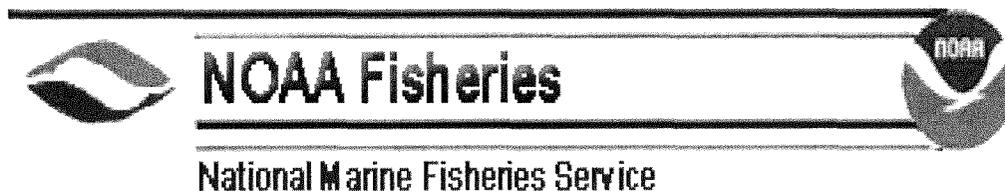


**Labor Agreement**  
**Between**  
**American Federation of**  
**Government Employees**  
**Local 231**



**and the**  
**Northeast Fisheries Science Center**



**Collective Bargaining Agreement**  
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**ARTICLE 1.**  
**PREAMBLE AND PURPOSE**

In accordance with provisions of the Civil Service Reform Act of 1978 this Agreement is made between the American Federation of Government Employees Local 231, hereinafter, referred to as the “Union” and the USDOC, NOAA, National Marine Fisheries Service, NEFSC, hereinafter, referred to as the “Employer”. It is the intent and purpose of the Parties to promote and improve the efficiency of NEFSC operations and address the concerns of the Employer, Union and bargaining unit Employees. Through this Agreement, the Parties have established a means to address negotiable personnel policies and practices, Employee working conditions and any other negotiable matters in accordance with 5 U.S.C. Chapter 71. This Agreement is also established as a means to assure amicable discussion and adjustment of matters of mutual interest.

**ARTICLE 2.**  
**EXCLUSIVE RECOGNITION AND UNIT DESCRIPTION**

**SECTION 1**

The Employer hereby recognizes the Union as the exclusive representative of all Employees in the unit as defined in Section 2 of this Article. The Union hereby recognizes and accepts their responsibility to represent the interests of all bargaining unit Employees.

**SECTION 2**

The unit of exclusive recognition to which this Agreement applies is:

**INCLUDED:** All Employees employed by the Ecosystems Processes Division of the Northeast Fisheries Science Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U. S. Department of Commerce, and all Employees of the Northeast Fisheries Science Center whose permanent duty station is the James J. Howard Marine Laboratory, Highlands, NJ.

**EXCLUDED:** All management officials, Supervisors, and Employees of the Northeast Regional Office, Employees of the National Ocean Service, NOAA, and Employees described in 5 U.S.C. 7112 (b)(2),(3),(4),(6), and (7).

### **ARTICLE 3.**

#### **PROVISIONS OF LAWS AND REGULATION AND PAST PRACTICES**

##### **SECTION 1**

In the administration of all matters covered by this Agreement, the Parties and bargaining unit Employees will be governed by applicable federal laws, government-wide regulations, Employer regulations, policies, procedures and practices, and NEFSC past practices in effect at the date of Agency Head approval of this Agreement.

##### **SECTION 2**

The Parties agree that Employer policies, procedures and any NEFSC past practices in existence at the time the Agreement is approved do not preclude the Parties from negotiating any of these matters for which a legal obligation to bargain exists, as determined by Title 5 U.S.C. and provided they are not covered in this Agreement.

### **ARTICLE 4.**

#### **EMPLOYEE RIGHTS**

##### **SECTION 1**

A bargaining unit Employee will have the right to bring work-related matters to the attention of their Supervisor. This right may be exercised by bargaining unit Employees, individually or collectively.

##### **SECTION 2**

Bargaining unit Employees shall have the right to freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from such activity. The right to assist the Union extends to participation in the management of the Local and acting for the Local in the capacity of a Union representative, including the presentation

of its views to officials of the Executive Branch of Government, the Congress, or other appropriate authorities. The Parties agree that no interference, restraint, coercion, or discrimination is practiced to encourage or discourage membership in the Local.

### **SECTION 3**

The bargaining unit Employees will be given the opportunity to be represented by the Union at:

- A. Any formal discussion between one or more representatives of the Agency and one or more bargaining unit Employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment; or
- B. Any examination of a bargaining unit Employee in the unit by a representative of the Agency in connection with an investigation if-
  - i. The bargaining unit Employee reasonably believes that the examination may result in disciplinary action against the Employee; and
  - ii. The bargaining unit Employee requests representation.

### **SECTION 4**

A bargaining unit Employee has the right to seek authorized representational assistance on duty time from a Union representative. The Employee must obtain permission from his/her Supervisor prior to seeking representational assistance during duty hours. The Supervisor shall propose an alternative time in those instances where the requested time is denied. The Employer makes the final determination of when the Employee may seek representational assistance during duty hours.

### **SECTION 5**

Nothing in this Agreement shall require a bargaining unit Employee to become or to remain a member of a labor organization or to pay money to the organization, except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deduction.

## **SECTION 6**

The rights of exclusive representation under the provisions of 5 U.S.C. 7114(a) shall not be construed to preclude an Employee from:

A. Being represented by an attorney or other representative, other than the exclusive representative, of the Employee's own choosing in any grievance or appeal action; or

B. Exercising grievance or appellate rights established by law, rule, or regulation;

except in the case of grievance or appeal procedures negotiated under 5 U.S.C Chapter 71.

## **ARTICLE 5.**

### **RIGHTS OF THE EMPLOYER**

#### **SECTION 1**

Subject to Section 2 of this Article, nothing in law, regulation, or this Agreement shall affect the authority of any management official of the Employer--

A. To determine the mission, budget, organization, number of Employees, and internal security practices of the Employer; and

B. In accordance with applicable laws -

i. To hire, assign, direct, layoff, and retain Employees of the Employer, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such Employees;

ii. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Employer's operations shall be conducted;

iii. With respect to filling positions, to make selections for appointments from-

a. among properly ranked and certified candidates for promotions;

or

b. any other appropriate source; and

iv. To take whatever actions may be necessary to carry out the Employer's mission during emergencies.

## **SECTION 2**

Nothing in law, regulation, or this Agreement shall preclude the Parties from negotiating:

- A. At the election of the Employer on the numbers, types, and grades of Employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- B. Procedures which management officials of the Employer will observe in exercising any authority under this Article; or
- C. Appropriate arrangements for Employees adversely affected by the exercise of any authority under this Article by such management officials.

## **ARTICLE 6.**

### **BARGAINING UNIT LISTING**

Within thirty (30) days after the approval of this Agreement, the Employer will provide the Union with a listing of bargaining unit positions, including the name, grade, series, title, and duty location of the incumbent and any bargaining unit vacancies. All bargaining unit vacancies will include the grade, series, title and duty location. Thereafter, the Employer will furnish an update of the above information as changes occur.

## **ARTICLE 7.**

### **DUES WITHHOLDING**

## **SECTION 1**

The Parties agree that any Employee who is a member of the bargaining unit, and who is a member in good standing of the Union, may authorize an allotment of pay for the payment of their dues for such membership. Dues will not be withheld from an Employee whose net salary, after legal and required deductions is not sufficient to cover the amount of the authorized allotment, such as when the Employee has had a period in a non-pay status (leave without pay, suspension or furlough).

## **SECTION 2**

The procedures and effective dates of authorization will be as follows:

The Union agrees to inform each of its members in the Bargaining Unit of the nature of authorizing allotment of pay to cover dues, the prescribed procedure for authorizing the allotment, conditions that will cause the amount of an allotment to change without the Employee's direct action, and the provisions and procedures for exercising their prerogative of revoking an allotment on an annual basis.

The Union agrees to acquire (at its own expense) and to make available to members who request it, the prescribed allotment form (SF-1187) and the prescribed revocation of allotment form (SF-1188). A completed SF-1187 must be processed through the Union for approval. A SF-1188 will be processed through the Union. Employees must complete form SF-1187, for initiating an allotment, and form SF-1188 for terminating an allotment.

The Union will be responsible for the proper completion and certification of the SF-1187 by completing Section "A" of the form. Certified allotment forms will be submitted to the Office of Human Resources Management (Workforce Management Office (WFMO)). The WFMO will verify the member's inclusion in the bargaining unit and forward verified allotments to the appropriate payroll office. The Personnel Unit will return unverified allotment forms to the Union, with an explanation, as soon as practicable after receipt.

A properly completed, certified, and verified allotment will be effective at the beginning of the first pay period following receipt of the form in the appropriate payroll office, and will continue in effect until the allotment is changed or terminated in accordance with the provisions of Section 3 and 4.

## **SECTION 3**

Allotted dues will be withheld from the regular bi-weekly payroll. The amount to be withheld will be the amount of the regular dues of the member, as specified on the SF-1187 or as governed below, exclusive of initiation fees, assessments, back dues, fines and similar charges and fees.

If the amount of the regular dues is changed by the Union, the President of the Union Local will notify the human resources office, at least six (6) days prior to the change of the new rate and the effective date of the amended dues structure. The new rate will be withheld as soon as possible after receipt of notice, unless the Union specifies a later date. New allotment forms will not be required. No more than one (1) change in the amount of the allotment will be made during a calendar year.

#### **SECTION 4**

The Employer will terminate an allotment:

- 1) If the Union loses its certification as exclusive representative of the bargaining unit, or if this Agreement is suspended or terminated by appropriate authority. The termination will be effective at the beginning of the first pay period following the effective date of the loss of certification, or termination or suspension of this Agreement.
- 2) When an Employee ceases to be a member of the bargaining unit, the allotment will be terminated at the end of the payroll period in which the Employee last served in a position covered by the Certified Bargaining Unit. The Union will notify the Human Resources Management, within five (5) workdays, when an Employee with a current allotment authorization ceases to be a member in good standing.
- 3) Upon receipt of notice from the Union that the Employee is no longer a member in good standing, the allotment will be terminated at the beginning of the first pay period after receipt by the payroll office of such notification.
- 4) When an Employee executes and sends to the Human Resources Management a completed revocation of allotment form SF-1188 prior to the allotment's anniversary date, the allotment will be terminated the first full pay period after the allotment's anniversary date. The Union will submit to the Human Resources Management, within five (5) workdays, any completed written revocation of allotment received by the Union. The Human Resources Management will send the Union a copy of each SF- 1188 it receives within five (5) workdays of receipt.

## **SECTION 5**

The Union agrees to keep the Human Resources Management currently informed as to the name, title, and address of the Union official authorized to receive the amount due the Union. The Employer agrees to request that the National Finance Center (NFC) provide the following information to the Union: identification of the facility, the local Union, the names of members for whom deductions were made in alphabetical order and the amount withheld from each member, the names of members for whom deductions previously authorized were not made and the reason, the total amount withheld, and the net amount remitted to the Union. The Employer will request that the NFC provide this information promptly after completion of each bi-weekly payroll deduction.

## **SECTION 6**

The Parties recognize that administrative errors occur. Therefore, if dues were inadvertently deducted from an Employee's pay without authorization, the Union will promptly refund the amount of the erroneous remittance. If dues were not deducted from the Employee's pay, the Agency will deduct no more than \$10.00 of additional dues deductions for the succeeding pay periods until the correct amount is deducted and remitted to the Union.

## **SECTION 7**

Nothing in this Agreement will require an Employee to become or remain a member of a labor organization, or to pay money to the organization, except pursuant to a voluntary written authorization by a member for the payment of such dues through payroll deductions.

