

NEGOTIATED AGREEMENT

BETWEEN



DeCA PORTSMOUTH NH COMMISSARY

AND

**INTERNATIONAL FEDERATION OF
PROFESSIONAL & TECHNICAL ENGINEERS
LOCAL 4**

EFFECTIVE DATE: NOVEMBER 15, 2000

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**ARTICLE 1
RECOGNITION AND COVERAGE**

The International Federation of Professional and Technical Engineers, Local 4 (the **UNION**) is the exclusive representative of all bargaining unit employees of the **EMPLOYER** (Defense Commissary Agency at Portsmouth Naval Shipyard).

The bargaining unit includes all non-professional employees of the Defense Commissary Agency, Portsmouth Naval Shipyard, Portsmouth, NH; the bargaining unit excludes all supervisors, management officials, professional employees, and employees described in 5 USC 7112(b)(2), (3), (4), (6) and (7) of the Defense Commissary Agency, Portsmouth Naval Shipyard, Portsmouth, NH.

**ARTICLE 2
DURATION AND EFFECTIVE DATE**

As provided by 5 USC 7114(c) and the **PARTIES'** agreed-upon procedure, this Agreement will be effective on November 15, 2000 provided it has been ratified and approved.

This Agreement shall become effective and remain in effect for three (3) years from the above date. The Agreement may be opened for amendment by mutual consent of the parties at any time after it has been in force and effect for at least six (6) months. In any event, either party may request and open the contract after midpoint of the life of the Agreement (i.e., 18 months for a three-year contract, 12 months for a two-year extension of the contract) for the purpose of negotiating any amendment for a maximum of two (2) articles only. If neither party served notice of intent to renegotiate, this Agreement will be automatically extended for succeeding two-year periods after the third year described above.

**ARTICLE 3
PRINTING AND DISTRIBUTION OF THE AGREEMENT**

The **Employer** will prepare this Agreement in final format. After approval, the **Employer** will print this Agreement and distribute to each

supervisor of bargaining unit employees and will provide adequate copies to the **Union**. The **Union** will distribute the contract to each bargaining unit employee. Sufficient copies will be maintained by the **Employer** and the **Union** for use during the term of this Agreement.

ARTICLE 4 GOVERNING LAWS, REGULATIONS AND AUTHORITIES

Section 1. Effective Date

This Agreement as executed by the **Parties** shall be effective thirty (30) days after it has been ratified and approved in accordance with Title 4, United States Code, Section 7114 (c).

Section 2. Occasions and Subjects to be Bargaining:

a. OCCASIONS FOR BARGAINING:

- Local Agreements (Memorandums of Agreement, Memorandums of Understanding)

- Negotiations to change conditions of employment

b. **SUBJECTS OF BARGAINING.** When bargaining occurs, matters that may be included will be limited by this Agreement, DeCA directives and government-wide regulations in effect on the effective date of this Agreement, existing or future federal law and executive orders. Neither **PARTY** waives bargaining on matters it may bargain in accordance with this Agreement, or such laws, regulations and executive orders. Provisions which conflict with this Agreement will not be included in any other collective bargaining agreement.

Section 3. Effect of Collective Bargaining Agreements

a. Provisions of collective bargaining agreements (MOUs, MOAs, etc.) or past practices which are in effect on the effective date of this Agreement will remain in effect unless:

1) they conflict with this Agreement

2) they are changed by negotiation such as in a Memorandum of Agreement or Memorandum of Understanding.

b. Should any conflict arise between the terms of an effective collective bargaining agreement and any current or future federal laws or government-wide regulations which were in effect on the effective date of any such agreement, the provisions of such laws and regulations shall supersede any conflicting provisions of collective bargaining agreement.

c. Should any conflict arise between the terms of any effective collective bargaining agreement and any current or future government-wide or other regulations which is issued after the effective date of the collective bargaining agreement, the terms of the Agreement will govern.

d. In any conflict between the terms of an effective collective bargaining agreement and any DeCA issuances, manuals, directives, etc., regardless of the date of issuance, the terms of the Agreement will govern.

Section 4. Past Practices and Other Collective Bargaining Agreements

a. Past practices which are in effect on the effective date of this Agreement and do not conflict with it will remain in effect unless changed through negotiations. Negotiations may occur at any time during the terms of this Agreement, as, for example, a Memorandum of Agreement. Once a past practice has been made a provision of a collective bargaining agreement, neither **PARTY** is required to negotiate further on that provision.

b. Such past practices under section (a) may be included, either modified or unchanged, within a collective bargaining agreement; in that case, they will remain in effect for the duration of that agreement.

c. Provision of former regulations which were incorporated/referenced in practice or collective bargaining agreement will be treated as past practices under the Article after such regulations have rescinded.

d. No **PARTY** will lose access to completion of a grievance that was initiated prior to the effective date of this Agreement. They will

complete the procedures previously available to them for resolution of grievances/arbitrations, but may not initiate new grievances except under the procedures in this Agreement.

