendar days may be approved whenever possible. All requests are subject to mission requirements.

b. The request will include a complete agenda and description of the program or training to be attended, the names and duty section of the LO representatives selected to attend, and the inclusive dates of the scheduled program so a determination can be made whether the training is reasonable, necessary, and in the public interest.

c. Training will be considered to be in the public interest to the Parties if it covers matters such as contract administration, grievance handling, information related to federal personnel/labor relations laws, regulations and procedures, or matters listed in 5 USC 7114.

d. The Agency will advise the LO in writing of the Employer's decision.

### 20.4 CIVILIAN ATTIRE

a. The Labor Organization representatives are not required to wear the military uniform while performing representational functions as defined in this article.

b. Employees in the bargaining unit will not be required to wear the military uniform while:

(1) Attending a meeting involving an appeal under any statutory appeal provision.

- (2) Appearing as a grievant or witness in any third-party proceeding.

## 20.5 TRAVEL EXPENSES

a. General. TDY travel and transportation allowances apply when an employee, serving as labor organization representative, performs travel to attend labor management meetings that are certified to be in the Gov't's primary interest. The term "Labor Organization Representative," as used in par. 7835, means a DoD civilian employee specifically designated by a labor organization to represent that organization in dealing with management.

b. Certification. Each order for an employee serving as a labor organization representative to attend labor management meetings must be supported by the certification cited in par. 7835-A, accompanied by a brief explanation of the certification's basis. The following certification standards are that the travel is:

(1) Incident to attendance at a meeting which is primarily in the Gov't's interest;

(2) Incident to participation in activities such as joint labor management cooperation committees concerning, but not limited to, accident prevention, absenteeism reduction, improving communications, ensuring equal employment opportunity, and maintaining employee productivity and morale;

(3) Not for the purpose of engaging in activities covered by 5 USC §7131(b), which provides internal labor organization business be conducted only when an employee is in a non-duty status.

## 20.6 NEWCOMERS BRIEFING

a. The parties agree that if the new employees are engaged in an in-person new employee orientation, the Agency notify the president who will assign a representative to attend with official time consistent with the rights and procedures under Article 20. Should the Agency determine to conduct a non-interactive (e.g., not in person, web-based) orientation, the Agency will negotiate with the Union over the procedures, format, and the Union's involvement.



## ARTICLE TWENTY-ONE

### TIME ATTENDANCE RECORDING

#### 21.1 TIME KEEPING

The TXARNG shall perform timekeeping procedures in accordance with applicable laws, regulations and directives. All manual time tracking and input processes shall be implemented, as necessary, to support the employee payroll entry into the automation system of record.

#### 21.2 TIME AND ATTENDANCE CERTIFICATION

The Supervisor will ensure timely certification and accurate posting of time and attendance.

## ARTICLE TWENTY-TWO

### DETAILS

#### 22.1 DETAILS

a. A detail is an official personnel action by which an employee is temporarily assigned duties and responsibilities other than those of his/her permanent position, but receives the salary attached to his/her permanent position.

b. Details are intended to meet temporary situations, such as emergency workload, absences of employees, pending authorization and classification of the new positions or other types of manpower needs that cannot be met by normal personnel actions.

c. When details are required:

1. Inherent in Management's right to assign work, management reserves the right to use details. Management will make reasonable efforts to seek volunteers when more than one qualified employee is available, and will make every reasonable effort to rotate the assignment among all qualified employees.

2. Details of 30 days or less will be documented on Automated Supervisors Employee Brief.

3. Details of more than 30 days will be documented on an SF-50 with the reason(s) for the detail.

#### 22.2 DESIGNATION OF EMPLOYEE IN CHARGE

Supervisors will designate, in writing, employee who will be in charge during short-term absences. This individual has limited supervisory authority. They will not have access to employee's supervisory work folders, and will refer any disciplinary actions and requests for leave to the permanent supervisor or to the next higher-level supervisor.