## **ARTICLE 8.**

### **TELEPHONE LISTINGS**

In subsequent printings of the Employer's compiled telephone directory, the Employer will list the Union representatives by name, Union position, work address, e-mail address and telephone number. In subsequent editions of the local telephone directory at locations where bargaining unit Employees have permanent duty stations, the Employer

agrees to include the name, Union position, and telephone number of one representative designated by the Union. Copies of the compiled telephone directory will be distributed to all bargaining unit Employees.

**ARTICLE 9.**  
**SURVEYS**

It is recognized that the Employer has the right to utilize surveys to gather information directly from bargaining unit Employees. The Union will be forwarded an advance copy of any Employer questionnaire distributed to bargaining unit Employees. Consistent with the requirements of the Privacy Act and other applicable laws and regulations, bargaining unit questionnaire results will be shared with the Union, and an opportunity to negotiate changes in conditions of employment based on the results of the questionnaire will be provided in accordance with 5 U.S.C. 71.

**ARTICLE 10.**  
**ARBITRATION**

**SECTION 1**

Only the Union or Employer may invoke arbitration. A notice to invoke arbitration will be in writing to the opposite Party. Such notice will be made within thirty (30) calendar days after receipt of the written decision rendered in the final step of the grievance procedure.

**SECTION 2**

The Parties agree that the issue(s) to be arbitrated will be limited to the issue(s) addressed in the grievance procedure.

**SECTION 3**

Within seven (7) workdays from receipt of the arbitration request, the grieving Party will request the Federal Mediation Conciliation Service (FMCS) to submit a list of seven (7) impartial persons qualified to act as arbitrators. The Parties will meet or confer

(conference) within fifteen (15) workdays after the receipt of such list to select an arbitrator. This will be accomplished by first the Employer and then the Union alternately striking names until only the selectee remains. On the next occasion, the Union shall strike first. If the selected arbitrator is not available, the Parties may agree to request another list or select someone else from the same list.

#### **SECTION 4**

The arbitration hearing will be held at the duty location of the grieving Party during the regular day shift hours of the basic workweek. The grievant, the grievant's representative, and all Employees who are called as witnesses will be excused from duty to the extent necessary to participate in the arbitration proceedings without loss of pay or charge to annual leave. A union technical representative, who is also a witness, may remain during the entire proceedings on official time, if a bargaining unit Employee. An Employer's technical representative who is also a witness, may remain during the entire proceedings. Under no circumstances will Union witnesses or representatives be authorized overtime or premium pay as a result of participating in these proceedings. Witnesses who are bargaining unit Employees may remain at the arbitration hearing after they have given their testimony; however, neither official time nor per diem will be authorized for this purpose.

#### **SECTION 5**

The arbitrator will be requested to render his/her decision as quickly as possible, but in any event, not later than thirty (30) calendar days after the conclusion of the hearing unless the Parties otherwise agree. The arbitrator's decision shall be in accordance with 5 U.S.C Chapter 71.

#### **SECTION 6**

The arbitrator's award will be sent to both Parties simultaneously. The arbitrator's award will be binding on both Parties. However, either Party may remand the issue to the arbitrator for the purpose of clarifying a decision or award. A copy of notification for such purpose will be immediately furnished to the other Party. Either Party may file

exceptions to an arbitrator's award with the Federal Labor Relations Authority (FLRA) under regulations prescribed by the Authority.

## **SECTION 7**

When a transcript is not required by the arbitrator, but mutually desired by the Parties, the costs will be equally shared. In the event that either Party solely desires a transcript, that Party shall bear the entire cost. The other Party is not entitled to a free copy. If either Party requests a transcript, they will notify the other Party ten (10) working days in advance of the arbitration.

The cost of the arbitrator's list will be borne equally by both Parties. The arbitrator's fees, expenses, and transcript fees, (if requested by the arbitrator), will be borne by the losing Party.

If the grievant is provided full relief prior to the arbitration date, but not within the arbitrator's cancellation timeframe, the other Party will pay all arbitrator fees and expenses incurred, otherwise all such costs will be shared equally. When only partial relief is awarded the grievant by the arbitrator, the fees and expenses will be borne equally by both Parties. If the grieving Party withdraws from arbitration, absent settlement, then that grievance at issue is null and void and cannot be raised again, and that Party bears the cost of arbitration provided that it was not canceled within the arbitrator's timeframe.

If either Party remands any issue to the arbitrator for the purpose of clarification that Party shall bear the cost incurred.

## **ARTICLE 11.**

### **EMPLOYEE AND REPRESENTATIVE TRAVEL**

#### **SECTION 1**

The NEFSC telephone and video conferencing systems will be used during official grievance meetings, arbitration hearings, and negotiation sessions to the maximum extent possible to reduce the need for travel.

## **SECTION 2**

When travel cannot be avoided, bargaining unit Employee grievance meetings will normally be held at the present duty station of the grievant. Unless agreed to, or directed otherwise by competent authority, Employer and Union grievance meetings, arbitration hearings, and midterm negotiations will normally be held at the duty station of the local Union President. When it is cost effective to do so, meetings and hearings may be held in locations other than those specified in this Article.

## **SECTION 3**

The Employer will pay reasonable travel and per diem costs in accordance with applicable federal travel regulations, for necessary bargaining unit representatives, bargaining unit witnesses, and grievant(s) to attend grievance investigations and meetings, arbitration hearings, and negotiation sessions.

## **SECTION 4**

To help minimize costs, a government owned vehicle will be used by bargaining unit Employees and their bargaining unit representative(s) when authorized by the Employer to attend grievance investigations and meetings, arbitration hearings, and negotiation sessions held away from the respective duty stations.

# **ARTICLE 12. UNION FACILITIES**

## **SECTION 1**

The Employer agrees to help provide the Union with the means to perform its representational functions by allowing the Union representatives (i.e., local Union officers and duly designated Union stewards) to use their assigned office space at no cost for representational duties as provided in this Agreement. Representational functions do not include the conduct of internal Union business.

## **SECTION 2**

Union representatives at each NEFSC duty station where bargaining unit Employees are permanently stationed will, for representational purposes only, be provided with: (1) access to a fax machine/copier, (2) a mailbox in the mailroom assigned to the Union, (3) a telephone with voice mail and long distance capability, (4) a lockable filing cabinet (one per duty station), (5) use of their assigned personal computer and printer with standard software and capable of accessing E-mail/Internet, (6) use of the interoffice mail system, and (7) reasonable access to space suitable for private calls and/or meetings.

## **SECTION 3**

Upon advance request, and to the extent reasonable and practicable, the employer will provide the use of its space, at locations that will provide access to unit Employees during break and lunch periods and other non-duty hours, for internal Union activities.

## **SECTION 4**

Union representatives are responsible under the Standards of Conduct and other applicable regulations for ensuring that the items listed above will be used only for official use and authorized purpose, and will not be put to uses that would reflect adversely on the Employer.

# **ARTICLE 13.**

## **UNION REPRESENTATIVES/OFFICIAL TIME**

### **SECTION 1**

The Employer agrees to recognize the officers and stewards of the Union. The Parties agree that the Employer will recognize no more than five bargaining unit Employees as officers and stewards on official time for the purpose of representation and for the administration of this Agreement. The Union will provide the Employer, within 15 calendar days of the execution of this Agreement (and within 5 calendar days of any subsequent changes), the names of the five officers and stewards of the Union, and their respective areas of representational responsibility.

## **SECTION 2**

Designated union officers and stewards shall be recognized as representatives of Employees in the bargaining unit. Unless official time has been authorized by law or this Agreement, and approved according to procedures outlined in this Article, representational activity will be performed on the non-duty time of the Employees involved.

## **SECTION 3**

The Union shall be granted 418 hours, annually, for official time for representational duties in accordance with Section 4 below. This “bank of time” shall cover a 12-month period, and shall commence with the date of signing of this Agreement. All accrued official time remaining at the end of each anniversary year shall expire. The Employer agrees that, upon reaching a remaining balance of fifty (50) hours, the Union may reopen Section 3 of this Article to negotiate regarding an additional number of hours for representational duties for the remainder of that twelve (12) month period. The Union agrees to provide proof that hours used and hours to be increased are in accordance with the terms and conditions of this Agreement.

## **SECTION 4**

Duly recognized officers and stewards of the Union will be granted official time, if otherwise in an official duty status, as specified in Section 3 above, to engage in the following representational activities for bargaining unit Employees:

1. Step one grievance representation.
2. Step two grievance representation.
3. Arbitration preparation if presenting the case before the arbitrator.
4. Arbitration
5. Formal meetings.
6. Weingarten meetings.
7. Employer/Union grievances
8. Unfair Labor Practices
9. Preparation and communication with the Employer on matters covered by this Agreement.
10. Proposed disciplinary, adverse actions, or performance-based action representation

All of the above time frames include time spent on the telephone. Official time for collective bargaining agreement negotiations will be negotiated by separate Memorandum of Understanding and are not covered above. Official time for representational activities other than those listed above may be requested from the Employer.

#### **SECTION 5**

Supervisors or other designated officials will release Union representatives from their official work assignments on official Government time, provided that workload conditions permit and/or other means of accomplishing the scheduled work are available, and after advising the representatives of the conditions of (and any limitations to) their release.

#### **SECTION 6**

The Union recognizes its responsibility to ensure that Union representatives do not abuse their authority by unduly absenting themselves from their assigned work areas. The Union agrees that in the interest of efficient government, all efforts will be made to use approved time expeditiously, and that the effect on the work schedule of the Union representative's office/unit is a factor in the decision as to when official time may be authorized. Generally, one Employee will serve as a representative in a particular case or complaint at any one time on official time. The Supervisor, or designee, shall propose an alternative time in those instances where requested official time is denied.

A designated representative must obtain the permission from the Supervisor of any Employee he/she wishes to contact on the Employee's duty time regarding a representational matter. The represented Employee's Supervisor or designee makes the final determination on the release of the Employee.

The Employer is under no obligation to pay Union representatives for representational time spent when they are not scheduled to work. No overtime or premium pay is payable for the purpose of representational activities.

## **SECTION 7**

There shall be no restraint, interference, coercion, or discrimination against Union representatives because of the performance of their approved official representational duties. A Union representative shall not use official time in his/her position as a Union representative for matters outside the scope authorized by this Agreement and will conduct his/her approved business with dispatch. Union representatives may receive, but not solicit, complaints and/or grievances of Employees on official or duty time. Agency staff, equipment, or property will be used in conjunction with or as a result of representational function only as provided in this Agreement.

## **SECTION 8**

In those instances where a Union representative's use of official time does not comply with the provisions of this Agreement, the Employer will initially discuss the matter with the Union representative in order to find a satisfactory solution. Abuse of official time could lead to disciplinary action.

## **SECTION 9**

Each Union official/steward will maintain a bi-weekly account which will show the authorized total time spent on representational duties and the specific purpose for usage in accordance with the format shown in Appendix A. The appropriate Supervisor shall indicate approval by initialing on the log for each period of time spent on approved representational duties. The log shall be forwarded to the NMFS NEFSC Director's designee through the local Supervisor on a bi-weekly basis no later than the Monday following the end of each pay period. When no official time has been used, the Union official/steward need not submit a report.

