

COLLECTIVE BARGAINING AGREEMENT

Department of the Army  
Military Surface Deployment  
& Distribution Command  
597<sup>th</sup> Transportation  
Brigade

And

American Federation of Government  
Employees, Local 1643, AFL-CIO

**OFFICIAL TEXT CERTIFICATE**

We, the undersigned authorized representative of Agency- Military Surface Deployment & Distribution Command (SDDC) 597<sup>th</sup> Transportation Brigade and Union- American Federation of Government Employees (AFGE), AFL-CIO Local 1643, in accordance with section 37.05(a) of the Collective Bargaining Agreement, do hereby certify that this document is a true copy of the original of the collective bargaining agreement. As such, this document constitutes an official text for all purposes.

DATED:

FOR THE AGENCY

· FOR THE UNION

Chief Negotiator  
Agency Negotiating Team

JAMES D. GLENN, SR.  
Chief Negotiator  
AFGE Local 1643

Agency Head  
597<sup>th</sup> Transportation Brigade

JOHN A. HANSON  
Brigade DTC, GS-15

## **TABLE OF CONTENTS**

<b>Article</b>	<b>Description</b>	<b>Page</b>
	Preamble	1
	Witnesseth	1
Article 1	Definitions	2
Article 2	Governing Laws and Regulations	3
Article 3	Employee Rights	3
Article 4	Management Rights and Duties	5
Article 5	Union Rights and Duties	6
Article 6	Representation Rights	7
Article 7	Allotment's for Union Dues	8
Article 8	Logistical Support	9
Article 9	Official Time	11
Article 10	Changes in Conditions of Employment	12
Article 11	Release of Information	13
Article 12	Employee Training and Development	14
Article 13	Merit Promotion	14
Article 14	Equal Employment Opportunity	16
Article 15	Performance Evaluation	17
Article 16	Incentive Awards	19
Article 17	Scheduling of Work	20
Article 18	Overtime	27

## TABLE OF CONTENTS (cont'd)

Article	Description	Page
Article 19	Contracting Out	29
Article 20	Reduction in Force	30
Article 21	Use of Military Personnel	31
Article 22	Employee Assistance Program	32
Article 23	Smoking	33
Article 24	Parking	33
Article 25	Annual Leave	34
Article 26	Sick leave	35
Article 27	Court Leave	36
Article 28	Family and Medical Leave	37
Article 29	Leave Without Pay	38
Article 30	Leave for Bone Marrow and Organ Donation	38
Article 31	Leave for Religious Purposes	39
Article 32	Leave for Internal Union Functions	39
Article 33	Excused Absences	39
Article 34	Inclement Weather	40
Article 35	Health and Safety	42

## TABLE OF CONTENTS (cont'd)

<b>Article</b>	<b><u>Description</u></b>	<b>Page</b>
Article 36	Environmental Differential Pay and Hazardous Duty Pay	43
Article 37	Disciplinary and Adverse Action	43
Article 38	Alternative Discipline Program	44
Article 39	Negotiated Grievance Procedure	45
Article 40	Arbitration	49
Article 41	Unfair Labor Practice Procedure	54
Article 42	Joint Agency-Union Partnership Council	54
Article 43	Telework	55
Article 44	Employee Wellness	55
Article 45	Mid-Term Bargaining	56
Article 46	Effective Date and Duration	59
Article 47	General Provisions	60
Appendix A	Official Time Report	
Appendix B	Grievance Form	

**Department of the Army  
Military Surface Deployment  
& Distribution Command  
597<sup>th</sup> Transportation Brigade  
Fort Eustis, Virginia  
And  
American Federation of Government  
Employees, AFL-CIO AFGE Local 1643,  
Fort Eustis, Virginia**

## **Preamble**

In accordance with Chapter 71 of Title 5 U.S. Code, and subject to all applicable statutes and regulations, this negotiated EMPLOYER-UNION Agreement, hereafter called the Agreement, is entered into between US Army Military Surface Deployment & Distribution Command, 597<sup>th</sup> Transportation Brigade hereafter referred to as the Agency, and the American Federation of Government Employees, Local 1643, hereinafter referred to as the Union. Organizations covered by this agreement are: All non-professional employees of Military Surface Deployment & Distribution Command (SDDC), 597<sup>th</sup> Transportation Brigade, Department of the Army, located in Fort Eustis, VA.

### **Witnesseth**

In consideration of the mutual covenants herein set forth, the parties hereby agree as follows:

It is the intent and purpose of the parties to promote and improve the efficient administration of Federal Service and the well being of employees within the meaning of Chapter 71 of Title 5 U.S. Code, to establish basic understanding relative to personnel policy, practices, and procedures affecting conditions of employment within the jurisdiction of the Agency and to provide means for amicable discussion and adjustment of matters of mutual interest, and in fulfilling these responsibilities the parties do affirm that they will cooperate in all efforts to insure good relations among the Agency, the employees and the local community. This Collective Bargaining Agreement is executed pursuant to the exclusive recognition granted Local 1643, of the American Federation of Government Employees (hereafter referred to as the Union) by Military Surface Deployment & Distribution Command, 597<sup>th</sup> Transportation Brigade (hereafter referred to as the Agency). The efficient administration of the Government and the well being of employees require that orderly and constructive relationships be maintained between the parties. Subject to law and paramount requirements of the public service, employee - management relations should be improved by providing employees an opportunity for participation in the formulation and implementation of policies and procedures affecting the conditions of their employment. In fulfilling these responsibilities, the PARTIES do affirm that they shall bargain in good faith to ensure good relations.

## Article 1 – Definitions

1.01. Definitions. For purposes of this collective bargaining agreement:

a. *Agency* means Department of the Army, Military Surface Deployment and Distribution Command (SDDC), 597<sup>th</sup> Transportation Brigade, and its management officials, attorneys and agents.

b. *Agency head* means the Commander of the agency or his designee(s).

c. *Authority* means the Federal Labor Relations Authority.

d. *Bargaining unit* means the group of employees defined in this article for which the Union is their exclusive representative.

e. *Collective bargaining* means the performance of the mutual obligation of representatives of the agency and the union to meet at reasonable times and to consult and bargain in a good faith effort to reach agreement with respect to the conditions of employment of employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached. The parties' mutual obligations, however, do not compel either party to agree to a proposal or make a concession.

f. *Collective bargaining agreement (CBA)* means this agreement and any later written amendments, supplements, etc. thereto, including memorandums of understanding (MOUs) and memorandums of agreement (MOAs) entered into by the parties as a result of collective bargaining pursuant to the statute.

g. *Conditions of employment* means personnel policies, practices and matters, whether established by rule, regulation or otherwise, affecting working conditions, except that such term does not include policies, practices and matters relating to (a) political activities prohibited under 5 U.S.C. Chapter 73, Subchapter III, (b) classification of any position and (c) matters specifically provided for by the Statute.

h. *Consensus* means everyone agrees upon a single alternative and can honestly say, "I believe you understand my point of view and I understand yours. Whether or not I prefer this decision, I support it because it was reached fairly and openly and it is the best solution for us at this time".

i. *Employee* means any person employed by the agency, but does not include professional employees, temporary employees with an appointment of less than one year, management officials, supervisors, any employee described in 5 U.S.C. §7112(b) (2), (3), (4), (6) and (7) or any other person excluded from the definition of employee by 5 U.S.C. § 7103(a).

j. *Management official* means an individual employed by the agency in a position with the duties and responsibilities of which require or authorize the individual to formulate, determine or influence the policies of the agency.

k. *Negotiate in good faith* means agency and union representatives have mutual obligation (i) to approach negotiations with a sincere resolve to reach a collective bargaining agreement, (ii) to be represented at negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment that is negotiable under the statute or the CBA, (iii) to meet at reasonable times and convenient places as frequently as may be necessary and (iv) to avoid unnecessary delays.



l. *NGP* means the negotiated grievance procedure set forth in the CBA.

m. *Panel* means the Federal Service Impasses Panel.

n. *Statute* means the Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71, as amended, unless a different statute is clearly intended.

o. *Supervisor* means any individual employed by the agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust employees' grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

p. *Union* means Local 1643, American Federation of Government Employees, AFL-CIO, certified by the Authority as the exclusive representative of the employees defined in this article, and its union officials, attorneys and agents.

## **Article 2 – Governing Laws and Regulations**

2.01. Purpose. This article sets forth the effect of laws and regulations on this agreement.

2.02. Laws and Government-Wide Rules and Regulations. In the administration of this agreement, the parties shall be governed by all applicable laws and existing government-wide rules and regulations, as defined in Title 5 U.S.C. 7100 *et seq.*, and by subsequently enacted government-wide rules and regulations implementing Title 5 U.S.C.

2.03. Labor Relations. Labor relations will be conducted in accordance with the Federal Service Labor Management Relations Statute (5 U.S.C. Chapter 71). Management, union and employees shall have all rights and obligations given under the Statute.

2.04. Past Practices. It is agreed and understood that any prior benefits, practices and/or memoranda of understanding which were in effect on the effective date of this Agreement at any level shall remain in effect unless superseded by the new agreement or in accordance with 5 U.S.C. Chapter 71.

### **Article 3 – Employee Rights**

3.01. General. Pursuant to Title 5, Section 7102 of the statute, employees 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. Employees shall be protected in the exercise of such right.

a. Acting as Union Representative. Employees shall have the right to act for the union in the capacity of a representative and the right in that capacity to present the union's views to agency management officials and to other officials of the executive branch of the Federal Government, the Congress of the United States or other appropriate authorities.

b. The right to assist the union includes the right to engage in collective bargaining on behalf of the bargaining unit employees.

3.02. Official Records and Files-Including Those Maintained on Computer.

a. All personnel records are confidential, shall be known or viewed by officials only with a legitimate administrative need to know, and must be retained in a secure location. No personnel record may be collected, maintained, or retained except in accordance with law, higher authority regulation, and this Agreement.

b. Employees and/or their authorized representatives who have been so authorized in writing have the right to examine any of their personnel records in the presence of a management official. The employee has the right to a reasonable amount of duty time to examine, prepare and enter into the record employment related information, including a response to material placed in such records.

c. Access to personnel records of the employee by the employee and/or the authorized representative will normally be granted within two (2) working days of the request if such records are maintained on the premises in which the employee is located. If the records are not so maintained, the Agency will immediately initiate action to obtain the records from their location and will make them available to the employee as soon as possible. Grievance time limits should be waived in the event it takes more than four (4) days from the date of the employee's request for the relevant records related to the grievance to be provided to the employee.

d. Personal notes pertaining to an employee not qualifying as a system of records under the Privacy Act may only be kept and maintained by and for the personal use of the manager who wrote them. They shall not be shown or circulated to anyone, even the manager's secretary or another manager of the same employee. Personal notes shown or circulated to anyone must be maintained in accordance with this Section.

3.03. Whistle Blower Protection. Employees shall be protected against reprisal for the disclosure of information which the employee believes evidences a violation of law, rule,

or regulation, or evidence of mismanagement, a waste of funds, or an abuse of authority.

3.04. Personal Rights.

a. All employees and managers shall be treated fairly and equitably in all aspects of personnel management.

b. Employees and managers shall be treated with mutual respect. Employees and managers should refrain from coercive, intimidating, loud or abusive behavior.

c. If an employee is to be served with a warrant or subpoena, it will be done in private to the extent it is within Management's control.

d. No employee will be disciplined or retaliated against solely as a result of carrying out the lawful instructions of a management official with real or apparent authority. If there is a disagreement between the employee and the manager or other management official, the employee will comply with the instructions and, if desired, grieve the matter later. The refusal to obey an unlawful order will not subject the employee to disciplinary or adverse action.

e. Management will continue to offer retirement seminars to bargaining unit employees who are within five (5) years of retirement eligibility.

## Article 4 – Management Rights and Duties

4.01. General. Nothing in the CBA shall affect the authority of any management official/supervisor of the agency to:

- a. Determine the mission, budget, organization, number of employees and internal security practices of the agency.
- b. In accordance with applicable laws:
  - (1) Hire, assign, direct, layoff and retain employees in the agency, or suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees; or
  - (2) Assign work, make determinations with respect to contracting out and determine the personnel by which agency operations shall be conducted.
- c. With respect to filling positions, make selections for appointment from among properly ranked and certified candidates for promotion or other appropriate sources.
- d. Take whatever actions may be necessary to carry out the agency mission during emergencies.

4.02. Agency Election. Solely at the election of the agency, the parties may negotiate the numbers, types and grades of employees or positions assigned to any organizational subdivision of the agency, work project or tour of duty, or the technology, methods and means of performing work.

4.03. Impact and Implementation Bargaining. Upon request of the union, the parties will meet and discuss or negotiate, as appropriate, procedures which management officials will observe in exercising any management right under that statute or the CBA, as well as appropriate arrangements for employees adversely affected by the exercise of any management right under the statute or the CBA.

4.04. Additional Rights and Duties. In addition, the agency shall have all the rights and duties set forth in the statute and the CBA, including (but not limited to) the following:

- a. The duty to annually inform bargaining unit employees of their rights under section 7114 (2) (B) of the statute concerning the qualified right of an employee to union representation incident to being examined by an agency representative in connection with an investigation.
- b. The duty to give the union reasonable notice of proposed changes in conditions of employment and, if requested, to meet with union representatives to discuss or negotiate in good faith concerning any matter that is negotiable under the statute or the CBA.
- c. The duty to refrain from conduct constituting unfair labor practices under section 7116 (a) of the statute.
- d. The duty to provide Agency managers and supervisors training concerning the content of this CBA.

## Article 5 – Union Rights and Duties

5.01. Representation Rights and Duties. Pursuant to Title 5, Section 7114 of the statute, the union, as the exclusive representative of bargaining unit employees, has all rights and duties prescribed by the statute and this CBA, including (but not limited to) the following:

- a. The right to act for and negotiate collective bargaining agreements covering all bargaining unit employees;
- b. The duty to represent the interests of all bargaining unit employees without discrimination and without regard to membership in the union. The union has no duty to represent non-members in statutory appeal procedures (Merit System Protection Board (MSPB), 14 day and longer suspensions and removals, the Department of Labor (DOL), the Equal Employment Opportunity Commission (EEOC), discrimination, and the Office of Personnel Management (OPM), classification.)
- c. The right to reasonable advance notices and to be present at any formal discussion between one or more agency representatives and one or more bargaining unit employees concerning any grievance or other personnel policy or practices or other general condition of employment.
- d. The right to reasonable advance notice and to be present at any examination of a bargaining unit employee by an agency representative in connection with an investigation, if the employee reasonably believes the examination may result in disciplinary action against the employee and the employee requests union representation.
- e. The duty to refrain from conduct constituting unfair labor practices under section 7116 (b) of the statute.
- f. The Agency will recognize the Union President who normally will be the spokesman for the Union with the Agency under provisions of the agreement and the law.
- g. The Agency agrees to advise the Union prior to the reassignment or detail of any Union officials from one section to another or change of their tour of duty when possible.
- h. The Agency agrees to consult and negotiate with the Union in development of new and revised personnel policies and practices and matters affecting working conditions issued by the Agency. The Union shall be given a copy of the proposed issuance and if desired a briefing and 10 calendar days from receipt to make a response.
- i. The Union shall be given the opportunity to be represented at formal discussions concerning grievances, personnel policies and practices or other matters affecting general working conditions of employees in the unit.
- j. When questionnaires/surveys are to be filled out by the bargaining unit employees, whether initiated by the Agency or higher authority, the Union will be notified in advance and provided a copy of the questionnaire/survey when provided to the Agency or CPAC.
- k. The Union shall be given reasonable notice of all proposed or corrective actions affecting personnel policies, practices, and general working conditions of any employees in the unit.
- l. Union Training
  - 1) Employee officials or representatives of the Union may, upon written

request, be excused without charge to leave to attend training sessions provided that the subject matter of the training is of mutual concern to the Agency and the employee in the capacity as a Union representative. The Agency agrees to grant the Union a block of 40 hours per year, per Union representative, to train representatives. Such training will be on labor relation's matters that assist the Union in meeting its representational duties. Requests for training will be made in writing and must be received at least seven (7) workdays in advance to the Agency. Each request by the Union for training will not exceed four representatives per training session. Each request for training will include a copy of the training agenda and the names of the representatives that seek to attend. Normally, the representatives seeking to attend training will be allowed to attend, unless the mission of the 597<sup>th</sup> Transportation Brigade requires them to remain and work. If the agency is not able to approve the attendance of any Union representatives to any particular training session, the Agency agrees to make every effort to approve any future request for these individual representatives. The representatives that attend training are required to provide a letter or certificate of completion to the Agency when they return to duty or no later than thirty (30) workdays after their return when possible.

2) The Agency agrees to provide space where available to conduct Union sponsored training, provided that: (a) the Union requests space at least ten (10) days in advance of scheduling training; (b) the Union will be responsible for all housekeeping upon completion of training.

m. Pre-decisional policies. The Agency agrees to consult and negotiate with the Union in the development of new and revised personnel policies and practices and matters affecting working conditions issued by the Agency. The Union shall be given a copy of the proposed issuance and if desired a briefing and a reasonable time frame in which to make a response.