## ARTICLE TWENTY-THREE

### MERIT PLACEMENT AND INTERNAL PLACEMENT

#### 23.1 GENERAL

a. All actions taken under this Article will be based on qualification and merit without regard to political, religious, labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, non-disqualifying physical handicap, or age, and shall not be based on any non-merit or other criteria which is not job related.

b. This Article is designed to fill bargaining unit positions with the best qualified employees based on consideration of the following factors:

1. Employee knowledge, skills and abilities.
  2. Military qualifications and compatibility requirements in positions requiring National Guard membership.
  3. Assuring that all eligible employees who apply for a position are considered on a fair and equitable basis.
- c. Selecting Officials will consider currently employed members of the TXNG for non-entry level positions, as specified in CAT 2, before making a selection from another Area of Consideration, IAW applicable laws, veteran's preference and regulations.

#### 23.2 MERIT PLACEMENT PROGRAM

TXARNG will establish a written procedure to ensure a fair and equitable merit placement program.

## ARTICLE TWENTY-FOUR

### POSITION DESCRIPTION

#### 24.1. POSITION DESCRIPTION

Position descriptions will be an accurate listing of the major duties that are required by the TXARNG to be performed by the affected employee(s). When a new or revised Position Description (PD) is implemented, the affected employee(s) will receive a copy.

#### 24.2. OTHER DUTIES AS ASSIGNED

The term "other duties as assigned" as part of the position description is defined to mean, reasonably related duties to the job/position that do not meet major duty criteria; however, this does not preclude management from assigning additional duties that are unrelated on an infrequent basis. If additional duties are assigned on a regular basis, the position description should be amended to include such duties and classification restrictions would apply. The parties acknowledge that employee position descriptions are a basis for classification and pay determinations. Consistent with management's right to assign work, management will make reasonable efforts to assign work in a way that is reflective of the employee's position description. When general cleanup is required, assignment will be made on an equitable basis without regard to rank, grade, or sex. Exceptions will be recognized for physical infirmities which may preclude participation or endanger the health of the employee. Work assignments shall not be in violation of prohibited personnel practices nor any relevant law, rule, regulation or this agreement. Employees will not be assigned any duties as a substitute for discipline.

#### 24.3. ADDITIONAL DUTIES

It is acknowledged that there are vacancies that exist from time to time that are not or cannot be filled due to management decisions; these duties may be equitably distributed among the remaining work force in the area of concern. The TXARNG agrees to fill bargaining unit vacancies, when possible, rather than add additional duties and or details to bargaining unit members.

#### 24.4. POLICY

The TXARNG and Labor Organization will exercise efforts in good faith, recognizing the requirements of efficient operations, to minimize unnecessary hardships, potential health hazards or discrimination against any employee or group of employees.

## ARTICLE TWENTY-FIVE

### PERFORMANCE APPRAISALS AND AWARDS

#### 25.1 GENERAL

The Performance Management Program will be in accordance with applicable law, regulations, and instructions (currently addressed by DoDI 1400.25-v431). The TXARNG and the Labor Organization recognize the vital nature of the performance management process. The effectiveness of the performance evaluation system is a combined responsibility of each employee and his/her supervisor.

## ARTICLE TWENTY-SIX TRAINING

### 26.1 GENERAL

a. Supervisors will provide necessary on-the-job orientation training to assist an employee assigned to a new position to reach expected performance standards.

b. The employee agrees to complete a training program as a condition of employment.

c. The TXARNG policy is to assure the effective and efficient use of the work force in the accomplishment of the activity's mission. In this regard, a positive, continuous, practical, and economical training program will be conducted to the extent necessary to maintain an efficient and competent work force.

d. Each employee shall receive consideration to participate in training consistent with his/her qualifications and work experience, course requirements, and the needs of the TXARNG. Annually, the supervisor and employee will evaluate the training needs of the employee and the supervisor will inform the employee of any training necessary to further his or her career. The supervisor will also identify those situations in the specific work environment that training can aid in achieving defined objective and goals of the employer.