## **SECTION 10**

Union representatives will be authorized an aggregate of 100 hours of excused absence annually during the life of this Agreement to attend labor relations training of mutual benefit to the Employer and the Union. Requests will be submitted by the Union local President to the Union representative's immediate Supervisor at least two work weeks in advance of the requested training. Requests to the Employer will be in writing and include an official copy of the agenda and description of the training and a written

statement of how the training will be mutually beneficial to the Parties. All other costs related to training permitted under this Section will be borne by the Union. The Employer may consider requests for additional time under this Section, but it is under no legal or contractual obligation to grant additional time.

APPENDIX A  
REPRESENTATION TIME LOG

Name \_\_\_\_\_

Pay Period Beginning \_\_\_\_\_

Date	Time		Purpose	Representative & Supervisor's Initials
	Start	End		

**ARTICLE 14.**  
**UNION REPRESENTATIVES AND OTHERS PERMITTED ON GOVERNMENT**  
**PROPERTY**

The Employer agrees to recognize Employees of the Union, attorneys, and other representatives that are duly authorized by the Union. The Union will provide notice to the Officer-in-Charge (OIC) or designee of the facility to be visited, as early as possible in advance of the visit, citing the number of visitors, their names, the date and time of arrival, and the approximate length of the visit. Upon receiving authorization for the visit from the OIC or designee, visiting Union Employees, attorneys, and other representatives duly authorized by the Union may enter the NEFSC facility for which authorization was obtained. Any refusal of authorization will be explained in writing to the Union. Visiting Union Employees, attorneys, and other representatives duly authorized by the Union will conform to the Employer's duty hours, security requirements and the terms of this Agreement.

**ARTICLE 15.**  
**COMMUNICATIONS**

**SECTION 1**

Lockable bulletin boards, for placement of Union literature, will be provided and installed, at no cost to the Union at each NEFSC facility where bargaining unit Employees work as follows:

James J. Howard facility – 2 bulletin boards

Narragansett facility – 1 bulletin board

Woods Hole facility – 1 bulletin board.

Milford facility – 1 bulletin board, at such time as at least one bargaining unit Employee is permanently assigned to that facility.

National Systematics Laboratory – 1 bulletin board, at such time as at least one bargaining unit Employee is permanently assigned to that facility.

After the installation of the bulletin boards provided above, a bulletin board will be provided and installed in another building only when three (3) or more bargaining unit Employees are permanently assigned to a building without a bulletin board. In the event that all bargaining unit Employees are transferred from a building with a bulletin board to a building without a bulletin board, the bulletin board may be moved with the bargaining unit Employees into the building to be occupied by those Employees.

The placement of the Union bulletin boards will be determined by mutual agreement of the Parties. Union bulletin boards will be at least nine (9) square feet. Posted materials will be maintained in neat order. Union bulletin board maintenance will be conducted only during lunch periods or other non-work hours. Concerns over Union bulletin board maintenance will be brought to the attention of the Union President so that the condition can be remedied promptly. Material that does not violate any law, Executive Order, regulation of appropriate authorities, or this Agreement, or does not reflect on the integrity or motives of any individuals, government agencies or activities of the Federal Government, may be posted on Union bulletin boards. All costs incidental to the preparation, posting, and/or distribution of internal Union material will be borne by the Union.

## **SECTION 2**

The Employer agrees to print and furnish a copy of this Agreement to each current Employee in the bargaining unit. The Union will furnish a copy of this Agreement to each new Employee during new-hire orientation. The Employer also agrees to provide the Union with 50 additional copies of this Agreement. If needed for business directly related to the local, additional copies of this Agreement will be provided at no cost to the Union.

**ARTICLE 16.**  
**EMPLOYEE MORALE**

The Parties acknowledge that bargaining unit Employee morale is beneficial to the accomplishment of the Employer's mission and that the Parties should work towards maintaining a workplace that supports good morale among bargaining unit Employees.

**ARTICLE 17.**  
**CONTRACTING OUT**

**SECTION 1**

The Employer will comply with applicable laws, rules, regulations and OMB Circulars concerning contracting out. The Union will be made aware by the Employer of information concerning any change in conditions of employment pursuant to contracting out activity that affects bargaining unit Employees.

**SECTION 2**

The local Union President will be provided with requested information to which the Union is entitled under applicable laws, rules, regulations and OMB Circulars concerning contracting out.

**SECTION 3**

Upon request, the Union will be provided the opportunity to be represented in meetings and on committees for which Union representation is permitted under applicable laws, rules, regulations and OMB Circulars concerning contracting out.

**ARTICLE 18.**  
**ABSENCE and LEAVE**

In matters relating to the administration of absence and leave, the Parties and bargaining unit Employees will be governed by applicable federal laws, the Department of Commerce Handbook, (October, 2000), and/or procedures in this Agreement, including the following:

1. A hard copy of the DOC Handbook will be made available at the permanent duty stations of bargaining unit Employees.
2. OPM Form 71 is the only form authorized by the Department for requesting and approving leave. It is a matter for Employer discretion whether or when an Employee is required to submit Form 71.
3. When leave requests from bargaining unit Employees are in conflict, preference for granting leave will be decided on seniority procedures as specified in this Agreement.
4. The Employer will make a reasonable effort to timely notify bargaining unit Employees of closings, early dismissals, and delayed openings.
5. Any Employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in compensatory time work for the time lost in meeting those religious requirements. The requirements pertaining to the grant of compensatory time work are set out in 5 CFR 550.1002.

**ARTICLE 19.**  
**RESEARCH CRUISE STAFFING**

**SECTION 1 Participation**

When an insufficiency of volunteers requires bargaining unit Employees to be assigned to research cruise participation, the following procedure will apply:

- A) Management will determine a pool of qualified bargaining unit personnel. Participation will be offered to the most senior Employee in the pool, then the

next most senior, and so on. The process will continue until the personnel requirement is met.

- B) Due consideration will be given to excusing bargaining unit Employees for health or personal hardship reasons.

## **SECTION 2 Training**

When the Employer determines that specialized training is necessary for cruise participation, the Employer will pay training and per diem costs associated with that training consistent with law, rule and regulation. In circumstances where the Employer makes such a determination, the Employer will give the Employee as much advance notice as possible.

## **SECTION 3 Dietary requirements**

To the extent possible, the Employer will make provisions for cruise participants who have special dietary requirements due to medical, philosophical or religious reasons.

## **SECTION 4 Berthing**

- A. The employer will use factors such as age and physical condition in determining berthing assignments for bargaining unit Employees.
- B. The Employer will request or recommend, to the entity which does have the decision making authority, that:
  - (a) Bargaining unit Employees will not be required to “hot bunk” or sleep on couches.
  - (b) Bargaining unit Employees will not be required to berth in unhealthy or unsanitary accommodations (due to failures of HVAC, plumbing, etc.)
  - (c) Bargaining unit Employees will not be required to sleep on unhealthy or unsanitary mattresses, pillows, and blankets.
  - (d) Bargaining unit Employees will not be required to occupy berths and heads that have not been cleaned professionally.

## **SECTION 5 Unsafe/ Unhealthy Conditions**

Any report of an unsafe or unhealthy condition should be made to responsible officials. Aboard ship, this responsibility lies with the command of the vessel. Communications of

this nature to the command should be through the Chief Scientist or Watch Chief whenever possible.

#### **SECTION 6 Cruise Schedule**

The Employer will provide a schedule of proposed cruises three (3) months in advance and staffing requirements two (2) months in advance. Changes to cruise schedules occasionally occur. The Employer will notify cruise participants of such changes to cruises on which they are scheduled to participate.

#### **SECTION 7 Time**

To the extent practicable, time spent in travel status away from the Employee's official duty station will be scheduled by the Employer within the normal working hours. When the Employer determines it is necessary that travel be performed during non-duty hours, the Employee will be compensated in accordance with applicable laws and regulations. Overtime worked by bargaining unit Employees participating on cruises will be paid in accordance with applicable laws and regulations.

#### **SECTION 8 Medical Clearance**

Bargaining unit Employees participating on research cruises shall be offered physical examinations and tetanus vaccination at no cost to the Employee to insure NOAA medical standards are met.

#### **SECTION 9 Communications**

The Employer will request or recommend, to the entity which does have the decision making authority, that private e-mail accounts and reasonable ship-to-shore telephony will be provided for all bargaining unit Employees, at no expense to the Employee.

#### **SECTION 10 Foul weather gear**

If they do not already have their own, bargaining unit Employees will be issued new waterproof jackets, overall pants, and boots before a cruise. Bargaining unit Employees will be responsible for reasonably maintaining this gear. Replacements will be reissued when necessitated by normal wear and tear.

### **SECTION 11 Working accommodations**

The Employer will request or recommend, to the entity which does have the decision making authority, permission to equip the vessel with Employer provided rubber stress reduction floor mats, chairs and appropriate workstations on deck to reduce muscle fatigue.

### **SECTION 12 USDOC NEFSC Operational Control**

The Employer will be responsible for ensuring that all applicable safety and health laws, rules and regulations are met when bargaining unit Employees participate in any research cruises on non-NOAA vessels as per NAO 209-115, "NOAA Employees Aboard non-NOAA Vessels".

## **ARTICLE 20.**

### **DETAILS AND TEMPORARY PROMOTIONS**

#### **Section 1**

Details and temporary promotions to bargaining unit positions will be made in accordance with the Agency's Merit Assignment Program and this Article.

#### **Section 2**

Bargaining unit Employees will receive a memorandum from the Employer documenting details to bargaining unit positions of more than fourteen calendar days, and up to 30 calendar days, duration. Details to bargaining unit positions for more than thirty calendar days will be submitted on an SF-52 to the Human Resources Office (Workforce Management Office) for filing in the Employee's official personnel folder. Bargaining unit Employees to be detailed will be given as much advance notice, as is practicable, regarding the impending detail. When the Employer determines there is no one best candidate for a detail to a bargaining unit position under this Article, and more than one bargaining unit candidate is deemed by the Employer to be equally qualified, seniority will be one of the factors considered in making the selection for the detail.

### **Section 3**

Instances in which the Employer may make temporary promotions to bargaining unit positions include the following: when there is a need for an Employee to perform the duties of a higher graded position during the extended absence of the incumbent, and to fill a higher graded position which has become vacant until a permanent appointment is made. When the time to perform in such positions exceeds thirty calendar days, and the Employer determines such positions should be filled by temporary promotion, the temporary promotion shall be made at the beginning of the next pay period after the receipt of a personnel action (SF-52) in the Human Resources Office.

## **ARTICLE 21.**

### **DISCIPLINARY AND ADVERSE ACTIONS**

#### **SECTION 1**

The Parties agree that the maintenance of discipline is essential to the satisfactory conduct of the public's business. Disciplinary actions should be carried out in a timely manner and be taken for such cause as will promote the efficiency of the service. The Employer recognizes the concept of progressive discipline to correct behavior. However, nothing in this Article precludes the Employer from imposing the maximum penalty for a first offense in appropriate cases. The Employer will consider the penalty for each situation on its own merits. Penalty selection will be consistent with applicable laws, regulations, Agency policies and guidelines. Disciplinary action for the purpose of this Article is defined as a written reprimand, or a suspension from employment for fourteen (14) calendar days or less. An adverse action for the purpose of this article covers the actions contained in 5 U.S.C. Chapter 75, Subchapter II [i.e., a reduction in grade, removal, or suspension for more than fourteen (14) days including indefinite suspensions, or a furlough without pay for thirty (30) days or less].