## **Article 6 – Representation Rights**

6.01a. Employees may contact their Union representative on duty time. Employees may also meet with their Union representative on duty time subject to supervisory approval and mission requirements. If mission requirements do not allow a meeting at the time requested, the supervisor will provide an alternate meeting time. If it is necessary for the employee to leave the building/work area to meet with the representative, the employee will be released from duties unless there is a pressing operational exigency.

6.01b. The employee may request representation if the employee reasonably believes, either prior to or during an examination, discussion or interview, that it could result in disciplinary action. In that case, a representative of the Union will be given an opportunity to be present at that examination, discussion, or interview. Once an employee chooses to exercise this right by requesting representation, no further questioning or action will take place until the employee's representative is present, provided no unreasonable delay occurs.

6.01c. It is agreed that the exclusive representative shall be given the opportunity to be represented at all formal discussions between the Agency and the employee concerning any grievance, or any personnel policy or practices or matters affecting general working conditions of employees. In this regard, the Agency agrees to notify the Union designee as far in advance of the formal discussion as reasonable. The Union's representative will be given the opportunity to ask questions on behalf of the employees and may make a brief statement as to the Union's position on the matter under discussion.

6.01d. In conducting investigations that may result in an adverse determination about an employee's rights, benefits and privileges, the parties are reminded that the Privacy Act requires that, to the greatest extent practicable, information should be collected first from the subject employee.



## **Article 7 - Allotments for Union Dues**

7.01. General. Upon request of employees, the agency will deduct union dues from employees' pay, on a biweekly basis, in the manner prescribed and subject to the conditions set forth in this article.

7.02. Requests for Payroll Deduction. Employees shall request allotments for union dues by executing and submitting Standard Form 1187 to the union. The union will execute Section A of the employee's SF 1187 and deliver the form to the Civilian Personnel Advisory Center (CPAC) (or other office or person designated by the agency), which will certify that the employee is a member of the bargaining unit. The employee's executed SF 1187 will then be delivered to the agency's payroll office for processing not later than 5 calendar days after the receipt by the CPAC.

7.03. Payroll Deduction. The effective date of the allotment will be the beginning of the pay period following the date the request is received in the payroll office, providing the request is received at least 7 calendar days in advance of the pay period. Any subsequent change in the employee's payroll deduction for union dues, for whatever reason, will be accomplished by means of a properly executed amended SF 1187. Unless sooner terminated on statutory grounds, allotments for union dues will continue indefinitely until cancelled in accordance with this article.

7.04. Changes in Dues Structure. Amount of dues will change based on written certification from the Union President. The written certification will be provided to the CPAC (or other office or person designated by the agency). Change of dues will be effective on the date stated in the letter certifying the change, providing notification is received in the appropriate payroll office 7 days prior to the effective date of the change. The change will be effective the first pay period following the notification.

7.05. Termination of Allotment on Statutory Grounds. Pursuant to section 7115 of the statute, an employee's allotment for union dues will terminate when the collective bargaining agreement between the parties ceases to be applicable to the employee or the employee is suspended or expelled from membership in the union. Neither the agency nor the union, however, shall be liable to the employee for any continuation of any allotments for union dues after a statutory termination event has occurred. The employee shall be principally responsible for notifying the agency to terminate the allotment on the applicable statutory grounds.

7.06. Employee Requests for Cancellations of Allotments. Employee authorizations for payroll deduction for union dues may be cancelled at one-year intervals only. For purposes of this article, this one-year period shall be the year ending July 31. An employee wishing to cancel an allotment for union dues after one year may submit a properly executed Standard Form 1188 to the agency payroll office between July 15 and July 31, annually. The effective date of the employee's cancellation will be the beginning of the second pay period in August. The initial cancellation "open period" for employees will be their one-year anniversary date. Employees' subsequent cancellation "open periods" will be the first

July 15-31 periods following the annual anniversary date of their individual allotment requests. Upon receipt, the payroll office will mail a copy of the SF 1188 to the union.

7.07. Payment and Union Dues Deduction Report

a. The Agency will make a remittance to the Union for amounts withheld on a biweekly basis. The remittance will be a single check or electronic funds transfer for the balance of the dues withheld and will be made payable to the Union.

b. The payment will be accompanied by a Union Dues Deduction Report containing:

- (1) Identification of the Union;
- (2) Total amount of the remittance;

c. Name of employee, date, the amount deducted, and an indication if it is a new allotment;

d. Names of employees for whom deductions previously authorized were not Taken with indication for reason; and

e. Total number of members for whom dues are withheld.

## **Article 8 -Logistical Support**

8.01. Office Space. The Agency will furnish the Union, without cost, heated and air-conditioned office space in a building located on the Fort Eustis Military Reservation. Such space may be used by the union to solely conduct representational business authorized by the Statute or the CBA.

8.02. Move to Alternate Office Space. Should it become necessary to relocate the Union to alternate office space, to the extent feasible, the new office space will be at least comparable to the office space from which the Union was required to move, and subject to review and coordination with the union prior to the move. The Agency will give the union not less than 30-days notice of the requirement to move. The Agency, at no cost to the union, will move the Union's office furniture and equipment to the new office space and will establish electrical power and telephone service provided pursuant to this article.

8.03. Office Furniture and Equipment. The Agency, without cost to the Union, will furnish the Union 2 desks, 2 computers, 2 telephones, 1 printer and 1 fax machine to make the Union office space functional for the authorized purpose. A Union representative (chosen by the Union President) will have access to their Union email account and work email account at both their assigned work station computer and the Union office computer. The Union may utilize Agency copiers to make a reasonable numbers of copies of documents for official labor-management relations purposes, including collective bargaining, grievances and third party proceedings. A Union representative will sign for and be pecuniarily liable for the office furniture and equipment provided pursuant to this article to the same extent an Agency employee would be liable under similar circumstances. The Union will be responsible for obtaining its own office supplies. Excepting ordinary wear and tear, the Union is responsible for all costs of maintaining, restoring, cleaning, securing, safeguarding and, as necessary, replacing any office furniture or equipment provided by the Agency. Upon reasonable notice, the Agency may periodically inspect the condition of the Agency provided office furniture and equipment and make an inventory, but not without prior approval of a Union President or their designee.

8.04. Telecommunication Services. Except as otherwise stated telecommunication services installed and provided by the Agency in accordance with this section will be without cost to the union. At the Fort Eustis Military Reservation, the agency will install a voice telephone line in the union office and provide "local access" and DSN service. The agency also will install an additional non-governmental, "commercial" voice telephone line in the union office at the Fort Eustis Military Reservation capable of providing "local access" and long distance service. The agency-provided fax machine will be connected to the "commercial" line. The agency will insure that all agency provided computers located in the union office have the capability to access the agency's computer network for the purposes specified in this article. The Agency-provided fax machine will be connected to the "commercial" line. The agency will insure that all agency-provided computers located in the union office have the capability to access the agency's computer network for the purposes specified in this article. The Union Representative will have the Union phone

number and their duty station phone number set up on phones in both the Union office and at their assigned duty location.

8.05. Meeting Space. The Union will have access to the Agency's on-line system for reserving conference rooms to conduct Union meetings and events in accordance with other Articles of this Agreement. The Agency will assist the Union in finding a suitable meeting location if the Union official need to meet with a bargaining unit employee(s) and the Union office is not available or does not provide adequate space. If the Union requires a space larger than the Agency has available, the Agency will coordinate with the Union to find space elsewhere on the installation.

8.06. Access to Agency LAN. Union officials may use the Agency's e-mail system to communicate with management officials, bargaining unit members and vice-versa. The Union also may post notices and material directed to employees on an electronic bulletin board on the Agency's intranet web page provided for this purpose. The Union Representative will have expanded email capacity but will to the extent possible use alternative means of storage such as CDs and folders to minimize space utilized on the network.

8.07. Bulletin Boards. The Agency will provide the Union, where possible, one bulletin board on each Agency occupied floor of the Agency's building for posting of official notices and other information directed to employees. The Union will be responsible for policing their bulletin boards.

8.08. Restrictions. Material posted on a bulletin board (including electronic bulletin boards) and sent using the Agency e-mail system may not be of a type that is:

- a. Likely to undermine good order, discipline or morale of the workforce or impedes the Agency's ability to perform its mission;
- b. Defamatory or derogatory with respect to any individual;
- c. Intentionally misstates or mischaracterizes facts or information known to the party posting the information; or
- d. Is no longer current or accurate.

8.09. New Employee In-Processing. The Agency will list the Union on the employee in-processing checklist provided to new employees at Fort Eustis, VA. The Union will be given the opportunity to participate in new Employee Orientations (on-site or via VTC) and will receive the same notification as other presenters for these activities.

8.10. Additional Supplies, Equipment and Services. The Union may not use any additional supplies, equipment, services or facilities to perform representational functions without the express permission of the agency except as otherwise stated in this article.

## Article 9 - Official Time

9.01. General. The Union President or his/her designee shall be authorized up to 50% official time to perform representational duties. Other Union officers and stewards shall be authorized a "reasonable" amount of time to perform representational duties. Before leaving their work area to perform representational duties, the Union officer or steward will request permission to perform the representational duties with their supervisor. An employee representative of the Union shall be authorized official time during the time he would otherwise be in a duty status. The use and amount of official time authorized for the Union President shall be subject to review by either the Agency or the Union, each time there is a new SDDC 597<sup>th</sup> Transportation Brigade Commander. This review and any subsequent revisions must be made within 120 days of the new Commander's official arrival at SDDC 597<sup>th</sup> TBDE. Official time will be authorized for the following purposes:

- a. To prepare for and attend meetings with the agency.
- b. To investigate, prepare, and present employee grievances.
- c. To investigate, prepare, and present union grievances.
- d. To receive, investigate, and prepare responses to agency grievances.
- e. To represent unit employees in disciplinary and adverse action proceedings.
- f. To participate in periodic union/agency meetings, panels, and committee meetings.
- g. To represent employees during investigatory meetings when requested by the employee.
- h. To prepare for third party proceedings in a representational or witness capacity.
- i. For administration of the CBA.
- j. Other representational functions as permitted by law.

9.02. Accountability for Official Time. Union representatives will request and receive permission to be released from work on official time to perform representation business by submitting an official time request (Appendix A) to their immediate supervisors. Supervisors will not unreasonably deny the union representative's request. Official time that has been requested shall not be denied except for workload emergencies for which alternative employees are not available. Before official time is disapproved, supervisors shall consult with CPAC. In the event the union official's request is denied, an explanation will be provided and the union official will be offered an alternative time not later than the close of business the following workday, unless precluded by mission requirements. The union official will be given a reasonable amount of time to inform the impacted bargaining unit employee of the delay and the new scheduled meeting time.

9.04. Internal Union Business. Activities relating to internal union business (including solicitation of new members, elections of union officials, collection of dues, responding to media and the general public inquiries, maintaining records and preparing Union reports required by federal agencies) shall be performed during the time union employee representatives are in a non-duty status.

9.05. Coordination. Before a union representative may meet with an employee or

otherwise enter a work area to conduct representation business during duty hours, the union representative will coordinate with the work area manager or supervisor. The representative or employee will advise the supervisor of the need to meet and the estimated duration of the meeting. The Union's request to meet will be scheduled in a timely manner subject to mission requirements. Union representatives will not drop by a management official or supervisor's office or work area unannounced to conduct representation business, but first shall schedule an appointment with the management official/supervisor. The Union's request to meet will not be unduly delayed. Upon request, more than one Union official may be present during an investigation or formal meeting with an employee. Management officials/supervisors, likewise, will not drop by a union official's office or work area, unannounced, to conduct labor-management relations business, but first will schedule an appointment with the union official. Management's request to meet will not be unduly delayed. Management and union officials will conduct representation or labor-management relations business in employee work areas in a professional non-disruptive manner.

## **Article 10- Changes in Conditions of Employment**

10.01. Reasonable Notice. Except for actions that may be necessary to carry out the agency mission during emergencies in accordance with section 7106 (a) (2) (D) of the statute, the agency will provide the union reasonable notice of any change in a condition of employment of bargaining unit employees that is subject to collective bargaining. The notice will include sufficient information to enable the union to assess the likely impact of the proposed change on bargaining unit employees. The Agency will not communicate with employees regarding changes and conditions of employment without sufficient advance notice to the Union and fulfillment of its statutory and contractual obligations. The Agency will notify the Union within 10 days of any change in a condition of employment of bargaining unit employees that is subject to collective bargaining.

10.02. Request for Meeting. Within the 10-day notice period, the union may request a meeting with the agency to discuss or negotiate the change, whichever is appropriate. If the union requests a meeting, the parties will meet within 5 working days from the date of the union's request.

10.03. Written Counter-proposals. If the union wishes to negotiate the proposal, the union must so state in writing, identifying the specific issues it wishes to negotiate and shall furnish the agency written counter-proposals. The parties will meet within 10 working days of the union's request.

10.04. Implementation. If the union does not request a meeting within the 10-day notice period, the agency may proceed to implement the proposed change on or after the scheduled implementation date specified in the notice.

10.05. Designated Points of Contact. The parties will designate in writing an official point of contact to which notices specified herein are to be made.

10.06. Delivery of Notice. Written notice on the designated point of contact may be accomplished by personal delivery, courier service, email, fax or mail.

10.07. Past Practices. It is further agreed and understood that any existing conditions of employment, working conditions, or personnel policies and practices which have been mutually acceptable to the parties which are not specifically covered by this Agreement shall not be changed until negotiated by both parties.

## Article 11 – Release of Information

11.01. Release Incident to Collective Bargaining. Pursuant to section 7114 (b) (4) of the statute, incident to collective bargaining, upon the request of the union, and to the extent not prohibited by law, the agency will furnish the union's designated representative data that is (a) normally maintained by the agency in the regular course of business, (b) which is reasonably available and necessary for full and proper discussion, understanding and negotiation of matters that are negotiable under the statute or the CBA and (c) which does not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining. The union shall request information in writing from the Civilian Personnel Advisory Center (CPAC). Such data will be furnished to the union without charge.

11.02. Release for Other Purposes.

a. The Agency/CPAC agree to provide the Union lists of employees who have left the bargaining unit and the reason (i.e. promotion, retirement, resignation etc.) and new bargaining unit employees per Union request.

b. The union also may request release of information pursuant to any law (e.g., Freedom of Information Act), rule, regulation or procedure requiring or permitting release of documents, data or other information for which the agency is the legal custodian.

c. The Agency/CPAC agrees to furnish the Union a complete and up to date listing of employees in the unit per Union request. Each such listing shall include the name, work location and occupational code of each employee.



## **Article 12 - Employee Training and Development**

12.01 General. Training and development of employees to better perform the duties and responsibilities of their current position or enhance the agency's ability to perform its mission while improving employee job satisfaction and morale may be approved. Employee training and development will be administered in accordance with law and regulations.

12.02. Training Opportunities. The agency will assist employees in locating training and distributing information relating to pertinent training and career development opportunities. With input from employees, the agency will endeavor to provide employees on-the-job training and formal job-related classroom training, and informal job related training (e.g. internet based and correspondence) to assist them in improving their ability to perform the requirements of their respective positions. Approval and attendance of all training will be contingent upon the availability of budgetary resources.

12.03. Training Assignments. The agency has the right to determine its training needs and may assign employees to perform such training, as the agency deems necessary or appropriate.

12.04. Training Committee. The Agency and the Union may jointly establish a Command Training Committee to consider training opportunities and discuss training needs of employees. The Union President or his designee may have membership on the Command Training Committee to provide recommendations regarding training, but will be excluded from any internal management deliberations and will not be involved in making determinations as to the assignment of training.

## **Article 13 - Merit Promotion**

13.01. General. It is the policy of the agency to assure positions are staffed on the basis of merit and fitness, without regard to political or religious affiliation, marital status, race, color, sex, national origin, non-disqualifying physical handicap or age and are based solely on job-related criteria. Promotion and placement of employees within the agency will be accomplished in accordance with applicable regulations (including the applicable merit promotion and placement plan and supplements) and this article. Selection of an employee for promotion will be based on merit factors, candidate priorities established by law or regulation and job qualifications, including the candidate's knowledge, skills, and abilities (KSAs). Qualification requirements shall be established in accordance with applicable regulations.

a. The Agency and the Union recognize their obligation to assist competent, motivated Employees who have the potential for advancement but have not met the qualification standards for higher level positions.

b. The Agency will consider establishing new career ladders on an annual basis at the beginning of the fiscal year to afford opportunities for Employees to transition to new career fields or from clerical to technical and technical to specialist fields.

c. The Agency will consider providing training programs in support of Employees selected to participate in Upward Mobility opportunities. The training will be directed towards providing the knowledge and skills required by the targeted positions.

d. Selections will be made in accordance with current SDDC Command Hiring Policy and any subsequent revisions.

13.02. Vacancy Announcements. Vacancy announcements will be accessible through the agency's web page and at the CPAC. If the Agency's website is down for an extended period of time, the Agency will ensure announcements are made available to employees through some other means and may extend the closing date of the announcements. Employees will notify their supervisors in writing about specific job vacancies (title, series, grade, location) for which they are interested in applying during an absence from duty. Announcements will state the minimum qualifications and any special requirements, and may not be tailored for any specific employee or applicant. Following return of a referral list, for periods in accordance with appropriate regulations, subsequent vacancies in the same title, series and grade and with the same qualification requirements may be filled from this referral list.