e. The TXARNG, through the supervisor, will determine the training needs of employees and will be responsible for identifying the resources needed to satisfy training requirements.

f. When advance knowledge of the impact of pending changes in function, organization, or mission is available, it shall be the responsibility of the employer to plan for the maximum retraining of employees involved. Maximum use will be made of the authority to waive qualification requirements

## ARTICLE TWENTY-SEVEN SAFETY AND WELFARE

### 27.1 GENERAL

Certain tasks performed involve a degree of hazard, the TXARNG agrees that employees would not normally be required to perform duties of a hazardous nature until after the necessary briefings, instructions, and/or training have been completed and all available safety precautions and devices have been incorporated. All personnel will adhere to safety policies and procedures and the use of protective equipment.

### 27.2 WORKERS' COMPENSATION

Worker's Compensation will be in accordance with applicable regulations (20 CFR Part 10), instructions (Injury Compensation for Federal Employees Publication CA-810) and the Federal Employee's Compensation Act (5 USC Chapter 81).

a. Employees shall immediately report job connected injuries or illness to their supervisor. The supervisor, with the employee, shall ensure proper procedures are followed and that all necessary documents are completed. When the employee is incapacitated and unable to notify the supervisor of injury or illness, it shall be the immediate supervisor or his/her designee's responsibility to initiate required procedures as soon as they are aware an incident has occurred. The HRO will be informed of claims and is available to assist employees and supervisors.

b. An employee who has been injured or temporarily incapacitated and able to perform limited duty may be afforded the opportunity to perform alternate duties until they have recovered from the injury or incapacitation.

### 27.3. EXTREME TEMPERATURE

The TXARNG and the Labor Organization recognize the hazards of working in extreme temperatures yet acknowledge the necessity of accomplishing certain tasks, notwithstanding. The TXARNG agrees to follow applicable regulations and will manage workloads accordingly.

NOTE: Nothing in this section shall be construed as affecting the authority of the TXARNG to direct employees to execute the work of the TXARNG during an emergency.

a. Extreme Heat: The TXARNG agrees to follow OSHA guidelines (TM Section III, Chapter 4) regarding heat stress.

b. Extreme Cold: The TXARNG will furnish all suitable cold weather clothing and equipment (to include safety equipment) to employees at no expense. The TXARNG agrees that work may be temporarily discontinued and rescheduled due to extremely cold temperatures.

#### 27.4. PERSONAL PROTECTIVE EQUIPMENT

a. The TXARNG will provide the Personal Protective Equipment outerwear required for an employee's duties, IAW authorizations in CTA 50-900. It is the responsibility of both the supervisor and employee to identify protective equipment needed in the workplace. Ground maintenance coveralls for enlisted employees will have nametapes and rank sewn-on, at no cost to the employee.

b. CLEANING/LAUNDERING. The TXARNG will provide for cleaning of contaminated coveralls that can no longer be safely worn, at no cost to Employees. Cleaning provided under this Section will not require the Employee to take away from the work site items or clothing contaminated with hazardous materials or substances which could endanger the Employee's family and/or the environment. The Agency will provide a cleaning area and common storage area, should contamination occur. Employees will be encouraged to bring additional work uniforms/coveralls to be worn until the end of the work day. Each organization will determine their own storage needs and requirements that would allow employees to store additional uniforms/coveralls.

c. The TXARNG will provide OSHA approved safety glasses to those employees whose job requires safety eyewear. Any additional costs in excess of those required for glasses will be the responsibility of the employee.

#### 27.5. SAFETY SURVEY

The labor organization shall be given a copy of all safety inspections/surveys.