#### **SECTION 2**

If an Employee reasonably believes that an examination by a representative of the Employer in connection with an investigation may result in disciplinary action against

him/her and the Employee requests Union representation, the Union shall be given the opportunity to represent the Employee. Employees will be notified of this provision annually. A bargaining unit Employee receiving a notice of proposed disciplinary or adverse action is entitled to Union representation, personal (non Union) representation, or self-representation. When the Employee chooses to be represented by the Union, the Union's representative will be entitled to advance notice and provided the opportunity to be present at any meeting between the Employee and the Employer to discuss the disciplinary or adverse action taken against the Employee.

### **SECTION 3**

When the Employer proposes disciplinary/adverse action, the following procedures will apply:

The Employer will provide the Employee with at least thirty (30) calendar days advance written notice of an adverse action and seven [7] calendar days notice of a suspension of fourteen (14) calendar days or less (however, the Employer retains the right to shorten the notice period pursuant to the crime exception in 5 U.S.C. Section 7513). The proposal notice will state the specific reasons for the proposed action. The Employee may submit an oral and/or written reply within seven (7) calendar days from receipt of the proposal notice, and may furnish affidavits and other documentary evidence in support of their response. The Employee may be granted an extension of the reply period, at the discretion of the deciding official, provided that the Employee provides demonstrated and valid reasons requiring such an extension. The Employer shall give the Employee a reasonable amount of official time to review the material relied on to support its proposal and to prepare an answer and to secure affidavits, if he/she is otherwise in an active duty status. After receipt of the written and/or oral response, or after the expiration of seven (7) calendar day reply period, whichever comes first, the Employer will issue a written decision to the Employee which will include a statement of the Employee's appeal rights. All adverse actions and suspensions of fourteen (14) calendar days or less will be based on reasons specified in proposal notice.

An Employee against whom a disciplinary action is taken under this article is entitled to appeal this action through the negotiated grievance procedure of this Agreement. An Employee against whom an adverse action is taken under this article is entitled to appeal

through statutory procedures or through the negotiated grievance procedure of this Agreement, but not both.

#### **SECTION 4**

The evidence file on which the notice is based, which may include statements of witnesses, documents and any investigative reports or extracts therefrom, will be assembled and a copy provided to the appellant or their representative, at their request, in accordance with applicable law, rule, and regulation.

#### **SECTION 5**

The appellant will be in a duty status during the notice period unless the crime provision is invoked or the Employee is placed in an indefinite suspension status. When circumstances are such that the retention of the appellant in a duty status may result in damage to the Employer's property, or harm to its Employees, or may be determined to not be in the best interest of the Agency, the Employee will be assigned to other duties or placed on administrative leave.

### **ARTICLE 22.**

#### **DIVING OPERATIONS**

All diving operations will be conducted in accordance with published NOAA Dive Center Regulations, NOAA ADMINISTRATIVE ORDER 209-123, NOAA DIVING PROGRAM, effective April 5, 2001. In accordance with 5 U.S.C. Chapter 71 the Employer will meet its legal bargaining obligations with respect to any changes to the April 5, 2001 version.

**ARTICLE 23.**  
**EQUAL EMPLOYMENT OPPORTUNITY**

**SECTION 1**

The Employer agrees to adhere to all provisions of Title 7 regarding Equal Employment Opportunity.

**SECTION 2**

The Employer will continue to make every reasonable effort to ensure that any form of discrimination because of age, race, color, religion, sex, physical or mental handicap, or national origin does not occur in connection with employment policies, practices, and working conditions within the unit.

**ARTICLE 24.**  
**EMPLOYEE ASSISTANCE PROGRAM**

**SECTION 1**

The Employee Assistance Program (EAP) is a confidential program designed to promote the well-being of bargaining unit Employees and their family members through counseling and referral by assisting those bargaining unit Employees whose personal problems may serve as barriers to satisfactory job performance.

**SECTION 2**

The Employer will administer the EAP in accordance with USDOC and NOAA directives.

**SECTION 3**

The Parties encourage bargaining unit Employees to participate in EAP counseling.

**SECTION 4**

The Employer agrees to provide contact information for the EAP program to the Union upon execution of a new or renewed EAP contract.

**ARTICLE 25.**  
**EMPLOYEE ORIENTATION**

The Employer will endeavor to provide orientation to each new Employee within three (3) workdays. The orientation will cover, at a minimum, the following topics:

1. Review appointment letter, position classification, and performance plan.
2. Salary, pay periods, and holidays.
3. Overtime and compensatory time, according to FLSA.
4. Injury benefits, accident forms, and workman's compensation.
5. Health benefits program.
6. Life insurance program.
7. Designation of beneficiaries.
8. Union orientation; the Union will be provided twenty (20) minutes during orientation.
9. Safety orientation.

Other orientation topics may be completed within no more than twenty (20) working days of entering on duty. This will include information on the supervisory chain of command and work requirements. The Employee and designated Employer representative will sign the orientation checklist to signify that the information has been provided.

**ARTICLE 26.**  
**EMPLOYEE HEALTH AND FITNESS**

**SECTION 1**

The Parties agree that the well-being of bargaining unit Employees at the workplace is of mutual interest to the Parties. Accordingly, they are mutually committed to providing a healthy, quality working environment for those Employees.

It is recognized that a valuable and effective resource for addressing health issues is the Agency's Employee Assistance Program (EAP). A wealth of valuable information and

guidance on Employee health and fitness is available for free to bargaining unit Employees through the EAP. For example, extensive information and guidance by medical professionals and nutritional experts is available on such matters as dietary and nutritional guidance, smoking cessation, stress relief, aerobic and other exercise, and management of emotional health.

## **SECTION 2**

The NEFSC Human Resources Committee (HRC) will be the vehicle through which other wellness and fitness programs should be submitted for review. The HRC will review each submission and present it to the Employer with a recommended action. The Employer will determine whether or not to take any recommended action.

## **ARTICLE 27.**

### **EMPLOYEE PERSONNEL RECORDS**

#### **SECTION 1**

The Employer maintains the Official Personnel File (OPF) for bargaining unit Employees at its servicing Human Resources Office (Workforce Management Office (WFMO)). All bargaining unit Employees, and/or their duly authorized representatives, may review the contents of the Employee's own OPF at the servicing WFMO. An Employee may review the contents of his/her OPF located at the WFMO only in the presence of an Employee of the Employer or an individual designated or approved by the Employer, and in accord with all applicable Office of Personnel Management and Department of Commerce regulations governing the security and confidentiality of OPFs. Any designation of a representative must be made as part of the written request to review the OPF. The Employee and/or their designated representative may copy or photocopy any document contained in the OPF, with the exception of records restricted by law or regulation. Any document removed for photocopying must be replaced and no other documents may be removed from the OPF.

## **SECTION 2**

Any Employee unable to review their OPF at the servicing HRO may request a copy of the contents of their OPF in writing from the Employer. The OPF copy will be forwarded as soon as possible after receipt of the written request. The Employer shall transmit with the OPF copy a statement certifying that the material is a true copy of the OPF contents, and shall list all exceptions. The Employer will give due consideration to extension of deadlines relating to any action that demonstrably relies on information contained in an OPF when: there is a delay in receipt of such information; and such an extension does not result in unreasonable delay in the exercise of management rights; nor is not an action under the umbrella of overriding exigency; nor the discontinuation of an illegal or unlawful practice.

## **SECTION 3**

Employees may submit information to update their personnel files, including information regarding work experience, training, etc. The Employer will be available to assist Employees in this matter.

## **SECTION 4**

An Employee may review, and request a copy of, official Employer records on that Employee maintained in accordance with the Privacy Act of 1974.

# **ARTICLE 28.**

## **EMPLOYEE RECOGNITION**

### **SECTION 1**

The USDOC, NOAA, NMFS, and NEFSC award programs are designed to fairly and equitably recognize and reward individuals and groups for significant achievements and ideas in service. The programs acknowledge contributions that lead to achievement of organizational, team, and individual results. Timely recognition provides a source of motivation for continued excellence.

The Employer will provide the Union with an annual report of awards received by members of the bargaining unit.

## **SECTION 2**

The Parties encourage all bargaining unit Employees to submit recommendations in accordance with the provisions of the Agency suggestion program to reduce the costs of operations and result in more efficient government operations.

## **SECTION 3**

Awards shall be processed in accordance with current Agency rules, orders, and regulations.

# **ARTICLE 29. FACILITIES**

## **SECTION 1 Environmental Conditions**

If Environmental conditions (e.g., temperature, humidity, noise, lighting) within an office, laboratory or other work area do not meet the applicable Government-wide safety standard, the Employer may direct the Employees to other work areas or work activities. If the Employer is unable to provide alternative work areas or activities and the Employer determines that the problem cannot be corrected before the end of the Employee's workday, the Employer may grant the affected Employees administrative leave.

## **SECTION 2 Lunch Areas, Lockers and Showers**

1. At each facility where bargaining unit Employees work, the Employer will furnish a lunch area where bargaining unit Employees may eat their lunch free of exposure to known harmful contamination. This area may be the Employees' desk. A place to store their lunch will be provided within reasonable proximity to this area.

2. The Employer will provide adequate washroom facilities with sufficient hot water, toilet tissue, soap, and towels. Workers assigned to work with extremely dirty or

hazardous material will be provided twenty (20) minutes during working hours to wash up or shower before meals or prior to leaving the facility.

3. The common areas will be kept clean and have adequate heating, cooling, and ventilation.

### **SECTION 3 Vermin Control**

The Union will cooperate fully with the Employer in the identification of any rodent and insect infestations that may occur in NEFSC work spaces occupied by bargaining unit Employees. Actions taken by the Employer with regard to vermin control will be consistent with the applicable provisions of NOAA Safety Policy.

## **ARTICLE 30. GOVERNMENT VEHICLES**

Government vehicles controlled by the Employer will be used and maintained in accordance with applicable laws, agreements, and regulations. Employees, who observe a government vehicle in need of repair, defective, or in any way unsafe, will promptly notify the Employer for appropriate action.

No bargaining unit Employee will be required to operate a government vehicle if there is a reasonable belief that operation poses an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to seek redress through normal hazard reporting and abatement procedures.

## **ARTICLE 31. GRIEVANCE PROCEDURE**

### **SECTION 1**

The purpose of this Article is to establish a procedure for the prompt and equitable settlement of grievances. A grievance means any complaint by (a) any Employee

concerning any matter relating to the employment of the Employee; (b) the Union concerning any matter relating to the employment of any bargaining unit Employee; or (c) the Union or the Employer concerning the effect or interpretation or a claim of breach of the collective bargaining agreement, or any claimed violation, misinterpretation or misapplication of any law, rule, or regulation affecting conditions of employment. This procedure will be the exclusive procedure for resolving such complaints except for the following matters, which are specifically excluded from the procedure:

- A. Any claimed violation of Sub Chapter III of chapter 73 of 5 U.S.C. (relating to prohibited political activities);
- B. Retirement, life insurance, or health insurance;
- C. A suspension or removal for national security reasons (Section 7532 Title 5 USC);
- 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 for promotion from a group of properly ranked and certified candidates;
- G. The filling of any position outside the bargaining unit;
- H. An action terminating a temporary promotion;
- I. The discharge of a temporary Employee or an Employee serving in a probationary or trial period.
- J. Warnings, admonishments, and notice of proposed actions;
- K. Any issue where there would be no tangible relief to the grievant provided that this Agreement is not violated.