13.03. Employee Responsibility. Employees are responsible for ensuring their resume is accurate and current.

13.04. Priority Consideration. Priority consideration will be given to candidates who were adversely affected by a competitive promotion action resulting from a procedural, regulatory or program violation. Priority consideration means the candidate is to be considered for a job non-competitively before other candidates. Priority consideration may be granted only once each time proper consideration in a competitive promotion action was not given. Priority consideration will be for the next appropriate vacancy to make up for consideration lost. The next appropriate vacancy is one that is a similar type of position, in

the same pay system as the position for which the candidate failed to receive proper consideration and at the same grade level, with no higher potential than the position for which consideration was lost.

13.05. Re-promotion. The agency is responsible for providing placement assistance to its employees who have been affected by an adverse action not for personal cause. Employees who have been involuntarily demoted for reasons such as reduction in force (RIF), correction of classification error, return from overseas; declination of transfer with function or other adverse action not for personal cause, will be entitled to priority consideration for re-promotion to a vacant position. Current employees who have been involuntarily demoted and who are receiving grade, pay, or salary retention benefits will be granted mandatory re-promotion consideration as long as their retention benefits continue. Re-promotion consideration will be provided in accordance with the applicable re-promotion program policies.

13.06. Detail/Temporary Promotion. A detail is the temporary assignment of an employee to a different position or set of duties for a specified period. The agency will distribute noncompetitive details equitably among employees with consideration being given to such factors as availability, organizational location of employees and knowledge of the particular type of work involved. A selecting official will not make a selection based solely upon the fact that an employee has been detailed to the vacancy. Employees placed on details will be provided beginning and projected ending dates. When an employee is detailed to (and qualified for) an established position of a higher grade, and the assignment exceeds 60 days, use of a temporary promotion instead of a detail is encouraged.

13.07. No Discrimination. Identification, qualification, evaluation and selection of candidates will be based solely on job-related criteria and will be made without regard to the candidate's political or religious affiliation, marital status, race, color, sex, national origin, non-disqualifying physical handicap or age.

13.08. Committee. The agency and the Union may jointly establish a Committee to review Merit Promotion process effectiveness.

## **Article 14- Equal Employment Opportunity**

14.01. EEO Policy. It is the policy of the agency to provide employees equal employment opportunity, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age or handicap and to promote the full realization of equal employment opportunity through a continuing affirmative program to identify and eliminate discriminatory policies, practices and working conditions. The agencies will carefully, justly and expeditiously consider and adjudicate discrimination complaints. The agency will attempt to make reasonable accommodation for qualified handicapped employees in accordance with AR 690-600 and other applicable laws and regulations. The union pledges full support for the agency's affirmative program.

### 14.02. Complaints.

a. An employee who believes that he has been discriminated against for unlawful reasons may raise the matter under the Department of the Army EEO complaint procedures (AR 690-600 or other regulations) or the negotiated grievance procedure (NGP), but not both. For the purpose of this section and pursuant to section 7121 (d) of the statute, an employee shall be deemed to have exercised his option at such time the employee timely initiates an action under one of the two procedures. Selection of the negotiated grievance procedure in no manner prejudices the right of the employee to obtain Merit System Protection Board (MSPB) or, when applicable, Equal Employment Opportunity Commission (EEOC) reviews of the final decision, as provided by governing statute. Nothing in this agreement will be construed to constitute a waiver of any further appeal or review right provided by statute.

b. A complainant has the right to be accompanied, represented and advised by a representative of his choice during counseling or at any stage of the complaint procedure. The representative, designated in writing by the complainant, will have the same access to information as the complainant. A reasonable amount of official time will be authorized to employees and employees' representatives, who otherwise would be in a duty status to participate in the complaint process.

14.03. Joint Committee. The parties may establish a committee as a forum for discussing joint labor-management initiatives or projects for enhancing promotion and employment opportunities for employees and for identifying and eliminating policies, practices or working conditions that cause or encourage discrimination complaints. Such committee, however, shall not involve itself with particular employee discrimination complaints processed under the NGP or the agency EEO complaint processing procedure.

14.04. Alternative Dispute Resolution (ADR). It is the policy of the agency and the union to jointly promote and utilize ADR methods and techniques whenever possible to resolve EEO complaints, during both the pre-complaint and formal complaint process.

## Article 15 - Performance Evaluation

15.01. General. Employee performance will be evaluated in accordance with the Army's performance evaluation system and applicable regulations. Evaluations will be made fairly and objectively. The employee's signature on the evaluation form only indicates that he has received the evaluation and does not necessarily reflect agreement with the evaluation.

15.02. Performance Review Discussions. Performance review discussions between the employee and the employee's supervisor should be held as often as necessary to enable the supervisor to assess the employee's work and help improve the employee's performance during the rating period, if necessary. If an employee's performance needs improvement, a written counseling will be given prior to a Performance Improvement Plan (PIP) being issued. Performance review discussions will be held at the midpoint of the employee's annual rating period and at other times prescribed by applicable regulations.

15.03. Performance Objectives. Performance objectives will be identified and performance standards established for each individual employee's position and set of duties, and will be used as a basis for evaluating the employee's performance. Employees are encouraged to participate in identifying performance objectives and performance standards for their particular positions. The agency, however, is empowered to establish critical objectives and performance standards for all agency positions and employees.

15.04. Grievances. Employees dissatisfied with their performance rating may grieve under the Negotiated Grievance Procedure (NGP). Performance rating grievances will be initiated at the level of the rater.

15.05. Performance Improvement Plan. A written Performance Improvement Plan (PIP) identifying the employee's performance deficiencies, the successful level of performance, and the action(s) that must be taken by the employee to improve to the successful level of performance, the methods that will be employed to measure the improvement, and any provisions for counseling, training, or other appropriate assistance will be given to the employee when the employee's performance fails to meet success level. The goal of this PIP is to return the employee to successful performance as soon as possible.

a. The PIP will provide a reasonable period of time for the employee to achieve successful performance.

b. At any time during the PIP period, the supervisor may conclude that the employee's performance has improved to the Successful level and the PIP can be terminated. In that event, the supervisor will notify the employee in writing.

15.06. Unsatisfactory Performance.

a. If the employee fails to improve performance during the PIP, the Agency will consider reassignment or change to lower grade as an alternative to removal provided appropriate vacancies exist. One of the following actions may be pursued:

(1) When the employee is capable of performing another position of the same

grade, the supervisor may propose to reassign the employee to such a position.

(2) When the employee is not capable of performing any position at the same grade but is capable of performing a position at a lesser grade, the supervisor may propose a demotion to a position at the next lower grade.

(3) If neither (1) nor (2) above is feasible, the supervisor may propose a removal or demotion to a lesser grade.

b. An employee whose reduction in grade or removal is proposed for unacceptable performance is entitled to:

(1) 30 days advance written notice of the proposed action, which identifies the specific basis (i.e., the critical job duties and responsibilities) for the proposed action including specific instances of unacceptable performance.

(2) A representative. The employee must inform the deciding official, in writing of the representative's name.

(3) A reasonable time, not to exceed 20 calendar days, to answer orally and in writing.

c. The decision to retain, reduce in grade, or remove an employee shall be made within thirty (30) days after the date of expiration of the notice period and will be concurred with by a higher level supervisor, unless the action is proposed by the Commander. The employee will be given a written decision which:

(1) Specifies the instances of unacceptable performance on which the decision is based; and

(2) Specifies the effective date and, the action to be taken and the employee's right to appeal the decision.

d. The employee may appeal to either the Merit Systems Protection Board in accordance with applicable law, or grieve the decision under the provisions of the Negotiated Grievance Procedure (NGP). The choice of grievance forum is irrevocable. An employee shall be deemed to have exercised the appellate option at such time as the employee timely initiates an appeal under the statutory procedure or NGP.

15.07. Resolution of Disagreements. Employees are expected to seek informal resolution of disagreements with their supervisors concerning performance ratings. A grievance may be filed only after a performance rating has been completed, reviewed, approved, and communicated to the employee. If it is alleged that the overall performance rating has been incorrectly computed, this should be reviewed and corrected, if appropriate, by management. Employees dissatisfied with their performance rating may grieve under the NGP. Performance rating grievances will be initiated at the level of the rater.

15.08. Electronic Performance Management System. The Agency and Union agree that prior to implementation of an Electronic Performance Management System (EPMS), the parties will negotiate impact and implementation.

## **Article 16- Incentive Awards**

16.01. General. The purpose of the Incentive Awards program is to recognize excellence on the part of employees in helping the agency to perform its assigned mission, thereby motivating them and their fellow employees to strive for even higher levels of excellence and dedicated service.

16.02. No Discrimination. Incentive awards will be given solely on the basis of merit, without regard to any candidate's political or religious affiliation, sex, race, color, national origin, marital status, or physical or mental handicap. The agency will give full and fair consideration for monetary or honorary awards to any employee meeting the minimum criteria for awards.

16.03. No Entitlement. Employees meeting the minimum criteria for awards, while entitled to full and fair consideration, do not have an entitlement to any particular monetary or honorary award.

16.04. Incentive Award Committee. The Agency and the Union Representative may jointly establish a Command Incentive Award Committee charged with ensuring that incentive awards are fairly distributed. The Union President or designee shall have full voting membership on the Command Incentive Awards Committee involving bargaining unit members only.

## **Article 17 - Scheduling of Work**

17.01. Assignment of Work. The agency may determine who will perform the work, when the work will be performed, establish the qualifications and skills needed to perform the work and decide whether a particular employee is qualified to perform the work. The agency, however, will give the union notice of any impending changes in working conditions related to assigning work and, upon request, will negotiate their impact and implementation. The agency, in order to carry out its mission, also has the right to vary tours of duty and to change an employee's scheduled hours of duty.

17.02. Establishing Work Schedules. Except when the agency determines that it would be seriously handicapped in carrying out its functions or that costs would be substantially increased, the agency will observe the following general rules in establishing employees' work schedules:

- a. Tours of duty will be assigned at least one week in advance.
- b. The basic work week shall be Monday through Friday. Exceptions may occur when mission requirements make it necessary to temporarily include Saturdays or Sundays as part of the basic work week for certain employees. This section is not intended to preclude regular Saturday or Sunday scheduling for certain functions that require seven-day-a-week operations.
- c. Working hours will be set in a consistent manner.
- d. The workday may not exceed eight hours (without employees incurring overtime pay entitlements) unless the employee is covered by an alternate work schedule.
- e. The occurrence of holidays may not affect the designation of the basic work week.
- f. For employees on a flexible work schedule, the core hours for regular day shifts will be 0900 to 1500 hours. There will be core hours on five days each week. The Parties will negotiate locally to set core hours for shifts other than regular day shift.
- g. The flexible band during which employees may begin their work day, with supervisory approval is 0600 to 0900. The flexible band during which employees may end their work day is 1430 to 1730.
- h. Recognizing the uncertainties of daily life and the realities of commuting, employees will be permitted to occasionally arrive up to 30 minutes late without penalty provided the time is made up within the same workday.

17.03. Changes in Work Schedules

a. An employee's regularly scheduled administrative work week will correspond with his actual work requirements. If a manager or supervisor knows in advance that an employee's administrative work week will differ from the normal tour of duty, the manager will reschedule the employee's administrative work week to correspond with the specific days and hours the employee is expected to work. The manager or supervisor will inform the employee of the change and record the change on the employee's time card. If a determination is made that the manager or supervisor knew in advance that a period of work should have been scheduled as part of an employee's administrative work week, and failed to do so, the employee will be compensated in accordance with applicable



law.

b. The following procedures will be used when work schedule changes involve more than one employee:

(1) The agency will request qualified volunteers. When more employees volunteer than are needed, selection will be based on service computation date. Seniority in the work unit will be used to break ties.

(2) When there are insufficient qualified volunteers, the agency will establish a rotation based on service computation date. Seniority in the work unit will be used to break ties.

c. Decisions to change the work schedules of union officials (accept the Union President) will be based on mission requirements. The agency will provide the union the mission requirement reasons for changing work schedules.

17.04. Kinds of Work Schedules. The agency, in accordance with law, regulations and the CBA, may establish the following kinds of work schedules:

- a. Compressed Work Schedule
- b. Flexible Work Schedule
- c. Flexi tour
- d. Maxi flex
- e. Credit Hours

17.05. Definitions

a. Administrative work week means the period consisting of seven consecutive days beginning on Sunday at 0001 hours and ending on Saturday at 2400 hours.

b. Adverse Agency Impact is the condition for which the Agency may cancel an alternative work schedule, or exclude some positions or employees from any particular alternative work schedule. Adverse agency impact means a reduction of the productivity of the Agency, a diminished level of services furnished to the public by the Agency, or an increase in the cost of Agency operations (other than a reasonable administrative costs relating to the process of establishing a flexible or compressed schedule).

c. Alternative work schedule (AWS) means both flexible and compressed work schedules.

d. Basic work requirement means the number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off or time off as an award. For full-time employees, the basic work requirement is 80 hours per biweekly pay period. A part-time employee's basic work requirement is the number of hours the employee is scheduled to work in a biweekly pay period.

e. Biweekly pay period means the two-week period for which an employee is scheduled to perform work.

f. Compressed work schedule (CWS) means:

(1) In the case of a full-time employee, an 80-hour biweekly basic work requirement that is scheduled by the Agency for less than 10 workdays; and

(2) In the case of a part-time employee, a biweekly basic work requirement of less than 80 hours that is scheduled by the Agency for less than 10 workdays and that may

require the employee to work more than eight hours in a day.

g. Core hours means the time periods during the workday, work week or pay period that is within the tour of duty during which an employee covered by a flexible work schedule is required to be present for work.

h. Credit hours means those hours within a flexible work schedule that an employee elects to work in excess of his or her basic work requirement so as to vary the length of a workweek or workday.

i. Flexible hours (or "flexible time bands") means the times during the workday, workweek or pay period within the tour of duty during which an employee covered by a flexible work schedule may choose to vary his or her times of arrival to and departure from the work site consistent with the duties and requirements of the position and within the limits set by this Agreement.

j. Flexible work schedule (FWS) means a work schedule established under 5 U.S.C. § 6122, that:

(1) In the case of a full-time employee, has an 80-hour biweekly basic work requirement that allows an employee to determine his or her own schedule within the limits set by this Agreement; and

(2) In the case of a part-time employee, has a biweekly basic work requirement of less than 80 hours that allows an employee to determine his or her own schedule within the limits set by this Agreement.

k. Flexi tour means a type of flexible schedule in which an employee is allowed to select starting and stopping times within the flexible hours. Once selected, the hours are fixed until the next opportunity to select different starting and stopping times under this Agreement.

l. Maxi flex Schedule means a type of flexible work schedule that contains core hours on fewer than 10 workdays in the biweekly pay, and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established by this Agreement.

m. Tour of duty means the hours of a day and the days of an administrative work week that constitute an employee's regularly scheduled administrative work week. Tour of duty under a *flexible work schedule* means the limits set by this Agreement within which an employee must complete his or her basic work requirement. Under a *compressed work schedule* or other *fixed schedule*, tour of duty is synonymous with basic work requirement.

n. Compressed Work Schedule

(1) A full time employees working a compressed schedule under this article who are relieved or prevented from working on a day designated as a holiday will receive their regular rate of basic pay for the number of hours of the compressed work schedule on that day.

(2) A full time employee working a compressed schedule who performs non-overtime work on a holiday is entitled to his or her rate of basic pay plus premium pay equal to his or her rate of basic pay (double time) for the work that is not in excess of the employee's compressed work schedule for that day.

(3) A part time employee working a compressed schedule who performs work

on a holiday is entitled to holiday premium pay only for work performed during his or her compressed work schedule.

(4) Employees must not be required to move their regularly scheduled days off solely to avoid payment of holiday premium pay or reduce the number of holiday hours included in the basic work requirement.

o. Night Work

(1) General Schedule employees working a regular schedule (neither flexible nor compressed) are entitled to a night shift differential equal to 10% of their regular rate of pay for regularly scheduled work between the hours of 6:00 pm and 6:00 am

(2) General Schedule employees working a flexible schedule under this article are entitled to a night shift differential equal to 10% of their regular rate of pay for regularly scheduled work between the hours of 6:00 pm and 6:00 am that are worked in order to complete an 8-hour tour of duty.

(a) An employee working a flexible or compressed schedule is not entitled to night differential for hours worked if his or her tour of duty includes eight (8) or more hours during daytime hours (i.e., between 6:00a.m. and 6:00p.m.), even though the employee voluntarily elects to work during the hours for which night differential is normally required (i.e., between 6:00 p.m. and 6:00 a.m.).

(b) However, an employee is entitled to night differential for any non-overtime work performed during 6:00 p.m. and 6:00 a.m. during designated core hours.