#### 27.6. HAZARD REPORTING

a. A hazard may be reported by any person and may be submitted on any event or condition that affects safety.

b. Hazards should be reported to responsible supervisors so action can be taken. Oral reports for imminent danger situations are mandatory. In such situations, the Safety Office will be immediately notified. If the hazard is eliminated on the spot, no further action is required. If the hazard is not or cannot be corrected within the work center, an Operational Hazard Report (OHR) or DA Form 4755 (Employee Report of



Alleged Unsafe or Unhealthful Working Conditions) will be prepared and given to the section supervisor. Hazard reports may be submitted anonymously, directly to the State Safety Office.

c. The term "imminent danger" means any condition or practice in any workplace which could reasonably be expected to cause death or serious physical harm (a risk of injury of any sort is not sufficient) immediately or before there is sufficient time for imminence of such danger to be eliminated through normal procedures.

d. In the case of imminent danger situations, employees shall make reports by the most expeditious means available. It is the employer's policy to issue no order that could jeopardize an employee's life, health or safety above and beyond those normal hazards inherent in daily operations. An employee who reasonably believes that an assigned task poses an imminent danger of death or serious physical harm may refuse to work if there is no reasonable alternative. A refusal to follow an order under these conditions will not, except in emergency situations, subject the employee to punitive action unless the refusal can be proven to be unjustified. The employee must, however, request the employer to correct the hazardous condition.

## ARTICLE TWENTY-EIGHT

### HAZARDOUS DUTY PAY AND ENVIRONMENTAL DIFFERENTIAL PAY

#### 28.1 POLICY

Hazardous Duty Pay (HDP) and Environmental Differential Pay (EDP) are additional compensation programs available to employees for actual exposure to various degrees of hazard, physical hardship, or working conditions of an unusually severe nature. The TXARNG agrees that HDP and EDP are entitlements for qualified employees, and will be provided IAW the procedures and guidelines established in 5 CFR 532 and 550. The final approval authority for payment of Hazardous or Environment pay is The Adjutant General.

#### 28.2 COVERAGE

- a. This article applies to all Texas Army National Guard bargaining unit Civil Service employees whether they are employed on a full-time, temporary, part time, or intermittent basis.
- b. HDP applies only to General Schedule (GS) employees (5 CFR 550.901).
- c. EDP applies only to Wage Grade employees (5 CFR 532.511).
- d. HDP may not be paid to an employee when the duty has been taken into account in the classification of an employee's position.

#### 28.3 RESPONSIBILITIES

a. Employees: Each employee is required to work within the dictates of sound safety and occupational health practices and procedures, which are under his control. In those instances where the application of these practices and procedures cannot eliminate a hazardous situation, the employee must take positive steps to report the situation, and if appropriate, initiate a request to establish an HDP/EDP situation. Recommendations will be forwarded through supervisory channels to the HRO and to the Labor Organization.

b. Supervisors: The Agency must ensure that safety practices and acceptable work procedures are followed. In those instances where the application of these practices and procedures cannot adequately alleviate a hazardous situation, the Agency will take positive steps to report the situation. Upon receipt of a request to establish an HDP/EDP situation, the Agency must examine the situation, provide recommendations, and forward the request through supervisory channels to the HRO office.

NOTE: The Agency upon receipt forward a HDP/EDP request through supervisory channels to the HRO. The Agency must forward a HDP/EDP request to the Labor Organization Office immediately upon receipt.

c. Human Resource Office: The Agency is responsible for the management of the HDP/EDP programs. The Agency shall review and disseminate all appropriate issuances from the Office of Personnel Management (OPM) and the National Guard Bureau as may relate to this article. The Agency shall conduct annual evaluations of the program and the approved situations to ensure that they are current and valid. New qualifying situations that arise will be handled on a case by case basis.

d. HRO and Labor Organization: Upon receipt of HDP/EDP situation requests, the HRO shall meet with the Labor Organization within fifteen (15) days for the purpose of evaluating the request. For requests not addressed by this article or the CFR, equal representatives of the Employer and from the Labor Organization shall evaluate the situation and determine if the situation meets the requirements of the CFR for approval. When a situation is approved, it will be distributed to the work force.