## **SECTION 2**

Employee(s) utilizing the negotiated grievance procedure will have the right to be accompanied, represented and/or advised by the Union. In addition, an Employee and/or group of Employees have the right to present or process a grievance under this procedure on their own behalf. In such cases, the Union will be afforded the opportunity to be present, on official time if otherwise in a duty status, during any and all formal discussions/meetings, between the Employer and the grievant(s) relating to the grievance filed.

## **SECTION 3**

All time limits specified in this Article are binding. In considering any request for an extension in the time frames under this Article, the Parties will consider (1) the length of delay, (2) the existence of circumstances beyond the control of the Party, and (3) whether

prejudice to the Employer or the Union would result from an extension of time limits. If the Employee(s) filing a grievance, or the Union or the Employer filing a grievance, fail to initiate/elevate their grievance within the time limits prescribed within this procedure, the grievance will be considered terminated. All grievance decisions will be made as promptly as possible at each level of consideration described herein. Unless mutual agreement is reached for extending the time limits within which a decision must be rendered, failure to meet the time limits for issuance of a decision will allow the grieving Party to proceed to the next step upon written notification.

#### **SECTION 4**

If available, evidence and supporting documentation, which is relevant to the resolution of the grievance, will be introduced at each step of the negotiated grievance procedure. For the purpose of this Agreement, evidence includes, but is not limited to, both documented oral and written presentation of facts. Authorized individuals attending grievance meetings will be allowed official time, if otherwise in a duty status, for the duration of such scheduled meetings.

#### **SECTION 5**

The Employer and the Union recognize and endorse the importance of bringing to light and adjusting grievances promptly. The initiation of a grievance by an Employee will not cast any reflection on the Employee's standing with the Employer or on their loyalty and desirability to the organization, nor will the grievance be considered as a negative reflection on the Employer or the Union.

#### **SECTION 6**

Except in the case of disciplinary actions, the Union and the Employer may mutually agree that individual identical grievances will be joined at Step 2 and processed as one grievance throughout the remainder of the procedure. The decision thereon will be binding on all others in the related grievances.

#### **SECTION 7**

In the event either Party should declare a grievance not grievable or not arbitrable, the original grievance will be considered amended to include this issue. The Employer and

the Union agree to raise any question of grievability or arbitrability of a grievance as soon as possible but no later than the issuance of the written decision in the Step 2 of the grievance procedure. All disputes of grievability or arbitrability will be referred to arbitration as a threshold issue in the related grievance.

## **SECTION 8**

The following applies with respect to grievance resolution:

- A. The filing Party may terminate the processing of a grievance at any time.
- B. If any Employee who has filed a grievance leaves the bargaining unit before a decision is reached on a grievance that is being processed, the grievance is terminated unless the Employee can be granted tangible relief.
- C. If, at any step, all Parties agree to the means of resolving the grievance, they shall state their agreement in writing, signed by all Parties. This will constitute the final resolution of the grievance.
- D. When a decision concerning a disciplinary or adverse action is accepted by a grievant, it will be deemed settled in its entirety, and neither the grievant nor the Union may proceed further with the grievance or appeal. Such a settlement shall not be precedent in any future grievance or appeal involving a subsequent disciplinary or adverse action, but such disciplinary or adverse actions can be considered as aggravating factors in penalty selection for future disciplinary or adverse actions.

## **SECTION 9**

An Employee may present a grievance to the Employer and have it resolved with or without the services of the Union. If presented without Union representation, such grievances may be resolved without Union intervention, provided the resolution is not inconsistent with the terms of this Agreement.

Employees who choose to present their own grievances without intervention by the Union are not entitled to further review or consideration beyond the opportunity to

present their grievances and have them resolved, affirmatively or negatively. The decision on such a grievance is final as to the Employee who chooses to present his or her grievance without the intervention of the Union. The Union will be provided with a copy of the final determination.

### **Employee Grievances:**

#### **Step 1**

Grievances will be presented in writing by the aggrieved Employee and or designated Union representative to the first line Supervisor. All grievances must be presented in writing within twenty (20) workdays after receipt of the notice of the action giving rise to the grievance, or the occurrence of the incident or knowledge of the incident giving rise to the grievance (whichever occurs first). By mutual agreement, the grievant and first line Supervisor may meet to discuss the grievance. If a meeting is held, a grievance decision will be issued within fourteen (14) workdays after the meeting. If no meeting is held, a grievance decision will be issued within fourteen (14) workdays from the receipt of the grievance from the Employee or the designated union representative. As a minimum, the grievance will contain:

- A. The grievant(s) name, duty assignment and telephone number;
- B. The specific nature of the grievance, including the identification of any provisions of the Labor Management Agreement alleged to have been violated, if known, the provisions of any law, rule and/or regulation affecting conditions of employment alleged to be violated;
- C. The name, address, and telephone number of the designated representative, if any;
- D. The remedial action desired, and;
- E. The grievant's signature and date.

Either Party or the grievant may not raise new issues after the decision is rendered at Step 1 of this procedure. However, the Parties to a grievance may mutually agree to join new issues to a grievance-in-progress, and may mutually agree to amend a grievance at any step.

## **Step 2**

When a grievance reaches Step 2, it will be considered formal. A formal grievance must be presented by the Employee and/or designated representative to the Science and Research Director or his/her designee within five (5) workdays after the decision rendered at Step 1. This formal grievance must be in writing and include a record of the proceedings at Step 1 and state the basis for advancing the grievance to Step 2. A written decision will be issued within fourteen (14) workdays of receipt of the formal grievance. If the grievant/Union is not satisfied with the decision of the Science and Research Director or his/her designee, the Union may invoke arbitration in accordance with the Arbitration Article of this Agreement. A copy of the decision will be provided to the Union.

### **Employer and Union Grievances:**

When the Employer or the Union decide to file a grievance, it will do so by filing the grievance in writing directly with the other Party for resolution within twenty (20) workdays of the action or condition giving rise to the grievance, or from when the Employer or the Union became aware of, or should have become aware of, the action or condition. The submission of Union grievances will be to the Science and Research Director, or designee. The submission of Employer grievances will be to the Union Local President. As a minimum, the grievance will indicate the specific nature of the grievance and the remedy desired and, where appropriate, the article(s) and section(s) of the agreement involved and any law, rule or regulation violated. A written decision will be issued within fourteen (14) workdays after receipt of the grievance. If the aggrieved Party is dissatisfied with the reply or there is no written decision, the aggrieved Party may submit the grievance to arbitration in accordance with the article on arbitration.

## **SECTION 10**

A grievance that does not contain the information necessary to reach a decision, or is otherwise unclear, will be returned to the grievant or representative of record with an explanation of the reason(s) for its return within five (5) workdays of its receipt. If such a

grievance is reinitiated, it must be done within seven (7) workdays after receipt of the returned grievance, or it will be terminated at that step.

## **ARTICLE 32.**

### **HOURS OF WORK**

#### **SECTION 1**

The Parties recognize that the use of Alternate Work Schedules (AWS) can improve productivity and morale and provide greater service to the public. Any choice of an AWS must be mutually acceptable to the bargaining unit Employee and the Employer. The final decision on whether a bargaining unit Employee participates on an AWS (and the type of AWS to be worked, and the hours to be worked) rests exclusively with the Employer. For the purpose of this Article, AWS consists of the options set out in Section 2 and Section 3 below.

#### **SECTION 2**

Flexible Work Schedules (FWS) – An eighty (80) hour biweekly basic work requirement for full time Employees (exclusive of lunch period) which includes designated hours (i.e., core hours) during which an Employee on such a schedule must be present for work. Core hours for all Employees are 10:00 a.m. to 2:00 p.m. FWS options for full-time bargaining unit Employees are set out in subsections A. through C. below.

A. Flexitour Schedule – The Employee has a basic work requirement of eight (8) hours in each day and forty (40) hours in each week. The Employee selects starting and stopping times within authorized flexible time bands (i.e., non-core hours) and limits established by the Supervisor. Once selected, the hours are fixed until the Supervisor approves different starting and stopping times.

B. Gliding Schedule - The Employee has a basic work requirement of eight (8) hours in each day and forty (40) hours in each week and may select a starting and stopping time each day and may change starting and stopping times daily within authorized flexible time bands, and limits established by the Supervisor.

C. Maxiflex Schedule – The schedule contains core hours on ten (10) or fewer workdays in the biweekly pay period in which the Employee has a basic work requirement of eighty (80) hours. The Employee may vary the number of hours worked on a given workday or the number of hours worked each week within limits established by the Supervisor.

Once a FWS is approved for a bargaining unit Employee, he/she will continue that schedule until a change is authorized in advance by the Supervisor.

### **SECTION 3**

Compressed Work Schedules (CWS) – A full-time Employee's basic eighty (80) hour work requirement for each pay period is scheduled by the Supervisor for less than ten (10) workdays. A CWS will always be a fixed schedule. CWS options are set out in subsections A. and B. below.

A. 4-10 Schedule – The schedule consists of four (4) ten-hour workdays (exclusive of the lunch period) and one (1) non-workday during each administrative workweek.

B. 5/4/9 Schedule – The schedule consist of eight (8) nine-hour workdays and one (1) eight-hour workday (exclusive of the lunch period) and one (1) non-workday over a biweekly pay period.

Once a CWS is approved for a bargaining unit Employee, he/she will continue on that schedule until a change is authorized in advance by the Supervisor.

### **SECTION 4**

Participation in the FWS or CWS options will be voluntary for full-time bargaining unit Employees. Bargaining unit Employees desiring to work one of the AWS schedules noted above will submit a request, in writing, to their Supervisor stating their desired work schedule, including their desired starting and stopping hours and regular day off (if appropriate). New Employees may submit their written request for AWS upon entrance

on duty. For each of the AWS schedules above, the Employee must request and receive advance approval from their Supervisor for the hours to be worked.

Part-time bargaining unit Employees may also request to work a CWS or FWS. If approved, their schedules will reflect an adjustment to the normal CWS or FWS, as appropriate, based on the number of hours in their initial work week. Part-time bargaining unit Employees working an AWS will comply with all applicable laws and regulations and procedures in this Article, taking into account their reduced hours of work.

Supervisors will make every reasonable effort to comply with an Employee's selection of an AWS schedule. Employees will not be discriminated against or otherwise adversely affected by their selection of any AWS option. Requests to start or to change an AWS will be made through the Employee's immediate Supervisor. The Supervisor will approve or disapprove individual AWS requests in writing within fifteen (15) calendar days after receipt of the Employee's request. In all cases, the final decision on whether an Employee may work an AWS, and the type of AWS that may be worked, rests with the Supervisor. Approved requests will be implemented the first full biweekly pay period after approval by the Supervisor. Employees may request to change their work schedule only once per quarter. If a Supervisor disapproves an AWS request, he/she will provide the Employee with a written explanation as to the reason(s) for the disapproval.

Should two (2) or more Employees request the same AWS (or if other scheduling conflicts should arise) and the Supervisor can not accommodate all of the requests, the Employees will be asked to resolve the scheduling problem among themselves. If no resolution is found by the Employees, the Supervisor will make the decision which will be binding and final on all affected Employees.