(c) No employee may receive night differential pay when engaged in training, except when the training takes place during hours in that employee's regular tour of duty that otherwise qualify for night differential.

p. Sunday Work

(1) A full time employee working a regular, flexible, or compressed schedule under this article, who performs regularly scheduled non-overtime work, a part of which is performed on a Sunday is entitled to pay at their regular rate of pay plus premium pay at a rate equal to 25% of their rate of basic pay for the entire daily tour of duty, not to exceed 8 hours.

(2) A full time employee working a flexible schedule under this article is entitled to Sunday premium pay for the entire daily tour of duty, up to 8 hours, based upon electing to work any flexible hours on a Sunday.

17.06. Shift Work

a. When the accomplishment of the Agency's mission require there to be more than one shift over the course of a day, the Agency will determine which positions are required to be on duty for more than one shift. The Agency will make every effort to establish permanent fixed shifts prior to establishing a rotating schedule.

b. Employee will not be scheduled to work more than two (2) of the established work shifts (days, evenings, or nights) within any seven (7) consecutive day periods.

c. Except in emergencies, employees will not be required to report to work, unless they have had at least 12 hours off-duty time between work tours. Exceptions may be made with the approval of the employee and supervisor. This will not preclude work on an overtime basis.

d. Scheduled off-tours will be rotated fairly and equitably among affected

employees, i.e., day/evening, day/night.

e. Rotation of weekends and holidays will be on a fair and equitable basis within a group. The weekends are defined as Saturday and Sunday and may be expanded to include Friday or Monday when scheduling permits.

f. Records of weekend and off tours will be kept by management to ensure fair and equitable treatment of employees. These records will be readily available for review.

g. Employees may state their preference for initial tour assignments. Conflicts will be resolved by seniority (service computation date).

17.06.1 Adjustment of Work Schedules For Religious Observances. Adjustments for changes to an employee's work schedule will be approved in accordance with Leave for Religious Purposes Article of this Agreement.

17.07. Meal Periods.

a. Full-time employees shall be granted, on a non-paid basis, a meal period, scheduled at or near the mid-point of the shift or tour of duty, of at least one-half hour each workday.

b. Upon an employee's request and with the supervisor's approval, a meal period of up to one hour may be granted. During this time employees will be off duty and in a non-pay status

c. When a normal, scheduled meal period is not feasible within a shift, a 20-minute working *meal* period shall be permitted and considered as hours worked for pay purposes, as long as the employee is required to remain at the work site.

d. If an employee is directed to work during his or her lunch hour, they will be paid during that period.

e. Employees may volunteer to work at their desk during their lunch period with agreement from the supervisor; they will be entitled for pay during that period.

17.08. Breaks. Breaks are hours of duty and may not be accumulated for later use. Breaks may not be used to begin or end the workday.

17.09. Time Keeping. Employees will self-certify their arrival and departure times, as well as any other exceptions to the normal work day.

17.10. Alternative Work Schedules. The parties recognize that the use of alternative work schedules can improve productivity and morale and provide greater service to the public. Therefore, all alternative work schedules in this Agreement will be made generally available to all employees in the bargaining unit. However, because of the nature of work performed employees in some positions and in some organizational units may not be eligible for alternative work schedules. In these cases, employees will be required to revert to a traditional, fixed, eight-hour schedule.

17.11. Work Schedule Options. All eligible employees may work one of the following alternative work schedule options (flexible and compressed) to fulfill their basic work requirement:

a. Flexi tour. Employees working a flexi tour are required to work during the core hours established in 17.02 of this article each day. They may choose starting and quitting times within the period stated in 17.02 of this Article. They will work eight (8) hours each work day, for a total of 80 hours each biweekly pay period, exclusive of the meal period provided in section 17.07 of this article.

b. Maxi flex Schedule. Employees working the maxi flex schedule are required to work during the core hours established in section 17.02 of this article at least five days each week. Note, this minimum is set in section 17.02 of this article. They vary the number of hours worked on a work day or in a work week, provided they have a *total* of 80 hours each biweekly pay period, exclusive of the meal period provided in section 17.07 of this article.

c. 5/4-9 schedule is a type of compressed work schedule in which a full-time employee works eight, nine-hour days and one, eight-hour day for a total of 80 hours in a biweekly pay period, exclusive of the meal period provided in section 17.07 of this article. Part time employees will fulfill their work requirement, as established in their appointment, over a 9-day biweekly pay period. The Parties will negotiate the number of hours a part time employee must work each day, based on the particular part time appointment.

d. 4-10 schedule is a type of compressed work schedule in which a full time employee must work 10 hours a day, 40 hours a week and 80 hours a biweekly pay period, exclusive of the meal period provided in section 17.07 of this article. Part time employees will fulfill their work requirement, as established in their appointment, over a 9-day biweekly pay period. The Parties will negotiate the number of hours a part time employee must work each day, based on the particular part time appointment.

#### 17.12. Requests for alternative work schedules:

a. An employee who requests a flexible work schedule must indicate which schedule he or she is requesting. Employees who request flexible schedules must select starting and stopping times within the flexible time bands, in accordance with section 17.02 of this article.

b. Requests must be submitted to an employee's supervisor for approval. Once these times have been selected, the employee will not be allowed to vary these times until a new request is submitted and approved.

c. Employees who are in training or at a temporary duty station may be required to revert to a fixed, eight hour day for the duration of the pay period during which temporary duty or training occurs.

d. Employees temporarily assigned to other parts of the organization within the bargaining unit will continue working under their AWS schedule.

e. The supervisor may only deny or propose to terminate an employee's request for participation in a particular alternative work schedule if the supervisor determines adverse agency impact. When a supervisor denies a request for an established alternative work schedule or proposes to terminate an employee's participation in an alternative work schedule, he or she will notify the employee in writing, provide the basis for the denial or termination and provide an alternate schedule to the employee. Denials of requests to work alternative work schedules will not be arbitrary or capricious. An employee may challenge a supervisor's denial or termination as set forth in Article 39, Grievance Procedure, of this

Agreement.

17.13. Suspension of Alternative Work Schedules

a. Temporary Suspension of Individual AWS. Occasions may arise when alternative work schedules must be temporarily suspended as a result of unusual workload or operational demands. The Agency shall make every reasonable effort to avoid suspension of an employee's participation in these work schedules. If the circumstances requiring a suspension permit, the Agency will provide the employee with advance notice of at least one pay period. The Agency will limit the suspension to as short a time frame as necessary to meet the workload or operational demands. If an employee's flexible work arrangement is suspended, it will automatically be restored as soon as possible after the reason for the suspension needs have been met. For the purposes of this Agreement, "temporarily suspend" is defined as a period of 14 days or 1 pay periods. If the Agency believes that the "temporary suspension will extend past this period, prior to the end of the period, and any subsequent periods, the Agency will notify the Union. Alternative work schedules cannot be suspended for an indefinite period. Decisions on temporary suspension of AWS for any employee will not be arbitrary or capricious.

b. Procedures for Terminating Alternative Work Schedules. If the Commander of the Agency finds that a particular AWS schedule has had an "adverse Agency impact," the Agency must promptly determine not to continue the schedule by providing proper notice to the Union of its desire to reopen the Agreement to seek its termination. If an impasse results, the dispute will go to the Federal Service Impasses Panel, which will determine within 60 days whether the agency's determination is supported by evidence. If it is, the Panel must act in favor of the Agency. The AWS schedule may not be terminated until agreement is reached or the Panel acts.

17.14.. Credit Hours

a. Employees who work flexible schedules (flexi tour or maxi flex) may earn credit hours subject to supervisory approval. Employees who are in designated fixed schedule positions and employees who work compressed work schedules are not eligible to earn credit hours.

b. Employees must request to work credit hours in advance. The request will be approved or denied by the supervisor as soon as possible. Upon request of the employee, the earning of credit hours may be approved retroactively where the circumstances warrant (e.g., where it was impractical for the employee to obtain advance approval).

c. If credit hours are approved and overtime is subsequently made available prior to the working of the credit hours, the employee will be afforded the opportunity to elect to work the overtime.

d. Eligible employees will be authorized to earn up to 3 credit hours per day, and up to 30 credit hours per pay period, provided that there is work available for the employee and it can be performed at the requested time(s).

e. Credit hours may be earned and used in 1/2-hour increments.

f. Full-time employees may accumulate and carry over from one pay period to another a total of no more than 24 credit hours. Part-time employees may accumulate and carry over from one pay period to another a total of no more than 4 of the hours in the biweekly basic work requirement. A full-time employee who has accumulated more than

24 credit hours (or a part-time employee who has accumulated more than the maximum allowed) is subject to forfeiture of the excess credit hours if they are not used prior to the end of the pay period.

g. The use of credit hours will be subject to the same criteria as annual or sick leave. An employee may use earned credit hours for all or any part of any approved leave. Credit hours must be earned before they may be used.

17.15. Temporary Assignments and AWS Schedules. Employees temporarily assigned to other parts of the organization within the bargaining unit will continue working under AWS schedule subject to the supervisory approval in the organization to which they are temporarily assigned.

## Article 18 - Overtime

18.01. General. Employees directed to perform overtime shall be paid overtime compensation or other premium pay, or compensatory time off, as prescribed by law and regulations. Overtime for "non-exempt" employees is governed by the Fair Labor Standards Act (FLSA). Overtime for "exempt" employees is governed by 5 U.S.C 5542. One quarter of an hour is the minimum period of overtime that may be authorized. All employees are subject to being assigned overtime work. Nothing in this article will limit the agency's right to assign overtime work to any employee in order to carry out the agency's mission. Overtime will not be distributed or withheld as a reward or penalty.

18.02. Notice. The agency will notify affected employees as soon as practicable after overtime requirements become known. In cases of unscheduled or emergency overtime, it is recognized that little advance notice may be possible because of unforeseen mission requirements. If overtime is to be performed on a holiday, to the maximum extent possible, the Agency will normally give the affected employee at least one-day advance notice except in cases of unforeseen mission requirements. The agency will give favorable consideration to the request of an employee to be excused from an overtime assignment for personal reasons, provided there is another qualified employee willing to work in his place. Excused overtime, for whatever reason, will be considered as overtime hours worked for the purpose of determining the equity of overtime distribution among employees.

18.03. Overtime Records. Individual work units will maintain records showing all overtime worked or excused in accordance with this article. Union representatives may review the records upon request.

### 18.04. Overtime Pay

a. Overtime pay for FLSA non-exempt employees is equal to one and one-half times the employee's hourly rate of pay.

b. Overtime pay for FLSA exempt employees is equal to one and one-half times the employee's hourly rate of pay. 5 USC 5542(a). If the employee's rate of pay exceeds the minimum applicable rate for a GS-10 step 1, including locality pay, or any applicable special rate of pay, the overtime rate is the greater of:

- (1) 1 1/2 times the applicable minimum hourly rate of basic pay for GS-10, or
- (2) The employee's hourly rate of basic pay.

### 18.05. Types of Overtime

a. Regular Overtime. Any overtime work scheduled and approved in advance of the administrative work week as part of an employee's regularly scheduled work week is considered regular overtime. An employee shall be compensated for regular overtime work in 15 minute increments. Compensation will be paid overtime or comp time in accordance with applicable rules and regulations.

b. Irregular or Occasional Overtime. Overtime work that was not scheduled in advance of the administrative workweek and made a part of an employee's regularly



scheduled workweek is considered irregular or occasional overtime. An employee shall be compensated for irregular or occasional overtime work in 15 minute increments. Compensation will be paid overtime or comp time in accordance with applicable rules and regulations.

c. If overtime is required at the end of the regular work shift an employee will be allowed a fifteen minute break for each additional two (2) hours beyond the normal duty schedule. An employee may take these breaks when reasonable, but based on agency needs.

d. Call Back. When it is necessary for employees to return to work outside of their scheduled work hours to perform unscheduled overtime work, they shall be paid a minimum of two (2) hours overtime. Employees called back to work outside of their basic workweek shall be immediately excused upon completion of the task they were called in to perform unless additional specific tasks have developed and the employee possesses the necessary skills to accomplish the tasks.

#### 18.06. Distribution.

a. Employees within an organizational unit will be offered overtime on a rotating basis in accordance with their particular skills. The parties recognize that this will not necessarily result in everyone having the same number of overtime hours worked. The Union recognizes that, in the absence of sufficient volunteers for overtime work, the Agency has the right to direct overtime. Individual employees will not be forced to work overtime against their expressed desires as long as full requirements can reasonably be met by other qualified employees willing to work.

b. Each first line supervisor will maintain a mandatory overtime roster of all employees performing the same or similar duties listed in order of their service comp date (least to most senior). The mandatory overtime roster will be used when sufficient volunteers are not available for an overtime assignment.

(1) If a sufficient number of employees volunteer for the overtime assignment, volunteers will be assigned overtime in order of their service computation date from most to least senior

(2) Once an employee works an overtime assignment after being chosen from the roster, that employee's name will be placed at the bottom of the roster. An employee reached on the mandatory roster must work the overtime assignment unless another qualified employee is willing to work. Employees who have declined an offer of overtime work in this case, will remain in the same place on the roster, pending the next required overtime assignment. Employees who are on leave, or otherwise unavailable for an overtime assignment, will remain in the same place on the roster, pending their return to duty.

(3) If detailed or otherwise temporarily assigned out of a supervisor's work unit, an employee may volunteer for an overtime assignment under the losing supervisor for the duration of such temporary assignment.

18.07. Disputes. The negotiated grievance procedure is the exclusive remedy for the resolution of disputes concerning overtime. When an employee is denied overtime work in violation of the provisions of this collective bargaining agreement, the employee may

receive back pay for the overtime work not performed.

18.08. Compensatory Time. The Agency may not require non-exempt employees to accept compensatory time off in lieu of overtime pay. The Agency may require employees who are FLSA exempt and earn more than a GS-10, step 10, to receive compensatory time off in lieu of overtime pay.

a. Compensatory time is time off from work that may be granted to an employee in lieu of payment for irregular and occasional overtime. Compensatory time earned is equal to the amount of time spent in overtime work, e.g., one hour and fifteen minutes of overtime work yields one hour and fifteen minutes of compensatory time.

b. Compensatory time earned normally will be used within 26 pay periods. All compensatory time not scheduled and used by the employee by the end of the year will be converted to overtime pay, computed using the employee's rate of pay as of the when the overtime pay was earned.

c. The agency also may not directly or indirectly intimidate, threaten or coerce an employee (or attempt to do so) for the purpose of interfering with the employee's right to request or not request compensatory time off in lieu of payment for overtime hours.

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

a. 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 reasonable call-back radius.

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

## **Article 19 - Contracting Out**

19.01. Management Right. The agency shall have the right to make determinations concerning contracting out of agency functions and activities in accordance with applicable laws, rules, and regulations.

19.02. Consultation with Union. The agency will advise and consult with the union at the earliest possible stages of development whenever agency functions or activities are being reviewed under the Government's commercial activities program for possible contracting out. The agency will consult with and obtain the union's views in preparing performance work statements, management studies, quality assurance plans, the most efficient organization (MEO), and in developing milestones.

19.03. Notice of Proposed Change. In the event the agency decides to contract out an agency function or activity, the agency will give the union notice of the proposed change in a condition of employment.

## **Article 20 - Reduction-In-Force (RIF)**

20.01. General. The agency may undertake a reduction-in-force (RIF) whenever it is necessary to release an employee from his competitive level by furlough for more than thirty (30) calendar days, separation, demotion or reassignment requiring displacement of any employee. RIF action may be undertaken because of a lack of work, shortage of funds, reorganization, contracting out, exercise of reemployment rights or job restoration rights by an employee, or reclassification of an employee's positions due to erosion of duties. RIF action will be carried out in accordance with applicable regulations and this article.

20.02. Notice to Union. When a RIF is pending, the agency will provide the union written notice containing the following:

- a. A statement that a RIF is pending.
- b. The reason(s) for the RIF.
- c. The approximate number of positions/employees that are affected.
- d. The proposed effective date of the RIF.
- e. When the information becomes available, the specific positions and names of employees who will be affected.

20.03. Confidential Information. Any information the agency provides the union concerning a proposed RIF is strictly confidential and may not be disclosed until the agency has officially notified all affected employees of the RIF.