NOTE: Nothing shall preclude negotiations through the collective bargaining process, to determine coverage of additional local situations under the appropriate application of Appendix A of the C.F.R., to determine if a local work situation is covered under an approved category, even though the work situations may not be described under a specific illustrative example, or to determine additional categories that are suitable for referral to OPM for a new environmental differential category or a different percentage differential for an existing category.

e. In new situations, submissions must include information about the hazard, physical hardship, or working condition, showing:

(1) The nature of the exposure so as to show clearly that the hazard, physical hardship, or working conditions, which results from that exposure of an unusually severe nature.

(2) The degree to which the employee is exposed to the hazard, physical hardship, or working condition of an unusually severe nature.

(3) The period of time during which the exposure will continue to exist.

(4) The degree to which control may be exercised over the physical hardship, hazard, or working condition of an unusually severe nature. The request shall also include the rate of environmental differential pay recommended to be established.

(5) Recommendations to establish new situations or to change existing situations must address the conditions indicated above and must be submitted in the format indicated in Appendix B of this article.

## 28.4 DOCUMENTATION OF EDP-HDP EXPOSURE

a. The supporting payroll office receives documentation of EDP/HDP by use of an NGB Form 104 (Appendix C) Certificate of Authorization for Environmental Differential Pay, attached to time and attendance (T&A) cards as prescribed in DCPS pay manual. This process is required in order to calculate payments of EDP/HDP.

b. Duration of exposure. List the date, inclusive clock time in the "From" and "To" columns, and actual elapsed time in hours and minutes of each category of exposure shown in the preceding column: i.e., 1 January 1999; 1300 - 1525 hours; 2 hours and 25 minutes.

c. The signature and title of the authorizing official must be officially designated for the particular situation in order to certify the exposure for pay purposes.

## ARTICLE TWENTY-NINE

### RADIOS and MEDIA PLAYERS

29.1 The TXARNG agrees to allow the playing of radios or other audio players, so long as it is played in a manner not to threaten safety, EEO or Sexual Harassment policies.

29.2 Electronic Devices (all types):

a. The TXARNG reserves the right to restrict electronic devices based on mission and safety requirements.

b. The use of electronic devices while operating government equipment is prohibited. The exception is use of a cell phone with a hands-free device in a GSA vehicle is authorized. Use of electronic devices while operating a military tactical vehicle is not authorized.

c. While in uniform, employees will not walk while using personal electronic devices and are not authorized to wear wireless or non-wireless devices/earpieces IAW Army regulations.

d. The TXARNG is not responsible for lost, stolen, or damaged personal electronic devices in the workplace.

ARTICLE THIRTY  
PHYSICAL FITNESS

The TXARNG agrees to allow employees to participate in physical fitness training in accordance with published policy and guidance (currently TANG 690-600 change 2).

## ARTICLE THIRTY-ONE

### DISCIPLINE/ADVERSE ACTION

#### 31.1 GENERAL

a. The parties recognize that at times corrective actions may be required. In accordance with TPRs (currently 752), this is a three-tier system that includes; non-disciplinary corrective action, disciplinary actions, and adverse actions. It will be based on just cause and be consistently applied to promote the efficiency of the federal service. In order to be effective, corrective actions must be timely.

b. When the supervisor reasonably expects an interview to lead to disciplinary/adverse action or the employee requests, the employee will be advised of their Weingarten Rights.

c. Before determining discipline/adverse action, the Agency will gather all available facts and discuss them with the employee. After considering the employee's response, the Agency will then advise the employee if the discussion resolved the matter.

d. In cases where the discussion does not resolve the issue, corrective actions will be administered in accordance with TPR (currently 752).

## ARTICLE THIRTY-TWO

### EMPLOYEE TRAVEL

#### 32.1 AUTHORIZATION

a. Travel will be directed only when required by the mission. All travel must be processed IAW the current DoD travel system, and authorizations must be approved prior to starting any travel.

b. The TXARNG understands that certain circumstances associated with temporary travel may cause undue personal hardship with employees involved; therefore, the employee, upon request, may be released from such temporary duty assignment if a qualified replacement is available and willing to perform the duty.