## **SECTION 5**

If any bargaining unit Employee's existing AWS impairs the ability of the Employer to effectively perform its mission, or otherwise causes the Employer to suffer an adverse impact (e.g., reduced productivity, diminished levels of service to the public, increase the cost of Agency operations, non-compliance with the terms of the AWS by the Employee,

etc.), the Employee will be taken off AWS and placed on another approved AWS schedule, or a fixed (i.e., non-AWS) schedule. Similarly, the Employer will deny any proposed AWS the Employer concludes will impair its ability to effectively perform its mission, or otherwise cause the Employer to suffer an adverse impact.

Supervisor shall temporarily change a bargaining unit Employee's AWS to a basic eight (8) hour per day schedule (7:30 a.m. to 4:00 p.m.; 8:00 a.m. to 4:30 p.m.) when necessary for such purposes as official travel or training, or other operational requirements (e.g., changes in workload, changes in programmatic objectives, etc.). The Employee will revert to his/her previously approved AWS schedule at the beginning of the pay period immediately following completion of the temporary change of schedule.

A bargaining unit Employee on detail or reassignment will adhere to the fixed tour of duty of the organizational segment to which he/she is temporarily assigned unless approval of the Employee's AWS schedule is granted by the Supervisor to whom the Employee is detailed or reassigned.

Bargaining unit Employees working an AWS schedule, who are being suspended as a disciplinary penalty or otherwise placed in non-pay status (e.g., furlough), will be placed on the normal eight (8) hour workday during the pay period(s) while serving in such non-pay status. Bargaining unit Employees working an AWS schedule who are undergoing a performance improvement plan may, at the election of the Supervisor, be placed on a normal eight (8) hour workday while in this status.

## **SECTION 6**

Bargaining unit Employees working any AWS may not begin their normal work shift before 6:00 a.m. nor end it after 6:00 p.m. Lunch will be at least one-half hour between 11:30 a.m. and 1:30 p.m., unless a straight eight (8) hour day has been approved by the Employer in accordance with law and regulation. Lunch should be taken when more than five (5) hours of work is performed in a day. Final determination on the time and duration of lunch rests exclusively with the Employer. Bargaining unit Employees will receive breaks for a total of fifteen (15) minutes for each four (4) hours worked. The time for breaks will be determined by the Supervisor after consultation with the

Employee. Bargaining unit Employees on their break will not interfere with the work of bargaining unit Employees not on their break. Break time will not be accumulated (banked) for future use. The Employer retains the right to assign work to a bargaining unit Employee during their break(s).

## **SECTION 7**

The policy and procedures for requesting and granting annual and sick leave will be in accordance with NOAA, DOC, and OPM regulations and this Agreement. The amount of leave taken for an entire workday for full-time bargaining unit Employees will be recorded as eight (8) hours for a regularly scheduled eight (8) hour workday, nine (9) hours for a regularly scheduled nine (9) hour workday, and ten (10) hours for a regularly scheduled ten (10) hour workday. As provided by governing laws and regulations, the number of hours credited for a holiday will be determined by the bargaining unit Employee's AWS schedule. If a holiday falls on a bargaining unit Employee's eight (8) hour workday, it will be recorded as eight (8) hours; if the holiday falls on an bargaining unit Employee's nine (9) hour workday, it will be recorded as nine (9) hours; if the holiday falls on a bargaining unit Employee's ten (10) hour workday, it will be recorded as ten (10) hours. The maximum holiday pay under flexible schedules is eight (8) hours. Consistent with governing laws and regulations, the same procedures also apply to situations involving full workdays for jury duty, court leave, administrative leave, travel, etc.

When a holiday falls on a bargaining unit Employee's scheduled regular day off (RDO) under the 4-10 or 5/4/9 AWS schedules, the holiday will be charged as follows:

If the federal holiday falls on a Sunday, the bargaining unit Employee will get his/her next regularly scheduled workday off. For example, if the bargaining unit Employee's RDO is Monday, and a holiday falls on a Sunday, Monday remains the RDO and Tuesday is the "in lieu of" holiday. If the federal holiday falls on any other day, the bargaining unit Employee's holiday will be on his/her preceding regularly scheduled workday. For example, if the bargaining unit Employee's RDO is Monday and a holiday falls on Monday, Monday is still counted as the RDO and the preceding Friday is the "in lieu of" holiday. If the holiday and RDO are both on Tuesday, Tuesday is the RDO and

the preceding Monday is considered the bargaining unit Employee's holiday. Part-time and intermittent bargaining unit Employees are not entitled to an "in lieu of" holiday, when a holiday falls on the bargaining unit Employee's RDO.

## **SECTION 8**

To ensure proper coverage of the workplace, the Supervisor may require bargaining unit Employee(s) to provide advance written notification of one (1) work week of any proposed change to their work schedule(s). Any such proposed changes to work schedules must be expressly approved in advance by the Supervisor. The Employer will make every reasonable effort to grant changes in individual schedules or assignments to permanent shifts by bargaining unit Employees because of hardships or to pursue appropriate self development activities that will equip the bargaining unit Employee for more effective work within the Agency.

## **SECTION 9**

Credit hours are hours of work performed voluntarily, with advance written supervisory approval, by bargaining unit Employees in excess of their scheduled daily tour of duty. Bargaining unit Employees do not receive overtime pay for these extra hours. Employees on a CWS may not receive credit hours.

The amount of credit hours earned in one (1) workday are limited in that the combined total of credit hours and regular tour of duty hours may not exceed twelve (12) hours between 6:00 a.m. and 6:00 p.m. Credit hours may only be earned if there is work available for the bargaining unit Employee, the Supervisor approves the credit hours in advance, and the work can be performed at requested times.

Credit hours may be earned and used in one quarter (1/4) hour increments. The maximum number of credit hours which a full-time bargaining unit Employee may carry over from pay period to pay period is twenty-four (24) hours. A part-time bargaining unit Employee may not carry over more than one quarter (1/4) of the hours in their basic biweekly work schedule from pay period to pay period.

The bargaining unit Employee will submit a written request to the immediate Supervisor, or designee, to work credit hours as soon as possible. The Supervisor, or designee, will either approve or disapprove the request to work credit hours. Credit hours may be worked only if expressly authorized in advance by the Supervisor, or designee. Supervisors will approve the use of credit hours as they would approve the use of annual leave (i.e., absent a work load problem).

#### **SECTION 10**

Bargaining unit Employees working under any work schedule must record and certify to their Supervisor biweekly the hours worked, hours absent from work, type and amount of leave taken, credit hours earned and used, to include appropriate time and attendance coding for each.

### **ARTICLE 33.**

#### **PERMANENT DUTY STATION HOUSEKEEPING**

The Employer will maintain custodial services for administrative areas, offices, and common use areas normally used by bargaining unit Employees at their permanent duty station. While bargaining unit Employees are responsible for keeping their lab and office areas clean and free from clutter and hazards, they are not expected to perform routine custodial duties such as emptying trash, cleaning toilets, and washing windows. This Article does not apply to policing government vehicles after use or to bargaining unit Employees who may be hired to perform custodial duties.

### **ARTICLE 34.**

#### **EQUIPMENT AND NEW TECHNOLOGY**

The Employer will meet its legal bargaining obligations under 5 USC 71 with regard to the Employer's introduction of new equipment and technology affecting the conditions of employment of bargaining unit Employees.

**ARTICLE 35.**  
**INTELLECTUAL PROPERTY RIGHTS**

**SECTION 1**

The Employer will acknowledge the concept of intellectual property rights of Employees who plan and conduct research at the initiative of the Employer or Employee, and/or analyze and prepare data, and other information products for publication in the interest of the Agency and the public. It is recognized that Employees may, at the direction of the Employer, utilize government equipment, duty time and/or other Government resources in the performance of authorized duties, to include the preparation of information products. Employees seeking personal proprietary rights in any of their work products must submit a written claim through the Employer to the Department's Office of the General Counsel for legal review and decision.

**SECTION 2**

Authorship will be determined by degree of participation in the intellectual development of the product in accordance with established NEFSC policy of July, 2003, including appendices concerning crediting non-scientific staff for their contribution to administrative and operational works. Subsequent changes to this policy will be negotiated in accordance with Title 5, United States Code. Bargaining unit authors will be notified in writing of their inclusion or removal from the authorship list of publication. In the event of removal the Employee may seek resolution through the negotiated grievance procedure.

**ARTICLE 36.**  
**MERIT PROMOTION**

**SECTION 1**

All actions under Merit Promotion regarding bargaining unit Employees will be taken in accordance with all applicable government-wide and Agency regulations, and this Article.

## **SECTION 2**

Bargaining unit vacancies to be filled competitively under Agency's Merit Promotion Program (MAP) will be announced. Bargaining unit vacancy announcements will be posted by the Employer at the Agency's website. The President of the Local will receive notification of bargaining unit vacancy announcements and where they can be electronically accessed. The announcements will provide a summary statement of duties, a statement of any special knowledge, skills, and abilities determined essential for effective job performance and for identifying the best-qualified candidates. Vacancy announcements for bargaining unit positions will identify such positions as being in the bargaining unit. A bargaining unit Employee will be considered for vacant bargaining unit positions listed under MAP only if he/she completes and electronically files an on-line application. A bargaining unit Employee prevented from applying for a bargaining unit vacancy due to being on an extended work cruise may request that the Employer extend the open vacancy a sufficient period of time to permit filing of an on-line application (the total open period for bargaining unit vacancies will normally not exceed thirty (30) calendar days). The Employer must receive such a request at least five (5) days before the posted closing date for the vacancy.

## **SECTION 3**

At a minimum, the area of consideration for advertised bargaining unit positions shall be the permanent duty station of bargaining unit Employees. Bargaining unit Employees certified as best qualified for a bargaining unit vacancy will receive first consideration for that vacancy. If there are fewer than two qualified bargaining unit applicants for a position, the selecting official may consider other qualified candidates concurrently.

## **SECTION 4**

An Employee who previously held the same grade, is qualified, could assume the full range of duties, and who was downgraded within the bargaining unit through no fault of his/her own, will be given automatic consideration before the vacancy is announced, provided the position has no greater promotion potential than the Employee's former position, in accordance with applicable law and regulation.

## **SECTION 5**

Normally, a promotion certificate will consist of no more than ten (10) names, unless more than one vacancy is being advertised on the same announcement. The Employer will request that the names on the MAP certificate be in alphabetical order.

## **SECTION 6**

A grievance or a statutory appeal may be filed but not both, if there is a reasonable belief that non-selection was based on discrimination as covered by the EEOA. A grievance may be filed if there is a reasonable belief that the Merit Promotion process has been improperly implemented or applied.

## **ARTICLE 37.**

### **NEPOTISM**

The Employer recognizes that nepotism (i.e. hire, promote, or advocate the hiring or promotion of relatives) is not acceptable. Allegations of nepotism should be brought to the attention of the Employer. Employees who are unaware of the appropriate channel for filing a complaint may contact the Human Resource Department or the Union.

## **ARTICLE 38.**

### **OCCUPATIONAL SAFETY AND HEALTH**

The Employer agrees that all aspects of its occupational safety and health activities will be performed in accordance with the requirements set out in applicable laws, rules and regulations, the NEFSC Safety Program, and the U.S. Department of Commerce Occupational Safety and Health Manual, March 2000 (the DOC Manual) and as they each may be amended.