20.04. RIF Procedure. The following RIF procedure will be observed:

- a. Competitive Area. A competitive area established by the agency for RIF competition is determined in terms of the organizational unit and geographical location and it must include all employees within that competitive area. Employees can displace other employees only within their competitive areas.
- b. Notice to Employees. Those employees affected by the pending RIF will receive written notice a minimum of sixty (60) calendar days prior to the effective date of the RIF. The written notice shall contain all information required by applicable regulations.
- c. Access to Retention Register. Upon request, affected employees or their designated representatives will be afforded an opportunity to review retention register(s) and other documents (documents containing information protected by the Privacy Act of 1974 and/or 5 CFR Part 297 may only be released after such information has been sanitized.) pertaining to the RIF and to discuss RIF procedures with designated agency representatives.
- d. Counseling and Placement Assistance. Affected employees will be offered counseling concerning retirement eligibility and benefits and the Department of Defense (DoD) Priority Placement Program (PPP) and other available job placement and reemployment programs.
- e. Performance Appraisals. Additional service credit based on performance is governed by applicable regulations. The performance appraisal cut-off date is sixty (60) calendar days prior to the date employees' RIF notices are issued. Performance appraisals

due on or before the cut-off date, but which were not officially approved and made a matter of record until after the cut-off, will not be considered for employees retention standing purposes.

f. Vacant Positions. The agency will give priority consideration to placing employees affected by RIF in vacant positions. The Agency may waive certain qualification requirements when placing affected employees in vacant positions, as provided by applicable regulations.

g. Relocation Costs. The agency will pay affected employees' relocation costs authorized by the Joint Travel Regulations.

h. Individual Employee Counseling. Upon request, the agency will provide employees individual counseling and advice concerning job application preparation, placement assistance, etc.

i. Placement and Reemployment Programs. Employees downgraded or separated from Federal Service may be placed on PPP registers. Unless deleted from the Reemployment Priority List (RPL) for a reason specified in applicable regulations, a career employee can remain on the RPL for two (2) years and a career-conditional employee for one (1) year.

j. Excused Absence. Upon request, an employee being separated by reason of RIF may be given a reasonable amount of administrative leave to facilitate his job-seeking efforts.

k. Minimizing Effects of RIF. When appropriate, the agency will endeavor to minimize the negative impact of the RIF on employees using tools it has available for this purpose under applicable law, rules, regulations and policies.

20.05. Appeals and Grievances. An employee who has been subjected to an adverse action resulting from a RIF may appeal to the Merit Systems Protection Board in accordance with regulations prescribed by the Board. Other matters are subject to the negotiated grievance procedure (NGP).

20.06. Impact & Implementation (I&I Collective Bargaining Agreement). The provisions of this article contain and constitute the parties' collective bargaining agreement concerning I&I of any future RIF initiated by the agency during the term of the CBA. Changes to these procedures require 1&1 collective bargaining.

## **Article 21 – Use of Military Personnel**

21.01. General. Use of military personnel to perform the duties of authorized civilian positions within the agency will be in accordance with AR 570-4 and other appropriate Department of Defense and Department of the Army directives, regulations and policies.

21.02. Impact on Morale. Both parties recognize the serious morale factor that exists when military personnel are assigned work that historically has been performed by civilians.

21.03. No Abrogation. The parties understand that the above will not abrogate or diminish the agency's rights.

## Article 22 - Employee Assistance Program

22.01. Joint Cooperation. The agency and the union jointly endorse the goal of early identification and referral of employees with possible alcohol, drug abuse or other serious personal problems affecting their conduct or work performance. In these cases, the parties pledge cooperation to assist the employees, by referring them for professional counseling, screening and diagnosis. Voluntary employee participation in counseling and rehabilitation services is likely to be facilitated if the employee clearly understands that unless his problem is identified and corrected, he may be subjected to disciplinary, adverse, or other appropriate action by the agency to address his conduct or performance problems. The union, because of its special relationship with employees, can offer employees understanding, sympathy, guidance and support.

22.02. Obtaining Service.

a. Employees seeking the help of Employment Assistance Program (EAP) may schedule an appointment.

b. The parties, either jointly or separately, may also schedule an appointment for an employee.

c. Agency-sponsored Employment Assistance Program (EAP) services are available to employees without charge.

d. It is agreed and understood by the parties that Employment Assistance Program (EAP) services will be administered in accordance with applicable laws and regulations.

22.03. Focus on Job Performance. The agency has the right and responsibility to discuss with employees their work performance and conduct. The focus of discussions shall be the employees' job performance and conduct and not diagnosis of or moral judgments concerning employees' substance abuse, emotional, or other problems. The union has the right to be present at any examination of an employee by an agency representative in connection with an investigation, if the employee reasonably believes the examination may result in disciplinary action against the employee and the employee requests union representation.

22.04. Support and Assistance. If the agency determines that referral to Employment Assistance Program (EAP) is appropriate, the union will further support and assist in encouraging the employee to respond positively to referral. This support and assistance may include joint discussions by the parties. Employee participation in EAP is voluntary. However, when an employee refuses a referral, appropriate action for job performance or conduct may be taken.

22.05. Offer of Assistance. An employee who personally acknowledges or is diagnosed with a substance abuse or emotional problem affecting his conduct or work performance will be offered assistance and rehabilitation. However, whether an employee does or does not seek assistance or rehabilitation will not preclude the agency from taking appropriate disciplinary action or adverse action.

22.06. Authorization of Leave. Employees will be authorized appropriate leave in accordance with applicable rules, regulations and the CBA, to obtain treatment and rehabilitation.

22.07. Confidentiality. All discussions, counseling sessions, and records of Employment Assistance Program (EAP) services, or any other program to which an employee may be referred, are confidential in accordance with applicable law and regulations. Normally, no information may be disclosed without the prior written consent of the employee.

22.08. Promotion Opportunities Not Jeopardized. Employment or promotion opportunities will not be jeopardized because of prior alcohol or drug counseling or by request for counseling or referral assistance for other problems.

22.09. Joint Committee. The agency and the union may establish a joint committee to discuss and make recommendations regarding the needs of the workforce related to the agency's Alcohol and Drug Abuse Prevention and Control Program and Employment Assistance Program (EAP).



## **Article 23 – Smoking**

23.01. General. Department of Defense policy on smoking and use of tobacco products is intended to protect employees from the effects of second-hand smoke while not unnecessarily inconveniencing employees who desire to smoke.

23.02. Designated Smoking Areas. Smoking or other use of tobacco products is prohibited in all government vehicles and buildings and within 50 feet of main entranceways or exits to buildings and facilities where an outside shelter providing overhead protection from the elements is reasonably available. A shelter is reasonably available if an employee can walk to it, consume a cigarette, and walk back to their duty location within normal break periods.

## **Article 24 – Parking**

24.01. Privately Owned Vehicle (POV) Parking. Subject to availability and compliance with installation and local traffic regulations, employees, on a first come-first served basis, may park their POVs in unrestricted parking spaces adjacent to their duty stations.

24.02. Reserved Union Space. The Agency further agrees to provide a reserved parking space for the Union President at Fort Eustis. Union officials who are not 597<sup>th</sup> Transportation Brigade employees may use "Official Visitor" parking spaces while performing representational business at Fort Eustis.

24.03. Handicapped Parking. The Agency will provide first come, first served reserved handicapped parking spaces near the work sites for employees who meet the criteria under applicable state, federal, and installation governing regulations to park in reserved handicapped parking spaces. The Agency will ensure there are sufficient reserved handicapped parking spaces available for handicapped employees subject to installation regulations.

## Article 25 - Annual Leave

25.01. General. Employees will accrue annual leave according to applicable law and regulations. Annual leave will be scheduled fairly and equitably. Annual leave is for the benefit of employees. Use of annual leave by employees, however, is subject to prior agency approval. All leave will be requested on OPM Form 71.

25.02. Scheduled Annual Leave. Annual leave shall be granted to employees consistent with workload requirements and controlling statute and regulations. Employees will use OPM Form 71 to request leave.

25.03. Unanticipated Annual Leave. If the need for leave cannot be anticipated the employee shall attempt to contact their immediate supervisor or other designated official to request approval of Unanticipated Annual Leave by telephone no later than two (2) hours after the start of the employee's normal work day, or as soon as possible thereafter." Shift workers will make every attempt to request Unanticipated Annual Leave prior to the start of their shift. In the event that neither the supervisor nor other designated official is available, the employee may utilize voice mail or e-mail, where it exists, to notify the agency of their need for leave. In the event the employee is unable to make the call, someone else may make it on their behalf. The supervisor will contact the employee within two hours of the telephone call if the leave cannot be granted. If the supervisor does not call the employee, the employee may assume approval of the leave for the period requested. In the event the employee does not report during the reporting period, the supervisor will not record the leave status until the end of the scheduled shift, except for the need to process time and attendance records. Anytime missed from work due to the employee's request for Unanticipated Annual Leave and its subsequent denial will be charged to the appropriate leave category. An employee who is delayed or late in reporting for duty due to a personal emergency will request annual leave by notifying the supervisor (or his designee) in person or by telephone within the first two hours of the employee's tour of duty. The employee will state the reason he will be delayed or late and give an approximate time he will report for work. Should a request for approval of Unanticipated Annual leave be denied, the supervisor will grant the employee a reasonable amount of time to report to duty.

25.04. Use or Lose Annual Leave. Employees should schedule "use or lose" annual leave during the leave year to avoid forfeiture at year-end. Any restoration of use or lose annual leave will be in accordance with applicable regulations.

25.05. Cancellation of Approved Leave. The agency, in deciding whether to cancel an employee's previously approved leave, will take into consideration work exigencies and non-reimbursable expenses actually incurred by the employee, if any, subsequent to the time the employee's leave was approved.

## Article 26 - Sick Leave

26.01. General. When requested in accordance with this article, and in accordance with applicable regulations, accrued sick leave will be granted to an eligible employee:

- a. To undergo medical, dental, or optical examination or treatment.
- b. Who is incapacitated as the result of physical or mental illness, injury, pregnancy or childbirth.
- c. To make arrangements necessitated by the death of a family member or to attend the funeral of a family member.
- d. To avoid exposing co-workers to communicable diseases; and
- e. For purposes relating to the adoption of a child.

26.02. Supervisor's Inquiry. When an employee requests sick leave, the supervisor may inquire regarding the general nature of the illness or incapacity, expected duration of the incapacity and, in accordance with this article, may request supporting medical documentation. All leave will be recorded on the OPM Form 71.

26.03. Request for Approval. Employees will request approval of sick leave from their supervisor (or their supervisor's designee) in person or by phone to request approval of sick leave within the first two hours of the employees' tour of duty, unless employees are physically incapacitated to such degree that they are prevented from doing so, in which case, employees will request approval of sick leave as soon as practicable. Shift workers will make every attempt to request sick leave prior to the start of their shift. In the event that neither the supervisor nor other designated official is available, the employee may utilize voice mail or e-mail, where it exists, to notify the agency of their need for leave. In the event the employee is unable to make the call, someone else may make it on their behalf. The supervisor will contact the employee within two hours of the telephone call if the leave cannot be granted. If the supervisor does not call the employee, the employee may assume approval of the leave for the period requested up to a period of three workdays. In the event the employee does not report during the reporting period, the supervisor will not record the leave status until the end of the scheduled shift, except for the need to process time and attendance records.

26.04. Periodic Update. Employees will contact their supervisor (or designee) each successive day they are incapacitated, unless other arrangements have been made between the employee and the supervisor.

1

26.05. Advance Scheduling. Except in cases of emergency or circumstances beyond the employee's control, sick leave for medical, dental or optical appointments will be requested at least three (3) workdays in advance of the appointment. The employee will furnish the date and time of his appointment when he requests sick leave. Whenever possible, employees will schedule medical, dental, and optical appointments during non-duty hours.

26.06. Medical Certificates. In accordance with 5 CFR 630.405, employees may be required

to furnish a medical certificate or other administratively acceptable evidence to substantiate a request for approval of sick leave for an absence in excess of 3 workdays, or for a lesser period when deemed necessary. When medical documentation is required it must be provided to the supervisor/manager within 15 days. When sick leave abuse is suspected, the employee may be advised in writing that all future absences for sick leave must be supported by a medical certificate.

26.07. Abuse of Sick Leave. In individual cases, when the agency has reason to believe an employee is abusing sick leave, the agency may counsel the employee and may notify the employee in writing that he is under a continuing requirement to submit medical certificates for each absence for illness, irrespective of duration or purpose. The agency will review the employee's sick leave record at the end of six months. If the review reveals a substantial improvement in the employee's work attendance and his usage of sick leave during the review period the employee will be notified in writing that, henceforth, medical certificates will only be required in those circumstances specified in this article. If there has been no satisfactory improvement, in addition to appropriate personnel action, the employee will be advised that the special medical certification requirement will continue until further notice.

26.08. Advance of Sick Leave. In case of serious illness or incapacity, upon written request of an employee, the agency may advance the employee sick leave not to exceed 30 workdays, subject to the following:

- a. The employee has exhausted his/her accrued sick leave and "use or lose" annual leave.
- b. The employee has provided the agency written assurance that he/she will be able return to work and continue working long enough to repay the sick leave advance;
- c. The employee has provided a medical certificate from an attending physician stating the nature of his illness or incapacity, prognosis, and expected physical limitations, if any, on his ability to perform work following his return to duty; and
- d. The employee has a prior record of responsible sick leave usage.

## **Article 27 - Court Leave**

27.01. General. Court leave will be approved in accordance with law and applicable regulations for an employee who is summoned in connection with a judicial proceeding by a court of authority responsible for the conduct of that proceeding to serve as a juror or as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party. When an employee is called as a witness, or juror, he shall immediately notify his supervisor and submit a copy of the subpoena or summons. Upon completion of service, the employee shall submit written evidence of the time he served as a witness or juror. All leave will be recorded on OPM Form 71.

27.02. Return to Duty. Employees will return to work when excused by the court unless the employee's supervisor determines that returning to work would be impractical. If excused early from jury duty, employees will contact their immediate supervisors for a determination concerning their work status for the remainder of the workday. Failure to do so may result in a charge to annual leave, leave without pay (LWOP) or absence without leave (AWOL).

## **Article 28 - Family and Medical Leave**

28.01. **General.** The Agency will grant leave when requested by an employee for family and medical leave in accordance with applicable law, regulations and subsequent amendments. Annually in coordination with the Union, the Agency will publish a table that outlines information on Family and Medical Leave and Family Friendly Leave. All leave will be requested on OPM Form 71.

28.02. **Entitlement.** Employees are eligible for 12 workweeks of unpaid leave during any 12-month period for the following purposes:

- a. Birth of the employee's son or daughter and subsequent care of the infant;
- b. Placement of a son or daughter with the employee for adoption or foster care;
- c. Care of the employee's spouse, son, daughter or parent who has a serious health condition; or
- d. Employee's own serious health condition that makes him unable to perform one or more of the essential functions of his position.

28.03. **Intermittent Use.** Under certain conditions, an employee may use the 12 weeks of leave intermittently. An employee may elect to substitute annual leave or sick leave, consistent with applicable laws and regulations for using annual and sick leave, for any unpaid leave under the FMLA. FMLA leave is in addition to other paid time off available to an employee.

28.04. **Protection of Job Benefits.** Upon reporting for duty the employee must be returned to his same position or to another position with equivalent benefits, pay, status and other terms and conditions of employment. Employees who take leave are entitled to maintain health benefits coverage and may pay their share of health insurance premiums on a current basis or following return to work.

28.05. **Advance Notice and Medical Certification.** Employees will provide the agency written notice of their intent to take family and medical leave not less than 30 days before the leave is to begin, or as soon as practicable under the circumstances. If leave is for the purpose of taking care of an employee's spouse, son, daughter or parent who has a serious health condition, or due to the serious health condition of the employee requesting leave, upon request, the employee will provide the agency medical certification of the person's serious health condition.

## **Article 29 - Leave Without Pay**

### 29.01. Leave Without Pay

a. Leave without Pay (LWOP) is a temporary non-pay status and absence from duty for a specific period of time, which may be granted an employee in accordance with applicable laws, rules, and regulations. LWOP may be requested in the same manner and for the same purposes as annual leave and sick leave. Requests for LWOP will be given serious consideration. Denials of requests for LWOP will be provided to the employee in writing.

b. Upon return to duty after a period of LWOP, Management will restore the employee to the position which the employee held prior to the leave or to a similar position at the same grade and pay.

c. Employees have a right to LWOP in the following circumstances:

- (1) When a disabled veteran requests LWOP for medical treatment,
- (2) When requested by a reservist or National Guard member for military duties in accordance with appropriate military orders. Employees may request such leave after their military leave has been exhausted (38 USC Section 4316(d)),
- (3) When requested by an employee who has suffered an incapacitating job-related injury or illness and is waiting adjudication of a claim for employee compensation by the Office of Workers' Compensation Program, or
- (4) When an employee makes a request under the Family and Medical Leave Act (FMLA) and meets the criteria under that law.



**Article 30 - Leave for Bone Marrow and Organ Donations**

30.01. Leave for Bone Marrow and Organ Donation

- a. Employees may use up to seven (7) days of paid leave each calendar year to serve as a bone marrow donor.
- b. Employees may use up to 30 days of paid leave each calendar year to serve as an organ donor.
- c. Leave for Bone Marrow and Organ Donation is a separate category of leave that is in addition to Annual and Sick Leave.

## Article 31 - Leave for Religious Purposes

### 31.01. Religious Observances

a. The agency will make every effort to accommodate the practice of religious beliefs by individual employees consistent with Agency needs. An employee whose personal religious beliefs require the abstention from work during certain periods of the work day or work week, may elect to engage in alternative work for time lost for meeting those religious requirements.

b. To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of the agency's mission, the Agency will afford the Employee the opportunity to work compensatory time and will grant compensatory time off to an employee requesting such time off for religious observances.

c. The employee may work such compensatory time before or after the grant of compensatory time off. Compensatory time will be credited to an employee on an hour to hour basis or authorized fractions thereof (15 minutes).

d. The premium time provisions for overtime work do not apply for compensatory time work performed by an employee for this purpose.