Section 5. Relation to Local Agreements

a. Matters identified as appropriate for local level bargaining may be raised for negotiation. Agreements on these matters can be institutionalized as MOUs and MOAs.

b. Matters identified as appropriate for "partnership prior to bargaining" may be raised for negotiation.

c. If a provision of past practice or collective bargaining agreement is alleged to conflict with this Agreement, disputes over the existence of such conflict will be resolved between the parties through negotiations.

Section 6. Midterm Negotiations and Changes to Conditions of Employment

a. Either **PARTY** may negotiate a change to conditions of employment not in conflict with an applicable collective bargaining agreement. The **PARTIES** recognize that from time to time during the life of the Agreement, the need will arise to initiate such changes due to: proposed new regulations covering personnel policies; changes in operating needs; and the like. When such need arises, it is agreed that notice and opportunity to bargain are to be provided. However, no provision(s) may be included that are in conflict with this Agreement.

b. Notice of the proposed change will be provided to the other **PARTY**, normally not less than 21 calendar days prior to the proposed implementation date. If a timely request to bargain is not made, the proposed change may be implemented after the 21st calendar day. If less than a 21 calendar day notice is provided to respond, the responding **PARTY** is deemed to have timely requested bargaining. If the responding **PARTY** decided that bargaining will not be requested, it is encouraged to notify the other **PARTY** as soon as possible. Should a timely request to bargain be made concerning a proposed change, the change will not be implemented until all phases of bargaining are

concluded, consistent with applicable law. The **PARTIES** should consider an appropriate procedure in addition to the Federal Mediation and Conciliation Service to assist in bargaining disputes. See the alternate dispute resolution (ADR) Article.

c. Agreements reached pursuant to b. above will be reduced to writing and considered as extensions to this Agreement.

d. Ground rules for bargaining under this Article may be determined on a case-by-case basis.

ARTICLE 5 DUES WITHHOLDING

Section 1. **UNION** dues (the regular, periodic amounts required to maintain an employee in good standing in the **UNION**) shall be deducted by the **EMPLOYER** from an employee's pay each payroll period when the following conditions have been met:

a. The employee has signed up for voluntary allotment as provided herein.

b. The employee's earnings are regularly sufficient to cover the amount of the allotment.

c. The employee has voluntarily authorized such a deduction on Standard Form (SF) 1187, supplied by the **UNION**.

d. The appropriate local **UNION** authorized official has completed and signed Section A of such form on behalf of the **UNION**.

e. The SF 1187 has been submitted to the appropriate payroll office in accordance with procedures currently in place at the local level.

Section 2. The **UNION** shall supply to the employees involved SF 1187. The **UNION** shall be responsible for the distribution of such forms to its members and for completion of Section A thereon, including the certification of the current amount of the **UNION's** regular dues to be deducted each bi-weekly period.

Section 3. Deduction of dues shall begin with the first pay period which occurs after receipt of SF 1187 by the payroll office.

Section 4. The amount of the **UNION** dues to be deducted each bi-weekly pay period on behalf of the **UNION** shall remain as originally certified to on such allotment forms by the authorized local **UNION** official until a change in the amount of such deductions is certified by the authorized official of the **UNION** and such certification of change is duly transmitted to an appropriate payroll office.

Section 5. Any change in the amount of any employee's regular dues bi-weekly pay period allotment shall become effective on the first pay period after receipt of the notice of change by the appropriate official of the **EMPLOYER** or when requested by the **UNION**.

Section 6. An employee's voluntary allotment for payment of his or her **UNION** dues shall be terminated with the start of the first pay period following the pay period in which any of the following occur:

- a. Loss of exclusive recognition by the **UNION**.
- b. Assignment (promotion, etc.) of the employee outside of the **UNION's** recognized bargaining unit.
- c. Separation of the employee for any reason, including death or retirement.
- d. Receipt by the **EMPLOYER** of notice that the employee has been expelled or has ceased to be a member in good standing of the **UNION**.

Section 7. An employee desiring to cancel an allotment for union dues must submit an SF-1188 in accordance with locally established procedures and time frames. An allotment for the deduction of an employee's Union dues may be terminated by the employee through submission of a Dues Revocation Form (SF-1188) on his or her anniversary date (the date the employee originally requested dues withholding) or within a ten calendar day period immediately before his or her anniversary date. Such termination shall become effective the

first full pay period of the month following receipt of the Dues Revocation Form, provided dues allotment has been in effect for a period of one full year at the time it is received by the Employer.