**ARTICLE 39.**  
**OFFICE RELOCATION**

Bargaining unit Employee's entitlement to relocation expense allowances will be determined in accordance with applicable government-wide laws, rules, regulations and the NOAA travel handbook dated September 1999. In accordance with 5 U.S.C. Chapter 71, the Employer will meet its legal bargaining obligations with respect to any changes to the September 1999 version.

**ARTICLE 40.**  
**OFFICE SPACE ALLOCATION**

The Employer will provide advance notice to the Union of any proposed change of a material nature to office spaces occupied by bargaining unit Employees. Any bargaining obligation the Employer has with the Union will be fulfilled before material change is made to office spaces occupied by bargaining unit Employees.

**ARTICLE 41.**  
**OVERTIME/HOLIDAY WORK**

**SECTION 1**

Those hours worked in excess of eight (8) hours per day or forty (40) hours per week will be compensated for and administered in accordance with applicable laws, rules, and regulations.

**SECTION 2**

One seniority list will be maintained for overtime work and a second separate seniority list will be maintained for holiday work. Seniority lists under this article will be maintained by each Supervisor for bargaining unit Employees under their supervision. Where a Supervisor has bargaining unit Employees at separate geographic locations within the NEFSC, separate seniority lists will be made, and applied, at each duty

location (i.e., each seniority list will consist of the names of bargaining unit Employees under the same Supervisor, and at the same duty location). When the Employer determines that overtime or holiday work will be performed, he/she will refer to the appropriate seniority list and identify the Employees who possess the same knowledge, skills and abilities applicable to the work assignment to be performed. Names of eligible bargaining unit Employees will be listed in descending order, of entry-on-duty (EOD) date at the duty location, beginning with the oldest entry-on duty (EOD) date, and ending with the newest EOD date. Each overtime/holiday work assignment will be offered first to eligible volunteers with the oldest EOD date on the applicable seniority list. If there are no volunteers, reverse seniority will be used to select eligible bargaining unit Employees for overtime or holiday work assignments. The Employer will endeavor to provide as much advance notice as possible to bargaining unit Employees required to work scheduled overtime. The procedures in this section for making overtime and holiday work assignments are not applicable to work performed at sea, other than day trips on small boats as defined in NAO 217-103. In instances of genuine emergency, where the need is immediate for the overtime or holiday work to be performed, the Supervisor will not be bound by the procedures in this section.

### **SECTION 3**

General Schedule (GS) Employees whose rate of pay does not exceed the maximum for a GS-10 must be paid overtime unless they specifically request compensatory time.

### **SECTION 4**

The Employer may require bargaining unit Employees to perform holiday/overtime work. However, if the Supervisor determines that the Employee has a valid reason for being excused and other arrangements can be made, the Supervisor at his/her discretion, may relieve the Employee from a holiday/overtime work assignment.

### **SECTION 5**

Employees required to work a full overtime workday (e.g., eight (8) hours for Employees not on an approved AWS), will have breaks and meal periods consistent with law and regulation.

## **SECTION 6**

Paid leave previously used during the work-week will not be a factor in considering Employees for overtime on their regular days off or holidays.

## **ARTICLE 42.**

### **PERFORMANCE APPRAISAL**

#### **SECTION 1**

The performance appraisal system will provide a fair, accurate and objective evaluation of job performance. The purpose of performance management is to improve individual and organizational performance, program effectiveness, and accountability by focusing on results, service quality, and customer satisfaction, and by aligning standards and elements with organizational goals and strategic plans and to provide a framework for honest feedback and open, two-way communications between Employees and their Supervisors.

#### **SECTION 2**

The Employer will administer the performance appraisal system in accordance with the USDOC and NOAA Performance Management Program, NAO 202-430, amended 25 SEP 98 and 26 JUN 03, and any future amendments negotiated in accordance with 5 U.S.C. 71.

## **ARTICLE 43.**

### **POSITION CLASSIFICATION AND DESCRIPTION**

#### **SECTION 1**

The Parties agree to the principle of equal pay for substantially equal work within the bargaining unit. The Employer agrees to maintain position descriptions that accurately reflect the major duties and responsibilities assigned to bargaining unit Employees on a regular and recurring basis.

## **SECTION 2**

The Employer will endeavor to have uniform position descriptions for bargaining unit Employees who are performing similar duties in the same grade/series, at the same level of responsibility, with the same degree of supervision under the same Supervisor, and with all other evaluation factors identical. Bargaining unit Employees will receive a copy of their position description upon appointment, position change, or a change in the position description within thirty (30) calendar days. Bargaining unit Employees are responsible for retaining a copy of their current position description.

## **SECTION 3**

When a bargaining unit Employee believes an assigned significant duty is not included in their position description, the bargaining unit Employee should discuss the duty with their Supervisor. If a bargaining unit Employee continues to be required to perform significant duties that are not recorded in their position description, and their Supervisor does not initiate action to have the duties either assigned elsewhere or recorded on the bargaining unit Employee's position description, the bargaining unit Employee may request a position audit or pursue a classification appeal. This is not to be construed as permitting an Employee to refuse to perform tasks that are assigned by the Supervisor.

## **SECTION 4**

The Employer agrees to notify the Union when there are going to be any NEFSC surveys or position audits affecting position classification or position description of bargaining unit Employees. The Employer notification will include the content of any NEFSC survey, and survey procedures to be followed when these matters become known to the Employer.

## **ARTICLE 44.**

### **REPORTING TO WORK**

Employees will be at their job ready, willing and able to work at the scheduled start time. If the Employer requires an Employee to report to a designated location or to perform work outside of regularly scheduled duty hours, the type of compensation will be

determined in advance and in accordance with applicable law, regulation and this Agreement.

**ARTICLE 45.**  
**PROBATIONARY EMPLOYEES**

**SECTION 1**

The Employer agrees to provide probationary bargaining unit Employees with the opportunity to develop and demonstrate their proficiency. During this probationary period, communication between the Supervisor and the bargaining unit Employee is encouraged.

**SECTION 2**

When the Employer decides to terminate a bargaining unit Employee serving a probationary or trial period because their performance or conduct fails to demonstrate fitness or qualifications for continued employment, the Employer will terminate the bargaining unit Employee's employment by notifying the bargaining unit Employee in writing, at least two weeks prior to the termination date provided it does not extend the bargaining unit Employee's probationary period, as to why they are being separated and the effective date of the action. The information in the notice as to why the bargaining unit Employee is being terminated will, at a minimum, consist of the Agency's conclusion as to the inadequacies of their performance or conduct. A probationary Employee who commits a crime or poses a threat to himself or others in the workplace shall not be entitled to the notice provided in this Article.

**SECTION 3**

Probationary bargaining unit Employees have the right to Union representation as specified in this Agreement.

**ARTICLE 46.**  
**REDUCTION IN FORCE**

**SECTION 1**

This article describes certain procedures the Employer will follow in the event of a reduction-in-force (RIF) action involving bargaining unit Employees. Any RIF action conducted by the Employer will comply with applicable laws and regulations pertaining to RIF.

**SECTION 2**

When a decision has been made to take a RIF action, the Employer will keep the Union and affected bargaining unit Employees informed. The Employer agrees to notify the Union in writing of the reasons for the RIF, number and types of bargaining unit positions affected, approximate effective date of the action, and to provide the Union an opportunity to present its views and ideas.

**SECTION 3**

As provided in applicable law, rule or regulation, bargaining unit Employees who have received a specific RIF notice, and/or their representatives designated in writing, may examine retention registers and related records used by the Agency in a RIF action that has been taken, or will be taken, against the Employee.

**SECTION 4**

The Employer will normally provide a specific notice of sixty (60) days to individual bargaining unit Employees subjected to a RIF action (i.e., bargaining unit Employees selected for release from their competitive level are entitled to at least 60 full days notice before the effective date of release). However, when a RIF is caused by circumstances not reasonably foreseeable, OPM may approve a shortened notice period of not less than thirty (30) full days before the effective date of release.

**SECTION 5**

Bargaining unit Employees subjected to a RIF action will be given priority consideration for reassignment to vacant positions for which they qualify in their competitive area. The

Employer will establish a re-employment priority list of Employees separated because of the RIF. Employees on this list will be given priority consideration for positions in the competitive area, for which they qualify, at or below the grade from which separated, prior to the Employer seeking applicants from outside of the Agency. The Employer will consider lateral reassignments to vacant positions to facilitate the placement of affected Employees at the same or lower grade.

## **SECTION 6**

Bargaining unit Employees, if downgraded because of RIF, are entitled to pay and grade retention in accordance with 5 CFR, part 536.

### **ARTICLE 47. SENIORITY**

Seniority will be based upon the oldest continuous Entry-On-Duty (EOD) date at the duty station. EOD ties will be broken using the Employee's Service Computation Date (SCD). The Employer will establish and maintain a seniority roster of bargaining unit Employees.

The Employer will use seniority to resolve matters as provided in this Agreement where seniority is expressly identified as the determining factor. Consistent with the right of the Employer to assign work and to determine personnel by which Agency operations shall be conducted, the Employer will use seniority, where expressly provided for in this Agreement, when identifying an Employee for a work assignment from amongst a group of Employees in the same work unit possessing the same knowledge, skills and abilities applicable to that work requirement.

**ARTICLE 48.**  
**SMOKING POLICY**

**SECTION 1**

Smoking of tobacco products is prohibited in all interior space owned, rented or leased by the Employer, including government vehicles. Smokers will be allowed smoke breaks in designated outdoor areas protected from precipitation at all locations where bargaining unit Employees are permanently stationed. The areas will be located at least fifty (50) feet from doorways (i.e., main entrances utilized by Federal Employees and visitors), air intake ducts, and outside flammable/combustible liquid and compressed gas storage and dispensing locations (e.g., piping, valves, vessels, cylinders, tanks, storage buildings, etc.). Bargaining unit Employees will be allowed short stops while in transit in government vehicles for smoking breaks.

**SECTION 2**

Smoking breaks will be brief and infrequent so as not to adversely affect office operations.

**SECTION 3**

Recognizing the risk to their health and well being, the Parties mutually support and encourage all efforts by the Employees to quit smoking. In this regard, the Parties encourage voluntary participation in smoking cessation classes, clinics, or other such activities.

**ARTICLE 49.**  
**SUBSTANCE ABUSE**

**SECTION 1**

The Parties encourage all bargaining unit Employees who suspect they may have a substance abuse problem to voluntarily seek counseling and information as early as possible through the Employee Assistance Program (EAP), certified counseling, or a prescribed program of treatment.

## **SECTION 2**

In determining any appropriate disciplinary or adverse action related to substance abuse, the responsible supervisory official may consider the bargaining unit Employee's involvement in EAP or similar program.

## **SECTION 3**

The Parties recognize that all confidential information and records concerning Employee counseling and treatment will be in accordance with applicable laws, rules and government regulations.

## **SECTION 4**

Employees will be in a duty status while receiving EAP substance abuse counseling at their duty station during their normal work hours. Employees who participate in prescribed substance abuse rehabilitation programs may be authorized sick leave in accordance with applicable laws and regulations.

# **ARTICLE 50. SURVEILLANCE**

## **SECTION 1**

The Parties recognize that surveillance is primarily conducted for safety and internal security reasons. The Employer will inform the Union and bargaining unit Employees of the current security procedures and requirements. The Employer will also notify the Union and bargaining unit Employees of changes in security procedures and requirements on the Employer's premises.