## **Article 32 -Leave for Internal Union Functions**

32.01. General. An employee who is a steward or other Union official will be granted annual leave or Leave Without Pay (LWOP) to attend internal union functions which are not covered by Official Time *as* set forth in Article 9. Normally, one week's advance notice will be required and such leave will be approved subject to workload considerations.

32.02. Leave Without Pay for Internal Union Functions. An employee may be granted leave without pay to engage in Union activities on the national, district or local level, to work in programs sponsored by the Union or the AFL-CIO, upon written request by the appropriate Union office. Such requests will be referred to the appropriate Management official and will normally be approved. Such employees shall continue to accrue benefits in accordance with applicable OPM regulations. LWOP for this purpose is limited to one year but may be extended or renewed upon proper application.

## Article 33 - Excused Absences

### 33.01. Excused Absences (Administrative Leave)

a. Administrative leave is an approved absence from duty without loss of pay and without charge to leave. Administrative leave is treated *as* time worked for all purposes except that the employee is excused from his/her regular assigned duties. Workload permitting, administrative leave may be granted to an employee in accordance with the following sections.

b. Funeral Leave. An employee may receive not more than three (3) days of excused absence to make arrangements for, or attend the funeral of, or memorial service for, an immediate relative who died *as* a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone.

c. Brief Absences or Tardiness. The immediate supervisor may excuse nonrecurring brief periods of absence or tardiness due to circumstances such *as* adverse weather or traffic conditions, beyond the employee's control.

d. Blood Donations. An employee may be granted up to four (4) hours excused absence for purposes of travel, testing, and recuperation associated with donating blood. This does not cover an employee who gives blood for his or her own use or receives compensation for giving blood.

e. Voting and Voter Registration. As a general rule, when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, employees may be granted an amount of excused leave to vote which will permit the employee to report to work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser amount of time. Under exceptional circumstances, where the general rules do not permit sufficient time, an employee may be excused for such additional time *as* may be needed to enable the employee to vote, but not to exceed a full day. An employee may be excused to register to vote on the same basis as for voting.

33.02. Other Circumstances. The parties agree that the above reasons for granting administrative leave are not all inclusive and that there may be other situations supporting a request for the granting of such leave. Such requests shall be considered based on the reasons presented at the time; the Agency may require documentation as appropriate to support the reasons for and/or the duration of such administrative leave requests.

## Article 34- Inclement Weather

34.01. General. The Agency and Union agree that the health and safety of personnel during emergency situations is of prime concern. Activities must abide by local uniform curtailment and release policies and procedures to avoid confusion and ensure fair treatment of personnel.

34.02. Workplace Closure. Excluding Mission Essential Personnel, whenever it becomes necessary to close a workplace because of inclement weather or any other emergency situation, employees may be granted administrative leave for the duration of the closure. Such situations include but are not limited to such events as heavy snow or severe icing conditions, floods, earthquakes, hurricanes or other natural disasters, severe pollution, massive power failure, terrorist attacks, major fires or serious interruptions to public transportation caused by incidents such as strikes of local transit employees or mass demonstrations.

34.03. Other Circumstances.

a. Excluding Mission Essential Personnel, if the emergency conditions described above prevent an employee from timely arrival at work, even though the workplace is not closed, the employee may be granted administrative leave for absence from work for a part or all of the employee's workday. Employees are obligated to contact their supervisors as early as practicable to explain the circumstances and provide an estimated time of arrival at work. In addition, the Agency may request documentation that the employee made reasonable efforts to reach work, but was prevented from timely arrival by emergency conditions. In determining whether to grant administrative leave and the duration of the leave, the Agency shall consider the following factors, and shall uniformly apply them to all employees within the area affected by the emergency:

- (1) The fact that the employee lives beyond the normal commuting area;
- (2) The mode of transportation normally used by the employee;
- (3) Efforts by the employee to come to work;
- (4) The success of other employees similarly situated;
- (5) Any physical disability of the employee; and/or
- (6) Any local travel restrictions.

b. When an emergency condition forces the closure of a workplace and employees thereof are granted administrative leave as a result, an employee of that same facility (a) who is working at home on an approved telework program and (b) who is prevented from accomplishing work because of that same emergency condition (for example, where a power outage affects employees both at home and in the office), should be provided the same amount of administrative leave as employees working in the office. A telework employee claiming administrative leave under this provision is responsible for providing appropriate documentation in support of that claim.

c. If the President, the Office of Personnel Management, or other appropriate authority declares a natural disaster area, employees who are faced with a personal emergency caused by that natural disaster will be eligible for a reasonable amount of administrative leave, based on the facts and circumstances of the personal emergency. An employee requesting administrative leave under this Article may be required to provide an

explanation and/or documentation in support of his or her claim.

34.04. Mission Essential Personnel.

a. Certain critical operations cannot be suspended or interrupted even though it may be necessary to excuse military and civilian personnel for all or part of a day. Directors will ensure that personnel who perform duties essential to the mission and the continuation of operations, and who are required to be at work regardless of emergency situations and general dismissal authorizations are designated as Mission Essential. Employees must receive advance written notification of their designation as mission essential and the requirement to report for duty. Mission essential civilians who are not able to report for duty due to hazardous road conditions where they reside may be excused from duty.

b. "On the Spot Mission Essential" personnel are defined as personnel who are retained or called back to shut down normal operations, complete a critical operation which is time sensitive and cannot be postponed, or secure facilities that are interrupted by emergency situations. The Agency will not retain employees as "On the Spot Mission Essential" to perform routine work that can be postponed.

c. Mission essential personnel working on a military installation during severe weather may, at their own expense, stay in available temporary housing on a "pay-as-you-go" basis if space permits, should weather conditions warrant. Decisions on reimbursement for personnel will be made by the Chief of Staff, based on a review of each situation.

## Article 35 - Health and Safety

35.01. General. The agency and the union pledge their joint cooperation in ensuring that employee workplaces are reasonably safe and environmentally healthy.

35.02. Employee Responsibilities. Employees are responsible for observing work rules and practices to protect themselves and fellow workers from accidental injury or illness.

35.03. Agency Responsibilities. The agency is responsible for providing employees safe and environmentally healthy work places. Upon receiving a report of an unhealthy or hazardous workplace condition from an employee or the union, the agency will promptly consider what corrective action, if any, is required. The agency will make a first aid kit reasonably available. The agency will conduct at a minimum an annual safety inspection of SDDC 597<sup>th</sup> TBDE facilities, equipment and operations, and will make necessary corrections as soon as possible of resulting findings. The Union will be provided with the opportunity to participate in such inspections and will be provided a copy of the inspection reports

35.04. Union Responsibilities. The union is responsible for promptly reporting unsafe, unhealthy or hazardous working conditions to the agency and will take affirmative action to encourage employees to observe safety rules and practices in the workplace.

35.05. Protective Clothing, Etc. Where necessary to safely accomplish a task, the agency will furnish employees protective clothing in accordance with applicable regulations. All tools or equipment the agency requires an employee to possess to safely perform work will be furnished to the employee at no cost. The agency will expedite acquisition of protective clothing, tools or other safety equipment the agency deems necessary for safe work.

35.06. Rest Rooms. The agency will provide employees a reasonable number of separate male and female rest room facilities as near to employee work areas as feasible given the design and location of the office building or facility where employees are located. Rest rooms and fixtures will be clean, hygienic and operational.

35.07. Reporting of Accidents. Employees will immediately report job-related accidents or injuries to the agency. The agency will promptly document job-related accidents or injuries in accordance with agency procedures and will ensure that injured employees receive necessary emergency medical treatment. The time an employee spends receiving emergency medical treatment for an on the job injury or illness during work hours will constitute administrative leave.

35.08. Light Duty. An employee may be assigned "light duty" work only after a medical doctor has made a written determination that an employee cannot perform the full range of duties of his regular job assignment(s). Light duty work authorized for an injured or ill employee should not be such that the employee's recuperation, as determined by a medical doctor, is impeded. The Agency reserves the right to have an employee undergo an independent fitness for duty examination in accordance with applicable regulations. The agency will advise the employee of his light duty work assignment in writing. The agency

reserves the right to review light duty work assignments at any time and to take whatever action is indicated under the circumstances.

35.09. Joint Health and Safety Committee. The Agency and the Union may establish a joint health and safety committee to discuss and make recommendations to the agency for improving the health and safety of the workplace. The committee, however, may not involve itself with specific employee worker's compensation claims or tort claims brought against the agency.



## **Article 36 - Environmental Differential and Hazardous Duty Pay**

36.01. OSHA Standards. When the agency determines that a local work situation is such that it should be included for coverage and payment of a differential, it will notify the union of its determination as soon as practicable. Payment of environmental differential or hazardous duty pay to employees for exposure to asbestos or any other workplace hazard will be made strictly in accordance with law and regulations and only when the level of exposure exceeds applicable Occupational Safety and Health Administration (OSHA) standards.

## Article 37 - Disciplinary and Adverse Action

37.01. Principal Focus. Maintaining the good order, discipline, morale and safety of the work force is the principal focus of disciplinary and adverse action. Such action will be taken only for reasons that promote the efficiency of the Federal Service. Disciplinary or adverse action will be processed in accordance with applicable regulations and this article and will be initiated in a timely manner.

37.02. Definitions for purpose of this article:

- a. Disciplinary action means suspension from duty and pay status for fourteen (14) days or less, or a letter of reprimand.
- b. Adverse action means removal, suspension of more than fourteen (14) days, reduction in grade, reduction in pay or a furlough of thirty (30) days or less.
- c. Furlough means a temporary non-pay status and absence from duty required by the agency because a lack of work or other non-disciplinary reasons.

37.03. Procedure (Disciplinary Action). An employee against whom disciplinary action (except letters of reprimand) is proposed is entitled *to*:

- a. Written notice stating the specific reasons for the proposed action;
- b. Minimum fourteen (14) calendar days in which to reply, orally and/or in writing, and to furnish affidavits or other evidence in support of the reply.
- c. A representative of the employee's choosing; and
- d. A written decision at the earliest practicable date stating specific reasons.

37.04. Procedure (Adverse Action). An employee against whom adverse action is proposed will be given:

- a. at least thirty (30) calendar days advance written notice of any adverse action proposed and at least fourteen (14) calendar days to prepare reply unless the circumstances require the application of the exceptions to the notice and reply periods in accordance with government-wide regulations. These exceptions include actions where there is a reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed or for emergency furloughs.
- b. A written decision at the earliest practicable date stating specific reasons;
- c. A representative of the employee's own choosing; and
- d. Notice of appeal rights.

37.05. Extension of Time Limits. Time limits in this article may be extended by mutual written agreement.

37.06. Appeal (Disciplinary Actions). Disciplinary actions may be appealed only under the negotiated grievance procedure. Appeals will be submitted to the deciding official.

37.07. Appeal (Adverse Action). An employee may appeal his adverse action to the Merit Systems Protection Board in accordance with applicable procedures or the employee may grieve the matter under the negotiated grievance procedure, but not both.

37.08. Union Representation. An employee may request union representation at any examination conducted by an agency representative in connection with an investigation if the employee reasonably believes the examination may result in disciplinary or adverse action and the employee requests union representation.

## **Article 38 - Alternative Discipline Program**

38.01. General. The Alternative Discipline (AD) program allows management and an employee facing disciplinary action to agree to an alternative form of corrective action, in lieu of traditional discipline. This may include a full range of penalties, including reducing suspensions, probation, financial restitution, community service, training, donations of leave, or other mutually agreed upon corrective actions. Any of the involved parties can contribute ideas to the proposed alternative discipline corrective action. The supervisor, employee and, where appropriate, the employee's designated union representative, must agree on the alternative penalty to be imposed. The objective of the program is to provide managers with a means to address employee misconduct in a manner involving shared responsibility that improves working relationships and enhances the efficiency of service. It is intended to provide rapid resolution to problems, avoid the costs and lost time resulting from use of formal complaint systems and contribute to a more positive resolution to problems from both management's and the employee's perspective. It is not used in situations where removal is warranted or where legally prescribed penalties apply to the violation.

38.02. Agreement. Alternative Discipline agreements include an admission of fault or wrong doing, acknowledgement of the penalty being replaced, commitment to improve future conduct, and waiver of grievance and appeal rights. A fundamental condition of alternative discipline is that the employee admits to the misconduct, accepts responsibility for it, and agrees not to repeat the misconduct. The employee's participation in AD is strictly voluntary. The employee may refuse the agency's offer of alternative discipline. If there is no agreement between the employee and management, the matter reverts to traditional disciplinary methods.

38.03. Formal Offer. When management determines that an employee's misconduct should be afforded AD treatment, a meeting will be scheduled with the employee to discuss AD and go over the specific terms and requirements of the proposed alternative discipline. The employee may execute an agreement at the meeting but, in any event, will only have five (5) working days in which to accept the agency's AD offer by signing the AD agreement, failing which, the offer will be withdrawn and the misconduct will be handled under standard discipline procedures. The AD agreement will become effective immediately upon signing by the parties. If the employee fails to satisfy the terms and conditions of the AD agreement, the employee is notified in writing that the agreement was violated and the traditional penalty, which was identified in the AD agreement, will be immediately imposed.

## **Article 39 -Negotiated Grievance Procedure**

39.01. General. This article establishes procedures for settlement of employee, union and agency grievances including questions of arbitrability. Except as otherwise provided, this negotiated grievance procedure (NGP) is the exclusive procedure for resolving disputes falling within its coverage.

39.02. Coverage. The following persons may grieve under the NGP.

- a. An employee concerning a condition of employment personally affecting him.
- b. The union concerning a condition of employment affecting bargaining unit employees; or
- c. The agency or the union concerning any alleged violation or misinterpretation of the CBA or any other regulation, policy or practice affecting conditions of employment of bargaining unit employees.

39.03. Matters Excluded from Coverage. Grievances concerning the following matters are excluded from coverage of the NGP:

- a. Claimed violations of 5 U.S.C. Chapter 73, Subchapter III (relating to prohibited political activities);
- b. Retirement, life insurance or health insurance;
- c. Suspension or removal of an employee for national security violations under 5 U.S.C § 7532;
- d. Any examination, certification or appointment;
- e. The classification of any position that does not result in the reduction in grade or pay of an employee;
- f. Non-selection from a group of properly ranked and certified candidates (however, the procedures used to identify and rank qualified candidates may be proper subjects of grievances);
- g. Proposed disciplinary or adverse action (however, the final decision of the proposed action is grievable unless otherwise excluded);
- h. The establishment of an employee's performance standards and performance objectives. The application of standards and objectives, however, is grievable;
- i. Adverse actions resulting from reduction-in-force (RIF) actions;
- j. Termination of probationary employees;
- k. Return of an employee serving a probationary period as a supervisor or manager to a non-supervisory or non-managerial position;
- l. Termination or expiration of time-limited appointments or promotions, provided the employee was informed in advance of the temporary nature of the appointment or promotion and the employee was returned to his former position from which temporarily appointed or promoted or to a different position of equivalent grade or pay;
- m. Failure of the agency to adopt an employee's suggestion or pay the employee a specified sum of a suggestion that was adopted; and
- n. Any employee grievance concerning a subject matter or issue substantially the

same as a previously decided grievance (or appeal) involving the same employee decided under a statutory, regulatory or other dispute resolution process or procedure.

o. Contracting out matters. The union may grieve/appeal under other applicable procedures.

39.04. Extension of Time Limits. All time limits in this article maybe extended by mutual written agreement. Failure of a management official to comply with applicable time limits will constitute a valid basis for the grievance to be advanced to the next higher step of the negotiated grievance procedure (NGP). If the aggrieved employee or his representative fails to comply with applicable time limits, the grievance will automatically be denied, unless the aggrieved employee or his representative can show valid reasons for not observing the time limit. The Union will meet all timelines in order for the grievance to be valid, the Agency will meet all timelines for response. If the Agency does not meet the timelines specified in this Article, and the action is unresolved and proceeds to arbitration the agency will be responsible for all fees incurred.

39.05. Representation of Employees. An employee electing to use the negotiated grievance procedure (NGP) may be represented by the union, or the employee may represent himself. If the employee elects to represent himself, the union will be afforded the opportunity to attend and observe any meetings between the agency and the employee conducted in an attempt to resolve the dispute. The union will be provided a copy of the agency's written decision (if applicable) concerning the employee's grievance. The terms of any settlement of the grievance will conform to applicable provisions of the CBA. Only the union may invoke binding arbitration on behalf of the employee.

39.06. Notice of Grievance. In presenting a grievance at any Step of the negotiated grievance procedure (NGP), either the aggrieved employee or his representative shall inform the agency that he is presenting a "grievance" for processing under the NGP.

39.07. Duplicative Grievances. If two or more employees file identical grievances (where the basis for the grievance and corrective action sought are identical), the grievance shall be processed as a group grievance with one employee serving as the representative grievant. The processing and resolution of the group grievance shall apply to all grievants in the group.

39.08. No Petitioning for Grievances. The union officials shall not petition grievances from employees.

39.09. Grievance File. The agency will assemble an official grievance file for each formal grievance. The file will contain all documents (or copies of documents) related to the grievance. Upon request to CPAC, the file may be reviewed by and copies will be provided free of charge to the employee or the union, except that the agency has no obligation to furnish documents that are legally privileged, constitute attorney work product, are classified, or are otherwise exempt from disclosure by law or regulation.