#### 32.2. TRANSPORTATION AND QUARTERS

a. Employees required to travel shall be furnished transportation at government expense. General Services Administration (GSA) vehicles may be used if available. Privately Owned Vehicles (POV) may be authorized, in accordance with provisions of the JTR.

b. Employees on TDY will not be directed to occupy work centers, non-motel/hotel lodging/facilities. Exceptions will be coordinated between the parties.

c. Certificates of non-availability will be issued when government directed lodging is not available. Where lodging is not available at the temporary duty location the employee is responsible for making travel arrangements. Reimbursement of such expenses will be in accordance with applicable JTR.

#### 32.3. GOVERNMENT TRAVEL CARD (GTC)

a. Employees will use the GTC IAW the JTR, and are responsible for annual card training requirements.

b. Employees are responsible for all charges on the GTC.



**ARTICLE THIRTY-THREE**  
**WAGE SURVEY REPRESENTATION**

**33.1 GENERAL**

Bargaining Unit Members will be authorized to participate in Federal Wage System (FWS) wage surveys when directed by the local Wage Survey Committee.

Employee(s) involved in the official conduct of the survey will be in employee duty status.

## ARTICLE THIRTY-FOUR

### RE-CLASSIFICATION ACTIONS

#### 34.1 GENERAL

a. An employee position may be re-classified to a lower grade when the applicable standard has changed, when a reclassification occurs due to erosion of duties, or when a classification or job-grading error has occurred, IAW the TPR (currently TPR 511).

b. Using the grievance system to appeal a negative classification action is not appropriate.

## ARTICLE THIRTY-FIVE

### REORGANIZATIONS, REALIGNMENTS, and REDUCTION-IN-FORCE

#### 35.1 GENERAL

a. The Agency agrees to make every effort to avoid or minimize a Reduction in Force (RIF). Procedures relating to a reduction in force will be governed by provisions of TPR's (currently 300(351)) and applicable laws.

b. The detailed procedure to effectuate this article will be accomplished in accordance with this Labor Management Agreement.

## ARTICLE THIRTY-SIX

### GRIEVANCE PROCEDURES

#### 36.1 GENERAL

a. A grievance means any complaint:

(1) by any employee concerning any matter relating to the employment of the employee;

(2) by any Labor Organization concerning any matter relating to the employment of any employee; or

(3) by any employee, the Labor Organization, or agency concerning-

(a) the effect or interpretation, or a claim of breach, of the collective bargaining agreement; or

(b) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

#### 36.2. REPRESENTATION

The employee retains the right to request Labor Organization representation in the grievance procedure or to decline such representation. If the employee chooses not to have representation, that waiver must be in writing. The Labor Organization will be served a copy of this waiver. However, the Labor Organization will be given the opportunity to have a representative present during all grievance proceedings to ensure adjustments of the grievance are not inconsistent with the terms of the CBA.

#### 36.3. EMPLOYEE RIGHTS

All employees have the right to present their grievances to the appropriate management officials for prompt consideration. This procedure provides a means for the prompt and orderly consideration and resolution of employee or Labor Organization grievances. In exercising this right, the employee and the Labor Organization representative will be free from restraint, coercion, discrimination, or reprisal.

#### 36.4. PRESENTING GRIEVANCES

a. The Labor Organization has the right, on its own behalf or on the behalf of the bargaining unit employee, to present and process grievances. A grievance will be formally presented by the Labor Organization or employee in a timely manner.

b. Except as provided by 5 U.S.C. 7121(d), the negotiated grievance procedure is the exclusive procedure available to the TXARNG, the Labor Organization, and the employees for filing and processing of grievances.

c. If an employee or group of employees elect to present a grievance without the assistance of the Labor Organization, resolution of the grievance must be consistent with the provisions of this CBA.

d. The Agency will notify the Labor Organization of grievance proceedings and inform it of the time and place of such proceedings. The point of contact will be the appointed labor representative.

e. Employees will use the approved Grievance Form when filing grievances.

#### 36.5. RIGHT TO INFORMATION

Upon request and subject to law, rule, or regulation, the TXARNG will supply the Labor Organization with any investigation reports and/or documents used.