## **SECTION 2**

A copy of surveillance evidence reviewed by the Employer in taking disciplinary action against a bargaining unit Employee will be provided to that Employee, or his designated representative, upon written request.

## **ARTICLE 51.**

### **TRAINING AND EMPLOYEE DEVELOPMENT**

#### **SECTION 1**

The Parties recognize the value of training and self-development for all Employees. Selections for training shall be consistent with the provisions of 5 U.S.C Chapter 41.

#### **SECTION 2**

Training opportunities will primarily be based on the needs of the Employer, the availability of resources, and requirements of the bargaining unit Employee's position description. However, the interests of the Employee may also be considered.

#### **SECTION 3**

The Parties encourage the bargaining unit Employees to pursue self-development and to contact the Human Resources Office regarding self-development sources. Subject to operational needs, the Employer will make a reasonable effort to arrange a suitable schedule for Employees to pursue self-development activities. Such schedules will not adversely impact Agency operations or other Employees.

The Employer will make a reasonable effort to support data collections on research cruises for the Employee's professional self-development, consistent with cruise operations. Requests for data collection for self-development purposes shall be made in writing to the Chief Scientist, through the Employee's chain of command, in sufficient time to receive consideration before commencement of the cruise. The decision on whether data collection can be accommodated on a given cruise rests with the Employer.

#### **SECTION 4**

The Employer agrees to provide bargaining unit Employees the opportunity to take advantage of job related schools, courses, meetings, conferences and workshops sponsored and/or supported by the Employer, as work duties, the Agency mission, and school schedules permit.

**ARTICLE 52.**  
**TRANSIT SUBSIDIES**

**SECTION 1**

The Employer and the Union recognize the benefits of encouraging the use of mass transit. Accordingly, the Employer will provide a transportation subsidy (as authorized by law, regulation, and Agency policy) to each eligible bargaining unit Employee who submits to the Employer the required certification. The program will begin no earlier than thirty (30) calendar days from the date of approval of this Agreement.

- A. "Transit subsidy" means providing "fare media" to Employees at no cost to them.
- B. "Fair media" means a ticket, pass, or farecard entitling riders to transportation or a voucher which may be exchanged only for a ticket, pass, or farecard. It does not include cash payments.
- C. Employees may only use transportation fare benefits for their commute to and from work via mass transportation.
- D. Payments will be made quarterly on or about January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, and October 1<sup>st</sup>.
- E. Bargaining unit Employees wishing to participate in the program will submit the required certification to the Employer designated transit subsidy coordinator 15 days prior to the start of the first quarter for which subsidies are requested.
- F. The amount of the transit subsidy payment will be the maximum allowable in accordance with law, regulation and executive order, but will not exceed the Employee's actual commuting costs.

**SECTION 2**

Employer certification of eligibility will be made on a form specified by the Employer and signed by the Employee. Certification will include the statement that the Employee's regular means of commuting to and from work is by a carrier covered under the transit subsidy payment program. The form will also specify that the Employee receives no government-subsidized parking benefit either directly (for parking a personal vehicle) or

indirectly (as a member of a car pool). Employer certification will be required at the beginning of each Employee's participation in the program, and periodically at the Employer's discretion.

### **SECTION 3**

Employees who are approved to receive transit subsidy payments must immediately notify the Employer should they no longer meet the requirements for participation in the program. Individuals whose commuting practices change, and those who receive direct or indirect subsidies from the government for parking, are included in this requirement to notify. Employees, who fail to timely notify the Employer of such a change, and continue to accept transit subsidy payments under this Article, may be subject to disciplinary action.

### **SECTION 4**

Transit subsidy payments will be available for pick-up by Employees approved to receive them at sites designated by the Employer, and on dates established by the Employer.

### **SECTION 5**

Due to the negotiable nature of the transit subsidy payment, lost transit subsidy payments will not be replaced.

### **SECTION 6**

Transit subsidy payments issued under this article are not transferable and are to be used only for commuting to and from work. Giving, selling, trading, and transferring transit subsidy payments issued under this article to other individuals is prohibited. Purchasing or otherwise acquiring transit subsidy payments issued under this article from another individual is also prohibited, even if the other individual is eligible to receive the subsidy. Employees who cease to use mass transit or who leave the Agency will return any unused portion of the subsidy. Failure to comply with these provisions will result in loss of eligibility to receive transit subsidies under this article, and may subject Employees to disciplinary action.

## **ARTICLE 53.**

### **TRAVEL/TEMPORARY DUTY (TDY)**

#### **SECTION 1**

Bargaining unit Employees will be informed of the opportunity or the requirement to perform temporary duty as much in advance as is practicable. Bargaining unit Employees will not travel without travel authorization. The Employer will make a reasonable effort to consider hardships when assigning TDY when more than one (1) qualified bargaining unit Employee is available for such assignment. However, final decisions regarding TDY rest with the Employer. The declaration of hardship by a bargaining unit Employee will not cast any reflection on the Employee's standing with the Employer or on their loyalty and desirability to the organization.

#### **SECTION 2**

To the extent practicable, travel will be scheduled during the bargaining unit Employee's normal work hours. Any compensation for travel outside a bargaining unit Employee's regularly scheduled tour of duty will be provided in accordance with the FLSA and any other applicable law, rules and regulations. Consistent with applicable laws, rules and regulation, bargaining unit Employees may elect to receive overtime or compensatory time for required travel or work outside of regularly scheduled tour of duty.

#### **SECTION 3**

Bargaining unit Employee's entitlement to travel benefits will be determined in accordance with applicable law and regulations. Unforeseen events which mandate changes to travel plans of bargaining unit Employees on authorized travel, but which do not enlarge the scope of the authorized travel, shall be left to the common sense discretion of the bargaining unit Employee after a reasonable attempt to receive authorization from the Employer for the changes has been made and as long as the travel changes are consistent with all applicable laws, rules and regulations. In such an event, the bargaining unit Employee will notify the Employer as soon as is practicable. To accommodate this notification requirement, bargaining unit Employees may be provided with the off duty hour telephone numbers of approving officials or their designees.

#### **SECTION 4**

When more than one mode of transportation or accommodation exists, the Employer will make a reasonable effort to consider the Employee's desires. However, final decisions on modes of transportation or accommodation rest with the Employer. Bargaining unit Employees will not be required to use their privately owned vehicles for official travel.

### **ARTICLE 54.**

#### **VIDEO DISPLAY TERMINALS AND MICROSCOPES**

##### **SECTION 1**

The Employer is responsible for maintaining its video display terminals (VDT's) and microscopes. Bargaining unit Employees are encouraged to report any problem with the operation of such equipment. The Employer will promptly investigate reported problems and take such corrective action it concludes is necessary and appropriate to maintain video display terminals and microscopes in good working condition.

##### **SECTION 2**

In its publication, OSHA 3092, entitled "Working Safely with Video Display Terminals (1997)", OSHA lays out guidelines that can be followed which may minimize the chance for illness or injury to Employees who work with VDT's. Employees are encouraged to follow these guidelines to the extent practicable, and consistent with parameters that may be provided by their Supervisor. Other than maintaining its VDT's and microscopes, nothing in this Article should be construed as a commitment of resources by the Employer to take any of the actions recommended in OSHA 3092. However, the Employer may provide resources for this purpose.

**ARTICLE 55.**  
**WHISTLEBLOWER PROTECTION**

It is a prohibited personnel practice to take, or fail to take, a personnel action with respect to an Employee as reprisal for disclosing information (except when such disclosure is barred by law) which the Employee reasonably believes evidences a violation of any law, rule or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety.

**ARTICLE 56.**  
**DURATION**

**SECTION 1**

This Agreement and any supplemental Agreements will remain in full force and effect for three (3) years from the date of original approval by the Agency Head as provided by 5 USC 7114 (C).

**SECTION 2**

This Agreement, except for the duration period, may be subject to opening by the Parties in accordance with the following conditions:

- A. As required by changes made to applicable laws and rules from higher authority after the effective date of this Agreement, or
- B. By mutual consent of the Parties.

**SECTION 3**

Either Party may give written notice to the other not more than one hundred five (105) nor less than sixty (60) calendar days prior to the expiration date of this Agreement of its intention to reopen, amend or modify the Agreement.

**SECTION 4**

If neither Party serves notice that it wishes to renegotiate this Agreement, it will continue in effect for an additional one (1) year period, subject to the provisions of this Article.

**ARTICLE 57.**  
**MID-TERM BARGAINING**

**SECTION 1**

The Employer will notify the Union in writing prior to implementing changes to personnel policies, practices and conditions of employment pertaining to bargaining unit Employees that trigger bargaining obligations in accordance with 5 U.S.C. 71.

A. Such notice will be given to the Union President, or designee, according to the following procedures:

(1) Delivery of the proposed changes to the President or his/her designee in his/her absence, shall constitute receipt by the Union for the purpose of calculating the deadline for requesting negotiations referred to in this Article.

(2) Upon receipt of the Employer's notice, the Union may request bargaining within ten (10) workdays by submitting bargaining proposals to the Employer.

(3) The Parties will begin negotiations within ten (10) workdays after the Union submits its proposals. This time period may be extended by mutual consent.

(4) Failure by the Union to submit preliminary bargaining proposals within the ten (10) workday time limit will be deemed to indicate no intent to bargain.

B. The number of negotiators for the Union will not exceed the number of negotiators for the Employer, except that, the Union may always designate at least two (2) negotiators. All of the Union negotiators will receive official time for the time actually at the table negotiating with the Employer and a reasonable amount of preparation time. Each Party may have one (1) additional participant (non-Federal Employee) present, but such person will not be covered by the official time provision. The number of negotiators may be changed by mutual consent of the Parties.

Each Party may have one (1) technical expert attend the negotiations for the limited purpose of discussing a particular subject. The Parties must mutually agree if

negotiations under this Article are to be conducted telephonically, via the NEFSC video conference system, and/or email.

C. The results of negotiations under this Article shall be reduced to writing in a Memorandum of Understanding (MOU), and will be implemented upon completion of the Agency head review process or within thirty (30) days from the date the MOU is executed. Disputes over the interpretation or application of a MOU will be resolved pursuant to the Grievance Procedure in Article 31.

## **SECTION 2**

A. When both Parties have in good faith considered each other's proposals and counter proposals and cannot reach an agreement, either Party may declare impasse and, as appropriate, the services of a mediator from the Federal Mediation and Conciliation Services (FMCS) may be requested. FMCS will not be utilized in matters covered under 5 U.S.C. 6131. Any request for FMCS mediation services will be made within ten (10) working days of the declaration of impasse. Should the efforts of the mediator fail to resolve the impasse and the mediator declares an impasse, either Party may petition the Federal Service Impasses Panel (FSIP). The current provisions of the contract will remain in full force and effect until the FSIP imposes a resolution of the dispute or a remedy. It is agreed that when during the negotiation process either Party, or a mediator when FMCS services have been requested, declares an impasse and the service of the FSIP has not been requested within ten (10) working days, the Employer may effect the proposed changes in accordance with the last proposal made by the Employer.

B. The Employer is not precluded from effecting changes when compliance with this Article will result in unreasonable delay in the exercise of management rights, in the event of overriding exigency, or in the event of discontinuing an illegal or unlawful process.