39.10. Grievance Procedures. The following procedures are established for the

settlement of grievances:

Step 1. The aggrieved employee or his representative, if any, will notify the employee's immediate supervisor within 15 work days from the date the employee becomes aware of the incident giving rise to his complaint that he intends to initiate a grievance. NOTE: A grievance concerning a disciplinary action will be filed with the deciding official. The supervisor will make arrangements to meet with the employee within 5 workdays. The supervisor shall be obligated to thoroughly investigate the incident giving rise to the employee's complaint. If the matter is within the scope of his authority, the supervisor will make a good faith effort to work out a mutually acceptable solution. The supervisor will notify the employee of his decision within 5 workdays from the date of their meeting. If no resolution is reached or the matter is outside the scope of the supervisor's authority, the discussion will focus on clarifying the problem and determining the appropriate person to consider the grievance at Step

Step 2. If the employee's complaint is not satisfactorily settled at Step1, the employee or his representative, within 5 workdays from the date of the Step 1 supervisor's decision, may initiate a grievance in writing on the grievance form (Appendix B) with the supervisor or management official below the commander having the authority to make a decision on the matter(s) involved in the grievance. The supervisor or management official below the commander will meet with the aggrieved employee and his representative, if any, within 5 working days after receipt of the grievance and will provide his written decision (on the grievance form) to the aggrieved employee within 10 working days after the conclusion of the meeting.

Step 3. If the grievance is still unresolved at the second step, the employee and/or his Union representative may submit the grievance in writing to the Civilian Personnel Advisory Center (CPAC). The employee's written grievance must be submitted and received in the CPAC within five (5) working days after the time limit for the NGP has expired. The Commander and his/or her designee and the Union or his/or her designee will meet to review and discuss the grievance prior to the Commander (or designee) making a final written decision within five (5) working days after this meeting of the parties. If the matter is still unresolved, the Union and only the Union may refer the matter to arbitration within 15 working days from the receipt of the final decision. No new issues will be raised before the arbitrator that has not been introduced at the third step.

39.11. Union Grievances. The union president (or designee) may submit grievances, in writing, to the commander (or designee), through CPAC, within 15 workdays after the occurrence of the action or incident being grieved or the date the union becomes aware of the incident. The commander and the union president (or their designees) will meet within 10 working days after receipt of the grievance to discuss the grievance. The agency will give the union a written decision within 15 workdays after the meeting. If the grievance is not settled the union may invoke arbitration in accordance with Article 40. Nothing herein is intended to preclude the parties from attempting to settle union grievances informally at lower levels within the agency.

39.12. Agency Grievances. The commander (or designee) may submit grievances, in

writing, to the union president, within 15 workdays after the occurrence of the action or incident being grieved, or the date the agency becomes aware of the incident. The commander and the union president (or designees) will meet within 10 working days after receipt of the grievance to discuss the grievance. The union president (or designee) will give the agency a written decision within 15 workdays after the meeting. If the grievance is not settled the agency may invoke arbitration in accordance with Article 40. Nothing herein is intended to preclude the parties from attempting to settle agency grievances informally at lower levels within the agency.

39.13. Grievance Information. To receive consideration by the agency, an employee's grievance must contain all the information contained in the "Grievance Form" set out in Appendix B. The grievance shall contain sufficient detailed information to enable the deciding official to ascertain the nature of the grievance. The employee must sign and date the grievance. The remedy being sought must be specific and personal to the employee. Employees may not request as a remedy disciplinary or other personnel action against a management official, supervisor or other employee.

39.14. Appeal Procedure (Adverse Action Appeals). An employee who has been subjected to an adverse personnel action (e.g., removal, suspension for more than 14 days, reduction in grade or pay) shall have the option of appealing the action to the Merit Systems Protection Board (MSPB) or filing a grievance in accordance with the procedures contained in this article, but not both. An employee will be deemed to have exercised his option at the time he files a notice of appeal under applicable MSPB appeal procedures or submits a formal written grievance to the agency under the NGP, whichever occurs first. An employee wishing to grieve the final agency decision may elect to have the union immediately invoke binding arbitration on his behalf or have his grievance processed in accordance with the regular procedures of the NGP.

39.15. Notice of Arbitration. Should the agency or the union wish to invoke binding arbitration to resolve any grievance, the grieving party shall give written notice to the responding party within 10 days of receipt of the agency's or the union's decision concerning the grievance (or date the grievance is deemed to have been denied). Thereafter, binding arbitration shall proceed in accordance with Article 40.

39.16. Determinations Concerning Arbitrability. Disputes as to whether an issue is grievable or arbitrable, that the parties cannot resolve themselves, may be presented to the arbitrator for determination as a "threshold issue" in advance of any arbitration hearing on the merits of the grievance.



## Article 40 – Arbitration

40.01. General. A grievance not resolved in accordance with Article 39 is subject to binding arbitration. Only the agency or the union may invoke arbitration in accordance with this article.

40.02. Notice of Arbitration. The party invoking arbitration will prepare and file FMCS Form R-43 Request for Arbitration Panel with the Federal Mediation and Conciliation Service (FMCS) within 15 days of issuance of the other party's final decision concerning the grievance (or date the grievance is deemed to have been denied). The other party will be served a copy. A copy of the party's grievance will accompany the FMCS Form R-43. The party invoking arbitration will pay the costs of obtaining a list of arbitrators from FMCS.

40.03. Selecting the Arbitrator. The following procedure will be used in selecting an arbitrator:

a. The parties will meet within 5 workdays of receipt of the FMCS panel of arbitrators to select an arbitrator for the case. Unless otherwise agreed, the parties will flip a coin to determine which party will strike the first name from the panel of arbitrators, following which, the parties will alternately strike names until only one name remains. That person will be the arbitrator for the case.

b. Promptly following selection of the arbitrator, the agency will notify FMCS of the parties' choice by completing and delivering the prescribed form to FMCS. FMCS will appoint the arbitrator, who is required to contact the agency within 14 days to arrange the date, place and other matters concerning the arbitration proceedings. If the arbitrator fails to do so, the agency will contact the arbitrator directly.

40.04. Arbitrator's Fee Contract. As soon as the arbitrator's appointment is confirmed, the agency and the union will prepare the standard contract for arbitration services and secure all necessary signatures.

40.05. Arbitrator's Fee and Expenses.

a. Maximum Per Diem Arbitration Fee Amount. The maximum per diem arbitration fee amount for performing grievance arbitration services shall be the per diem fee amount specified in the arbitrator's biographical sketch required by FMCS regulations.

b. Pavment. Arbitrator's per diem arbitration fee may consist of the following:

1. One (1) day for hearing preparations;
2. One (1) day additional for travel if traveling more than 150 miles one way;
3. One (1) day for the initial on-site hearing and one (1) day thereafter for each on-site hearing lasting 6 hours or more;
4. Maximum two (2) days for research, study and drafting the opinion and award;
5. Maximum three (3) days for preparation, research, study and drafting the opinion and award in connection with a decision on the record; and
6. Upon request of the arbitrator, one or more additional days for preparation, research and study in connection with a complex or otherwise extraordinary case, to be negotiated by the arbitrator and the parties' representatives after the record of the case has

been closed.

40.06. Administrative Charge. The arbitrator may charge an additional reasonable administrative charge for any extraordinary time or expense incurred in connection with pre-hearing or post-hearing administration of the case. Unless otherwise agreed by the parties, the amount of such charge will not exceed the stipulated per diem arbitration fee amount.

40.07. Billing.

a. Shared Cost. The parties will share the cost of the arbitration. The arbitrator's invoice or statement will contain a detailed itemization of all fees, expenses and other charges.

b. Payment Due. Payment of the arbitrator's invoice or statement is due upon receipt of the arbitrator's opinion and award in the case.

c. Adjustment in Amount Due. In the event of any agreed adjustment in the original invoice or statement amount, the arbitrator will furnish each party a duplicate revised invoice or statement reflecting the adjustment and all credits, if any.

40.08. Travel and Transportation Expenses.

a. General. In addition to amounts paid to the arbitrator for performing arbitration services, parties will share the costs of the arbitrator's travel and transportation expenses, if any.

b. Travel Per Diem. Travel per diem for arbitrator's meals and lodging will be the amounts allowed by Joint Federal Travel Regulations.

40.09. Selecting Hearing Date. The agency and the union will jointly request the arbitrator to propose several dates within the next 60-day period when the arbitrator will be available to arbitrate the case. The agency and Union will decide which of the proposed dates are agreeable. The agency next will contact the arbitrator and request he select one of the dates available to all the parties as the hearing date. The agency will promptly notify the union of the hearing date selected by the arbitrator.

40.10. Arranging the Logistics of Arbitration. The agency will be responsible for arranging the logistics of the arbitration.

40.11. Official Grievance File.

a. The agency will be responsible for assembling the official grievance file, which will contain the following:

1. Case Cover Sheet

2. Grievance Synopsis

3. List of Exhibits (labeled numerically):

Exhibit 1: Agency's/Union's Final Decision

Exhibit 2: Agency's/Union's/Employee's Formal Grievance

Exhibit 3: FMCS Form R-43 Request for Arbitration Panel

Exhibit 4: Grievance Arbitration Services Contract

Exhibit 5: Collective Bargaining Agreement

Exhibit 6: Parties' Submission Agreements (If any)

4. Background Material (labeled alphabetically).

a. Statutes, regulations, policies, case law and other documents not included as exhibits may be included as background material to facilitate the arbitration and aid the arbitrator's understanding of the issues presented by the case.

b. The official grievance file may be supplemented before or during the hearing by agreement of the parties. The arbitrator will decide disagreements concerning the contents of the file.

c. The union will be provided a copy of the grievance file as soon as possible, but in any event, not later than 10 days following the selection of a hearing date.

40.12. Pre-hearing Matters. The arbitrator may meet, hold telephone conferences or otherwise confer jointly with the parties' representatives in advance of the hearing on the merits to consider:

a. Resolution of pending threshold issues, procedural matters, and objections;

b. The necessity or desirability of pre-hearing briefs or written statements of the parties' contentions;

c. Identification of contested issues of fact and simplification of the issues;

d. Possibilities for obtaining stipulations of fact;

e. Need for additional discovery or release of information to or by either party;

f. Exchange of lists of witnesses expected to testify at the hearing;

g. Marking and exchanging exhibits to be introduced at the hearing and stipulation as to the authenticity and admissibility of those exhibits;

h. A schedule of deadlines in which to accomplish all pre-hearing matters;

1. Resolving the case by another alternative dispute resolution (ADR) method;

j. Settlement of the case; and

k. Any other matters likely to facilitate final disposition of the case.

40.13. Conduct of Hearings. The arbitration hearing will be conducted as follows:

a. All persons testifying at the hearing will be placed under oath administered by the arbitrator;

b. The arbitrator may establish reasonable ground rules to insure orderly, thorough and fair proceedings;

c. The parties' representatives will be permitted to make opening and closing statements and (subject to relevancy) may introduce documentary or demonstrative evidence, examine and cross-examine witnesses and make proper objections to any aspect of the proceedings. The arbitrator's rulings on objections are interlocutory and may not be appealed in advance of the arbitration award;

d. Formal rules of evidence will not apply. Evidentiary rulings will be made with a view towards insuring a thorough and fair hearing. The evidentiary standard will be "preponderance of the evidence". Hearsay evidence is admissible and will be given whatever weight the arbitrator decides, if any. The arbitrator's rulings on evidentiary matters are interlocutory and may not be appealed in advance of the arbitration award;

e. Unless otherwise agreed by the parties, hearings will be held between 9:00

a.m. and 4:00 p.m., Monday through Thursday. The arbitrator, however, in order to conclude a hearing, may continue proceedings after regular working hours for a reasonable period and from day to day, as necessary.

f. At the arbitrator's discretion, in order to insure a thorough and fair hearing, and subject to advance coordination with and authorization of agency authorities, the hearing may be temporarily adjourned to permit the arbitrator, the parties and parties' representatives, to view agency facilities, equipment, locales, and operations or demonstrations relevant and material to the case;

g. At the request of either party, the witnesses on both sides will be placed under "the rule", i.e., sworn in by the arbitrator and then removed from the hearing room to some place where they cannot hear the testimony being delivered by other witnesses, until such time as they are called individually to testify. The rule does not apply to an employee grievant, the management or union officials representing the parties or the parties' hearing representatives; and

h. Hearings will be orally recorded by the agency and a copy provided to the arbitrator and the union. No written transcripts of the proceedings will be ordered or required. Unless otherwise agreed by the arbitrator and the parties, video recording of proceedings is prohibited.

#### 40.14. Post-hearing Matters.

a. Re-opening. Unless otherwise agreed by the parties, the record of the hearing will be closed at the conclusion of the hearing or upon submission of a stipulated record to the arbitrator for decision without a hearing. Once the record is closed, the arbitrator may order the record re-opened for good cause only, for a limited and specific purpose, anytime within 14 calendar days after the original closing date. Once the record is closed, the parties may not submit any additional evidence in support of their position without the express consent of the arbitrator, which will not be given without reasonable notice and opportunity for either party to object.

b. Post-hearing Briefs. The parties may file post-hearing briefs after the record is closed. The arbitrator may specify particular issues or points he wishes the parties to address in their briefs and will establish a submission deadline and a method or procedure to be utilized in exchanging/serving briefs. Post-hearing briefs will not incorporate or argue evidence, issues or points not introduced or rose during the hearing.

#### 40.15. Opinion and Award.

a. Unless otherwise agreed by the parties, the arbitrator will issue an opinion and award in the case within 60 calendar days after the record is closed. The arbitrator's opinion and award will be in writing, dated as of the date of issuance and signed.

b. The opinion and award will be consistent in all respects with the terms of the collective bargaining agreement, the parties' other agreements concerning the case, if any, and the evidence comprising the record of the case. The arbitrator shall not modify the terms of the parties' agreements in any manner. The award will be reasonably clear and precise so that the parties can understand and implement and relief being granted (or denied).

c. The opinion and award will explain the factual and legal analysis that underlies

the award and will specifically discuss each of the issues of the case and how each was resolved. In addition, the opinion and award will expressly state that any relief requested by a party and not specifically made part of the award is denied.

d. The arbitrator's opinion and award will be served on the parties contemporaneously.

#### 40.16. Decision on the Record.

The parties may jointly request the arbitrator to render an opinion and award with respect to any dispositive procedural issue concerning the case (e.g., threshold "grievability: and arbitrability" issues) or the merits, on the basis of a stipulated record, without the necessity for an on-site evidentiary hearing.

#### 40.17. Cancellation.

a. The party invoking arbitration may withdraw the case and cancel the scheduled hearing, without penalty, upon 10 calendar days (or more) advance written notice to the opposing party and the arbitrator.

b. The parties may settle the case and cancel the scheduled hearing, without penalty, upon 10 calendar days (or more) advance written notice to the arbitrator.

c. Should the party who invoked arbitration in the case, for whatever reason, withdraw the case from arbitration and cancel the scheduled hearing date, without giving the minimum 10 calendar days advance written notice, and the parties and Arbitrator are unable to agree on scheduling another case on that date, the party withdrawing the case will be solely liable for the cancellation penalty charged by the arbitrator, if any.

d. If the parties settle, resulting in cancellation of the scheduled hearing, without giving the arbitrator the minimum 10 calendar days advance written notice, the parties will each be liable for one half (1/2) the cancellation penalty charged by the arbitrator, if any.

e. Any cancellation penalty charged by the arbitrator shall not exceed the stipulated per diem arbitration fee amount.

40.18. Ex-Parte Communications. The parties' representatives will not communicate with the arbitrator, orally or in writing, concerning any substantive matter involving the case, outside of scheduled hearings or telephone conferences, without informing the opposing party's representative. The parties' representatives, however, may communicate with the arbitrator, as necessary, without informing the opposing party's representative, to arrange the logistics of the arbitration or for purely administrative matters.

#### 40.19. Service of Documents.

a. Following the invocation of arbitration in the case, copies of every pleading, motion, request, brief, paper or other document required or permitted by the parties' agreements or by the arbitrator, that are filed with the arbitrator, will be served upon the parties' hearing representative, at his designated address. All papers or documents filed with the arbitrator will include a certificate of service, which will constitute prima facie evidence of proper service on the opposing party.

b. Service may be accomplished by personal delivery; fax or mail service by mail is complete upon mailing. If service is accomplished by mail, three (3) calendar days will be added to any specified deadline.

40.20. Authority Terminates. The arbitrator's jurisdiction and authority over the case terminates upon issuance of the opinion and award; except that, within 10 days after issuance, the parties may jointly request the arbitrator to issue a supplemental opinion and award. Arbitrator may (but is not required to) issue such clarification within 30 days after receipt of the parties' joint request.

## **Article 41- Unfair Labor Practice Procedure**

41.01. General. The parties agree to diligently attempt to informally resolve unfair labor practice (ULP) complaints before invoking formal ULP procedures under section 7116 of the statute and regulations of the Authority. Informal complaints will be in writing and delivered to the agency head, ATTN: CPAC Labor Relations Officer or the Union President, whichever is appropriate. The parties agree to meet and make a good faith attempt to informally resolve ULP complaints within fifteen (15) days of the informal filing. If informal resolution of the complaint is not achieved within the 15 days after informal filing, the complaining party may forward its complaint to the Authority.