Section 8. The **EMPLOYER**, through its appropriate official, shall transmit to the local **UNION** with five (5) workdays after each pay day a list which shall identify the local **UNION** by name and local number, and shall list the name of each employee member of the **UNION** on voluntary allotment, and the amount of allotment deduction made for each such employee member along with the remittance. Such list shall include the total monetary amount of all such allotment deductions made for the members of the **UNION** together with the total number of such allotment deductions. Such list shall also include any allotment deductions which are terminating with the pay period covered and the reason for such termination.

Section 9. The **UNION** will not be held responsible for any **EMPLOYER** made errors with respect to the dues withholding program.

ARTICLE 6 AGREEMENT

Section 1. Matters not in conflict with the Agreement, but which exist in prior term agreements (MOAs, MOUs or as past practices) will continue until changed through negotiations. Negotiable matters which arise will be negotiated as an MOU to the extent they do not conflict with the Agreement.

ARTICLE 7 UNION RIGHTS

Section 1. Representation Rights

Pursuant to Section 7114(a) of Title 5 of the United States Code, **IFPTE** has been accorded exclusive recognition as the exclusive representative of the employees in the bargaining unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the bargaining unit. As the exclusive representative,

IFPTE is responsible for representing the interests of all employees in the bargaining unit it represents without discrimination and without regard to labor organization membership.

Section 2. Formal Meetings

Pursuant to Section 7114(a)(2) of Title 5 of the United States Code, **IFPTE** shall be notified in a timely manner and given the opportunity to be represented at any formal discussion between one or more representatives of the Agency and one or more employees in the bargaining unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment.

Section 3. Representation During Interviews.

A bargaining unit member may, upon his or her request, have a Union representative present at interviews.

Section 4. Right to Data

The **UNION** has the right to be furnished upon request and, to the extent not prohibited by law, data which is normally maintained by the Agency in the regular course of business; which is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining; and which does not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining. **UNION** request(s) for data must provide information as to what is being requested and an explanation on how the data is necessary and relevant.

If the **EMPLOYER** denies a **UNION** request for data, the **EMPLOYER** shall give the **UNION** the specific reasons for the denial. If the **UNION** feels the **EMPLOYER's** denial is in violation of this Agreement, the **UNION** may file a grievance beginning at the final step of the Agreement's grievance procedure, or initiate an Unfair Labor Practice (ULP) complaint under Title 5, USC 7116.

Section 5. Lists of Bargaining Unit Employees

The **EMPLOYER** will furnish the **UNION** with a current list of bargaining unit employees quarterly, if requested. The list shall contain the name, grade, series, organizational code and service computation date. Lists may be requested more frequently pursuant to local negotiations.

Section 6. Union Organization

a. The **UNION** retains the right to: determine its organizational structure; designate its representatives and determine their representational assignments and duties; and retain, suspend or relieve **UNION** representational duties.

b. The **UNION** agrees to furnish the **EMPLOYER** in writing and maintain on a current basis, a complete listing of the name, phone number and title of each **UNION** representative and primary point(s) of contact. Communications will be made through the appropriate **UNION** designated representative.

Section 7. Union Orientation

When a new employee reports to duty, the **UNION** representative will be notified and, when available, introduced to the employee at that time. Within two weeks of an employee reporting for duty, the **UNION** will be given a reasonable amount of time to:

- a. Brief bargaining unit employees on their representation rights, and
- b. Advise the employee of the contractual relationship which exists between the **UNION** and the **EMPLOYER**, and
- c. Provide a copy of this Agreement and other appropriate material.

Section 8. Investigate Complaints and Conduct Interviews

The **UNION** has the right to investigate complaints and conduct interviews.

Section 9. Access to Management

The **UNION** shall have timely access to the appropriate management official in order to resolve problems at the lowest possible level while assuring the confidentiality of the complainant at all levels.

Section 10. Access to Bargaining Unit Employees.

The **UNION** will have access to bargaining unit employees in order to conduct representational functions.

Duly appointed and elected representatives and employees of the **UNION** will be allowed entrance into the commissary for the purpose of conducting appropriate labor-management business. A mutually agreeable time will be established if a labor-management meeting is requested by either party.

Section 11. Informational Picketing

The **UNION** will have the right to conduct informational picketing, provided necessary permits are obtained. Participating employees will be on annual leave or leave without pay, subject to the operational need of the **EMPLOYER**; or on off-duty time.