#### 36.6. EXCLUSIONS

Matters excluded from the negotiated grievance procedure are:

a. Any claimed violation relating to prohibited political activities (Hatch Act Violations).

b. Retirement, life insurance, or health insurance.

c. A suspension or removal for national security reasons.

d. Any examination, certification, or appointment.

e. The classification of any position which does not result in the reduction in grade or pay of an employee.

f. Actions pursuant to the provisions of 32 USC 709(f)(1) through (5).

### 36.7. EMPLOYEE INFORMAL GRIEVANCE

a. All steps are coordinated with the HRO/LRS.

b. At the informal stage, the employee and the representative will meet with the immediate supervisor and attempt to resolve the issue/problem that caused the grievance. This step is encouraged by both the TXARNG and the Labor Organization.

c. The informal grievance should be initiated in a timely manner to attempt to resolve a problem before it becomes a formal grievance. The supervisor will advise the aggrieved employee of their decision by the second Tuesday after the final labor organization presentation.

### 36.8. FORMAL GRIEVANCE

a. If the aggrieved employee is dissatisfied with the decision reached through the informal procedures, the grievance will be reduced to writing using the agreed to form (see enclosures) by the employee(s), or by the Labor Organization on the employee(s) behalf, or on the Labor Organization's behalf, and submitted to the next appropriate higher level supervisor with a copy to the HRO/LRS by the second Tuesday after receiving the supervisor's response as described in section 34-2c.

b. All steps are coordinated with the HRO/LRS.

c. There are four steps for the grievant to follow, if not satisfied. At each step, the designated supervisor will review all material submitted by the grievant. Either party may request an interview. The grievant may be accompanied by a Labor Organization representative, if desired. This supervisor shall render the decision, in writing, by the second Tuesday following receipt of the formal grievance or after a meeting, if held. All parties will cooperate by responding to a meeting, if requested, to try to resolve the issue through discussion at this stage. The decision reached at this stage shall be reduced to writing with copies furnished to the parties concerned, including the HRO/LRS. Supervisory progression:

(1) The first GS-13 (or AGR LTC) / Deputy Director or equivalent

(2) The first GS-14 (or AGR COL) / Director or equivalent

(3) The TXARNG Chief of Staff

(4) The Adjutant General

d. For any grievance denied by TAG, the Labor Organization has the right to seek arbitration.

e. The Labor Organization and the Employer understand that circumstances may arise that could cause delays in the prescribed time lines.

f. If at any time in this process, the grievant freely chooses to terminate the grievance, they will do so by a written statement of termination to the Management with a copy to the Labor Organization. Such a termination action will be binding on the employee.

### 36.9. ARBITRATION PROCEDURES

a. Recording of arbitration: A verbatim transcript of the arbitration will be made when requested by either party, the expense of which shall be borne by the requesting party. If either parties or the arbitrator request or obtain a copy of the transcript, the costs shall be shared equally by the Union and the Employer.

b. The decision to refer the grievance to arbitration must be submitted to the other party within 30 days of the date of the final decision on the grievance.

c. When arbitration is invoked, the party invoking arbitration may request a list of seven arbitrators from the Federal Mediation and Conciliation Service (FMCS). Once received, the parties will meet by the second Tuesday after having requested arbitration to select an arbitrator. If agreement cannot be reached regarding the selection of an arbitrator, the requestor will get first strike of a name from the list, then the parties will alternately strike the names from the list until only one name remains. The individual's name remaining will be duly selected to hear the grievance. The parties agree that if the selected arbitrator is unavailable to hear the grievance within an agreeable time, the parties will select a new arbitrator using the above procedures. If either party fails to participate in the selection process, the arbitration action will proceed with the requesting party accomplishing the selection action.

d. Expenses incurred for the arbitrator's consulting fee, travel and per diem will be shared equally by the Employer and the Labor Organization. Expenses incurred in providing services deemed necessary to both parties shall also be shared equally. Any Expenses incurred in obtaining other services or witnesses shall be borne solely by the party requesting the service or witness.