## **Article 42 - Joint Agency and Union Partnership Council**

42.01. General. Both the Agency and the Union recognize that conditions and issues may arise that affect either, or both, employees and management. In an effort to foster, develop, and maintain a professional relationship built upon honest, open, two-way communication and active listening, the parties agree to establish a Joint Partnership Council. This council will not have authority to change any Article in this Collective Bargaining Agreement (CBA) unless mutually agreed upon by both Council co-chairs. Establishment of this Partnership Council is in addition to regularly scheduled meetings conducted between the Commander's designee for labor relations and the Union President. The Council will meet monthly on a regularly scheduled basis.

42.02. Charter. The Council will meet monthly to discuss joint labor-management initiatives and projects that will promote and facilitate communication between the Agency and the Union as well as between Management and Employees. Examples follow:

- a. Fair distribution of training
- b. Consideration of positions for career ladders
- c. EEO matters that cause or encourage discrimination complaints
- d. Incentive awards processes
- e. Other matters mutually agreed upon

The Council will not discuss or consider individual grievances and/or complaints, but may discuss general personnel policies, practices, or working conditions to promote dialogue and solicit input concerning future conditions.

42.03. Council Composition. Both parties will jointly co-chair the Partnership Council. The Agency's co-chair will be the Commander's designee and the Union's co-chair will be the Union President or designee. In addition to the co-chairs, each party may have up to three additional members present at each monthly meeting. Co-chairs will select their additional members. These additional members may be permanent members or selected on a rotating basis contingent upon the agenda items for a particular meeting. In addition to the three members for the Agency, the Agency co-chair will have one additional person in attendance for the purpose of recording and compiling minutes of the meeting.

42.04. Meeting Frequency/Conduct. Partnership Council will meet monthly unless the co-chairs agree to extend the timeframe between meetings. Either co-chair may request a special meeting if they believe there is an issue that requires immediate attention, but the other co-chair is not bound to agree to the scheduling of a special meeting. At least three workdays prior to scheduled meeting, co-chairs will inform each other in writing of the items they plan to discuss at the upcoming meeting. Total duration of the meeting will not exceed three hours. Both parties acknowledge and agree that while having all participants in a single location for these quarterly meetings is most desirable, mission requirements and other constraints may not allow this to happen. In these instances, both parties agree to employ VTC and conference call arrangements as required to conduct the meeting. Within five-business days after the meeting, the Agency co-chair will provide all meeting



attendees a copy of the meeting minutes. Minutes will include, at a minimum, list of attendees, subjects discussed, actions required, and decisions reached.

### **Article 43 - Telework**

The Agency and the Union mutually agree to abide by DoD Telework Policy, and any future revisions to these documents coordinated with the Union are the governing policy for telework within the Command.

## Article 44 - Employee Wellness

44.01. The Agency and the Union agree when an Employee is injured on the job, the first concern is to ensure that he/she gets prompt emergency medical aid as required. Doubts over whether medical attention is necessary will be resolved in favor of arranging medical aid. If conditions warrant, the Agency will arrange for the employee to receive treatment from a medical professional either at the work site or at a nearby medical facility.

44.02. When it is necessary to assist an employee to return home because of illness or incapacitation or to provide transportation to a medical facility, the Agency will assist the employee in arranging for such transportation.

44.03. The Agency will keep on site first aid items on hand such as band-aids, adhesive tape, sterile pads, gauze, etc. Any incident requiring something more than the items listed requires administration by a medical professional. This treatment will be arranged as stated in paragraph 44.01 above.

44.04. All employees as a show of consideration for others should take appropriate precautions against the spread of infectious disease. The Agency will provide appropriate custodial services, liquid soap dispensers, and paper towels in bathroom and kitchen areas.

44.05. It is in the best interest of Employees, the Agency, and the Union if individuals choose to engage in activities that promote a healthy lifestyle. This may reduce the use of sick leave, and thereby lead to improved performance and productivity. Consistent with Army policy, the Agency may periodically provide Employees the opportunity to participate in Command sponsored formal physical exercise training. The intent of this type of program is to "jump start" employee interest in a fitness program that will lay the foundation for a healthier lifestyle. The Commander may grant employees up to three hours of administrative leave per week, contingent upon mission requirements, to participate in this type of program. The physical fitness activities must be an integral part of a total fitness program that must include pre- and post- program participant evaluation, continuous monitoring during the program, exercise, and nutritional education.

## **Article 45 -Mid-Term Bargaining**

45.01. Purpose. This article shall be administered in accordance with Title 5, United States Code, Chapter 71 and this agreement. The purpose of this article is to prescribe the criteria and procedures by which the parties may engage in negotiations during the term of the agreement.

### 45.02. Procedures for Negotiating During the Term of the Agreement

a. Notice of Proposed Change. Either Party may propose change in conditions of employment during the life of the Agreement which is not already covered specifically by the Agreement. The initiating Party will provide the other Party with reasonable advance written notice, not less than 10 days prior to the proposed implementation date, of any change affecting conditions of employment. The notice will contain the following information:

- (1) The nature and scope of the proposed change;
- (2) A description of the change;
- (3) An explanation of the initiating Party's plans for implementing this change;
- (4) An explanation of why the proposed change is necessary;
- (5) The proposed implementation date.

b. The receiving Party will review the proposal and may respond to the initiating Party in one of the following ways:

If the receiving Party wishes additional information or an explanation of the proposal, that Party may, within ten (10) working days of receipt of the notice, make a written request for a briefing by the initiating Party, and/or for additional information in writing, in order to clarify or determine the impact of the proposed change. If the receiving Party wishes to negotiate over any aspect of the proposed change, it shall notify the other Party by submitting a demand to bargain within ten (10) working days of receipt of the notice (or receipt of any requested briefing or information, whichever is later).

### c. Agreement to Negotiate

(1) Upon request by the receiving Party, the parties will meet and negotiate in good faith through appropriate representatives for the purpose of collective bargaining as required by law and this Agreement. Following this request to negotiate, the Parties will schedule a meeting to begin negotiations as soon as possible, normally no later than ten (10) working days from the receipt of the Union's request, or ten (10) working days before the proposed implementation date, whichever is earlier. Implementation shall be postponed to allow for the completion of bargaining, up to and including negotiability disputes and/or impasse proceedings, except as required by law.

(2) The Party requesting negotiations will not be required to submit written proposals in advance of the start of the bargaining period, but will make good faith efforts to submit proposals, in part or in whole, prior to arriving at the bargaining site, whenever practicable.

(3) If the receiving Party has not responded to the initiating Party within the

prescribed time frames, the proposed changes in conditions of employment will be implemented on the proposed effective date.

#### 45.03. Ground Rules for Mid-term Bargaining

a. The following ground rules apply to all midterm bargaining entered into as a result of changes initiated by either Party and any corresponding obligation to bargain over such changes under 5 U.S.C. Chapter 71. These ground rules are intended to supplement the procedure set forth in this agreement, and may only be changed by mutual consent.

(1) Briefing Sessions: Either party may request a briefing session to explore or explain the change and its impact on unit employees. This session may be scheduled in advance of the start of actual negotiations, or as a part of the time allotted for bargaining.

(2) Arrangements: Negotiations will be held in a suitable meeting room provided by the Agency at a mutually agreed upon site. The Agency will furnish the Union negotiating team with a caucus room, such as a conference room or other private meeting space which is in close proximity to the negotiation room.

a) The Agency will also provide the Union negotiating team with customary and routine office equipment, supplies, and services, including but not limited to computer(s) with Internet access, telephone(s), desks and/or tables and chairs, office supplies, and access to at least one printer and one photocopier.

b) The starting date and the daily schedule for negotiations will be established by the chief negotiators.

c) Alternates may substitute for committee members. Such alternates will be entrusted with the right to speak for and to bind the members for whom they substitute.

(3) Routine: During negotiations, the chief negotiator for each party will signify agreement on each section by initialing the agreed-upon section. The chief negotiator for each party will retain his/her copies and will initial the other party's copy. This will not preclude the parties from reconsidering or revising any agreed-upon section by mutual consent.

a) It is agreed that either team may request a caucus, and may leave the negotiation room to caucus at a suitable site provided by the Agency. There is no limit on the number of caucuses which may be held, but each party will make every effort to restrict the number and length of caucuses.

b) The agreement shall not be completed and finalized until all proposals have been disposed of by mutual consent. Negotiation disputes, including questions of negotiability and resolution of impasses, will be processed in a manner consistent with 5 U.S.C. Chapter 71 and implementing regulations. This will not serve as a bar to the parties concluding by mutual consent a general agreement on those items which have been or remain to be negotiated.

(4) Authority. Each party shall be represented at the negotiations at all times by one duly authorized chief negotiator/chief spokesperson that is prepared and authorized to reach agreement on all matters subject to negotiations and to sign off on agreements for their respective party.

(5) The Union will be authorized at least the same number of Union representatives on official time as the Agency have representatives at the negotiations

table. At least one of the designated Union negotiators shall be the Union President or his designee. Employees authorized to be excused from work to participate in negotiations as union representatives, including attendance at impasse proceedings, and for other related duties during negotiations, such as preparation time and time spent developing and drafting proposals will be on official time during the time that corresponds to their actual hours of work.

(6) Maintenance of Records. The negotiations will not be recorded by means of any tape or electronic recording device, and no official transcript will be made of the negotiation proceedings. However, each party may make and keep its own notes and records.

(7) Questions of Negotiability. If any proposal is claimed to be nonnegotiable by either party and subsequently determined to be negotiable, or the declaring party withdraws its allegations of non-negotiability, the proposal will, upon request, be reopened within a reasonable period of time. Such request must be made within 60 calendar days from when the proposal is declared to be negotiable or the claim that the proposal is nonnegotiable is withdrawn. Nothing in this section will preclude the right of judicial appeal.

a) This procedure does not preclude the parties from revising any proposals to overcome questions of negotiability during the period of negotiations.

b) Any provisions disapproved during Agency head review may be referred to the FLRA by the Union. Any provision held negotiable will be incorporated into the agreement. The parties will commence negotiations within a reasonable period after receipt of an FLRA decision sustaining the Agency's determination of non-negotiability.

(8) All timeframes in these ground rules may be modified by mutual consent.

(9) The Union will pay travel and per diem expenses for Union negotiators.

(10) Observers shall be permitted in negotiating sessions only by the mutual consent of the parties.

(11) Execution of Agreements. All written agreements or memoranda of understanding reached under the provisions of this article will be duly executed and incorporated into this Agreement. A copy of any agreement reached will be provided by the Agency to each affected employee.

(12) No Waivers. Nothing in this Agreement shall be deemed to waive either Party's statutory rights including the Union's right to initiate mid-term bargaining on matters that are not contained in or covered by this Agreement. Unless it is clear that a matter at issue is set forth explicitly and comprehensively in this Agreement or in an existing MOU, the subject is appropriate for mid-term bargaining.

## **Article 46 - Effective Date and Duration**

### 46.01. Ratification and Agency Head Review.

a. Final Comprehensive Agreement: Within 10 calendar days of the conclusion of negotiations, the Agency will prepare and furnish the Union a final comprehensive agreement, in draft form for review. The Parties will be allowed a maximum of 10 calendar days to review the initial draft. Necessary changes, if any, will be incorporated into a final draft agreement within 5 workdays.

b. The Union will have 30 days to complete ratification.

c. If the Union fails to ratify the Agreement, the Union will so notify the Agency and the Chief Negotiators will then meet to arrange resumption of negotiations.

d. Once the agreement is finalized, the parties will execute (sign) the agreement. The agreement will then be forwarded immediately to DOD CPAS for Agency Head Review in accordance with 5 USC 7114 (c).

e. If the Agency Head (DOD CPAS) disapproves the Agreement, the Chief Negotiators will then meet promptly to arrange resumption of negotiations in an effort to reach agreement.

f. Upon implementation, the Agency will furnish enough hard copies of the Agreement, to ensure that each employee and supervisor associated with the Bargaining Unit is provided a hard copy. Additionally, the Agency will furnish the Union 50 copies and provide additional hard copies as needed. The hard copies will be spirally bound in booklet form (hard covers (front & back), with interior pages printed on heavy grade paper. The hard copies will be no more than 5 1/2 inches wide X 8 inches long. Additionally, the Agency will provide the Union a copy on compact disc/flash drive. Each Party is free to post the Agreement on appropriate websites.

### 46.02. Effective Date of the Collective Bargaining Agreement. This Agreement shall take effect on the date of signed Official Text Certificate.

a. The successor CBA will go into effect after it has been ratified by the union and approved by the Designee (DOD FAS) and only after provisions found nonnegotiable, if any, in the Agency Head review have been addressed.

b. If the Agency Head takes no action, the CBA will become effective on the 31st day after it was signed by both parties.

c. The specific date of implementation will be clearly annotated on the agreement.

d. Any provision of this agreement may be waived, deleted or changed by mutual agreement of the parties.

### 46.03. Duration. This Agreement shall remain in full force and effect for three (3) years from its effective date. This Agreement shall automatically renew itself from year to year thereafter.

### 46.04. Renegotiation.

a. If either party desires to renegotiate any terms of this Agreement, it will furnish

written notice to the other party, identifying the Articles that it wishes to change, not more than one hundred and twenty (120) or less than ninety (90) days prior to the expiration date.

b. In the event such notice is given by either party, the parties will begin negotiating ground rules for the new negotiations within sixty (60) days from the date of receipt of notice of the proposed changes. If negotiations are not completed by the anniversary date, the Agreement will be automatically extended until a new agreement is negotiated.

46.05. Reopener. Either party may propose negotiations during the term of this Agreement to reopen, amend, or modify this Agreement, but such negotiations may be conducted only by mutual consent of the parties. Such negotiations shall be conducted in accordance with Article 44 (Mid-Term Bargaining).

45.06. Amendments and Modifications. This Agreement may only be amended, modified, or renegotiated in accordance with the provisions of this Agreement.



## Article 47 - General Provisions

47.01. Computation of Time Periods. Unless otherwise stated, all time periods or deadlines under the CBA will be calculated using calendar days. When calculating any time period or deadline, the day an action or event occurred or the day a document was received will not be counted. The last day of a time period or deadline will be counted unless it is a Saturday, a Sunday or a legal holiday. In such case, the last day of the time period or deadline will be extended to the next regularly scheduled workday. If a document is mailed via the U.S. Postal Service, three additional days will be added to the time period or deadline. Unless otherwise stated, time periods or deadlines expire at 4:00 p.m. (1600 hours).

47.02. Construction: Partial Invalidity. Provisions of the CBA will be construed in a commonsense way that gives practical effect to the intent of the parties. Should a court, the Authority, an arbitrator, the agency head or other appropriate governing authority determine that any provision of the CBA violates the statute or any other law, rule or regulation, or is otherwise unenforceable, the remaining provisions of the CBA will remain in full force and effect and will be construed together in a commonsense manner that gives meaning and practical effect to the intent of the parties.

47.03. Entire Agreement. Except as otherwise expressly agreed by the parties, the CBA contains the entire agreement between the parties concerning the subject matter and supersedes all prior or contemporaneous agreements, arrangements, practices, or understandings of the parties that in any way concern the subject matter of the CBA.

47.04. Failure to Enforce Provisions.

a. A party's failure to strictly enforce a provision of the CBA, for whatever reason, shall not constitute a waiver of the party's right, following notice to the other party, to insist on full compliance at any such time. Such failure shall not operate to establish or create any rule, policy or practice having the effect of canceling, modifying or establishing an exception to any provision of the CBA.

b. In accordance with section 7114(b)(5) of the statute the duty of the agency and the union to negotiate in good faith shall include the obligation, if agreement is reached, to execute on the request of any party to the negotiation, a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

47.05. Official Text and Copies.

a. Official Text. The parties have executed and each has been provided a duplicate original of the CBA. The parties stipulate that these duplicate originals approved by the parties as provided in article 36 contain and constitute the official text of the CBA.

b. Copies. Following approval the agency will print sufficient copies of the CBA, at no cost to the union, for distribution by the union to employees. Thereafter, the union may obtain additional copies of the CBA from the agency upon payment of the agency's actual per copy cost. Printed copies may be reproduced in a different format than the duplicate originals. Copies of the CBA (other than duplicate originals), including printed

copies are not official texts of the CBA unless the agency and the union so certify in writing. Each party is free to post the CBA on appropriate websites.

47.06. Subsequent Agreements. Subsequent amendments, additions or modifications to the CBA or any subsequent agreements reached through collective bargaining concerning a new subject matter will not have any binding effect on the parties unless in writing and signed by authorized representatives of the agency and the union. Unless otherwise agreed, such writings shall be in the form of either a memorandum of agreement (MOA) or memorandum of understanding (MOU), as appropriate. The parties may adopt standardized formats for MOAs and MOUs.

47.07. Word Gender. Any use of a male gender noun or pronoun in the CBA shall be deemed to include the female gender, and vice versa.