e. Witnesses. The appellant, the employee's representative, and required witnesses who testify in the arbitration hearing, and who would otherwise be in a duty status, shall be in a pay status without charge to leave while participating in the arbitration proceedings. By mutual consent, depositions are appropriate when time or geographical

constraints preclude the physical presence of a witness. Any expenses incurred in providing necessary witnesses, other than TXARNG employees, shall be borne by the requesting party.

f. The arbitration hearing shall be held on a date and a location mutually agreed upon by the parties.

g. The scope of arbitration will be limited to the interpretation and application of the terms and provisions of the written Agreement and of agency or activity regulations.

h. Certification of compliance with the decision of the arbitrator, to include corrective action taken, where appropriate, shall be provided to the other party as soon as practicable.

i. If no exception to an arbitrator's award is filed under subsection (a) of section 7122 during the 30 day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of back pay (as provided in 5 USC section 5596 (b) the Back Pay Act).



## ARTICLE THIRTY-SEVEN

### AGREEMENT ADMINISTRATION

#### 37.1 EFFECTIVE DATE

The effective date of this CBA shall be after execution by the parties and approval by the Defense Civilian Personnel Advisory Service (DCPAS). The date of this CBA, the DCPAS approval letter, and the MOU signed 28 October 2015, will be made part of this CBA prior to its distribution and listed on the table of contents of this CBA.

#### 37.2 DCPAS APPROVAL

a. The DCPAS shall approve the CBA within 30 days from the date the CBA is executed by the parties, if the CBA is IAW the provisions of applicable law, rule, or regulation.

b. If DCPAS disapproves any portion of this agreement within the 30-day period, the existing CBA shall remain in effect. Otherwise, the new CBA becomes binding on the TXARNG and the Labor Organization, subject to the provisions of applicable law, rule or regulation.

c. In the event portions of the CBA are not approved by DCPAS negotiations will resume IAW the MOA dated October 28, 2015, incorporated herein.

d. Upon approval, this CBA takes precedent over any conflicting provisions in TXARNG/DoD regulations with respect to conditions of employment that predate this CBA, unless doing so would cause a violation of Federal, State or local law.

#### 37.3 AGREEMENT DURATION

a. This CBA shall expire three years after the approval date of DCPAS.

b. The terms of this CBA may be extended beyond the expiration date:

(1) In one year increments based on mutual agreement of the parties.

(2) During a period of declared National or State emergency by the mutual consent of the parties.

### 37.4 AGREEMENT AMENDMENTS/SUPPLEMENTS

a. The CBA may be subject to modification as a result of a change in, or issuance of, an appropriate new law, rule, or regulation.

b. Other amendments may be made:

(1) By mutual consent of the parties.

(2) A request for an amendment or modification of this CBA by either party shall be in writing setting forth the need or reason for the proposed changes and a summary of the changes.

(3) Either party may serve notice to the other party, no later than sixty (60) days prior to the midpoint of this CBA, requesting negotiations.

(4) Representatives of the TXARNG and the Labor Organization will meet at a mutually agreeable time to commence negotiating the proposed amendment or modification. No changes other than those specified in the summary will be considered.

c. Approval of an amendment or modification to the CBA will be accomplished in the same manner as provided above.

### 37.5 NEGOTIATING A NEW AGREEMENT

a. Thirty calendar days prior to the planned start of negotiations of a new CBA, both parties will produce a Memorandum of Agreement establishing the ground rules for the conduct of negotiations.

b. Negotiation for a new CBA will commence not earlier than 105 calendar days and not less than 60 calendar days prior to the expiration date of this CBA. This CBA will remain in effect during negotiations.

### 35.6 PUBLICATION/DISTRIBUTION OF THE CONTRACT

On the effective date, the TXARNG will post a copy of this agreement to the agency website and electronically distribute a link to all employees.

The Parties have entered into this Agreement on this 8th day of March, 2018.