Leaflets and other material may be handed out and media coverage will be allowed during this time as long as it does not restrict operations of the commissary.

Section 12. Union Representation on Councils, Committees and Panels

When work groups are created to examine ways to improve agency services and performance, and include bargaining unit members, cooperation between IFPTE and DeCA is the preferred mode of operating. Where issues of rights and obligations are involved, the following provisions apply:

a. Establishment. Establishment of work groups, which include bargaining unit member(s) and which will include discussion of negotiable matters, cannot be implemented without the **UNION**'s consent and agreement. When such work groups are to discuss only matters that are technical in nature and concern job-related functions that are

part of non-negotiable management rights under the Statute, such consent and agreement is not required. However, in the implementation of such programs, the parties will fulfill their collective bargaining obligations to one another.

b. Selection. Where an individual serves on a work group in the capacity of a **UNION** representative, the individual is engaged in protected activity. In addition, the **UNION** may establish criteria for such designation that includes **UNION** membership.

ARTICLE 8 OFFICIAL TIME

Section 1. **UNION** and **EMPLOYER** agree that there are mutual benefits resulting from the use of official time to represent employees and work with supervisors and managers to resolve issues and concerns. Such time will be adequate to represent bargaining unit employees and administer this Agreement with the Agency.

Section 2. Official time is defined as time used by a bargaining unit employee to perform representational functions relating to the DeCA bargaining unit, on behalf of a bargaining unit employee or the **UNION**, when the representative would otherwise be in a duty status. Such time granted is without charge to leave or loss of pay. Official time is available to the bargaining unit member(s) whose names have been provided by the **UNION** or the **EMPLOYER** as being a representative of the **UNION**.

Section 3. Official time can be used to perform representational functions related to the DeCA bargaining unit and within the scope of 5 USC Chapter 71. Official time includes travel time when carrying out representational duties. Official time cannot be used for any activity relating to internal business of a labor organization (including solicitation of membership, collection of dues, and campaigning for the election of bargaining unit officials).

Section 4. The following procedures shall apply to **UNION** representatives performing representational duties during duty hours that are authorized under the terms and conditions of this Agreement.

a. Prior to release, the **UNION** representative must request and obtain permission from their immediate supervisor to perform representational functions. The request will be made as much in advance as practicable and extended absences should be requested when the reason for them becomes known. The **UNION** representative will indicate the type of representational activity to be conducted and the estimated duration of absence, and any known time limits. This information will be recorded by the supervisor and a copy provided to the representative. The **UNION** representative will be released as requested unless release at that time would significantly impact operations. If release cannot be granted as requested, the supervisor will then advise the **UNION** representative when release would be appropriate, not later than the next working day. If a delay in releasing an employee or **UNION** representative involves a situation within one day of a contractual time limit, the time limit to respond will be extended to an amount of time equal to a delay in release. In no case will the **EMPLOYER** delay releasing a **UNION** representative or employee beyond three days of that requested. Management's postponement of official time use will not cause the **UNION** to fail to meet a deadline imposed by this Agreement or by a third party, provided the request for official time was timely made.

b. If an employee needs to meet with a **UNION** representative, which would constitute an interruption of work, advance approval of the employee's supervisor will be obtained. The employee's supervisor will be informed of the need to speak to the representative and the estimated length of time required. The employee will be released unless release at that time would significantly impact operations. If release of the employee cannot be granted as requested, the supervisor will then inform the **UNION** representative and employee when release would be appropriate (not later than the next working day).

c. The **UNION** representative and employee will inform their respective supervisor when they return to work (when requested in advance by the supervisor). If the **UNION** representative and/or the employee will be delayed beyond the estimated time, they will contact their supervisor to inform him or her of the additional time needed.

Section 5. DeCA and IFPTE will use in-store representatives to discuss issues and resolve problems. IFPTE encourages DeCA bargaining unit members to serve as representatives. DeCA managers support joint resolution opportunities. In-store representatives will be called upon to discuss issues and represent their fellow bargaining unit members in a variety of areas. **UNION** representatives shall be granted reasonable amounts of official time as needed to carry out their representational responsibilities as authorized under this Agreement. The amount of official time needed should be discussed by the supervisor and the **UNION** representative. If specific arrangements for the use of reasonable official time are currently in place, they are subject to negotiations. The **EMPLOYER** and the **UNION** share the mutual responsibility for ensuring the use of official time is reasonable, necessary and in the public interest.

Section 6. Use of official time will not advantage or disadvantage a **UNION** representative of his or her performance rating. The representative's performance rating of record will be established in accordance with 5 CFR Part 430 which provides that an employee's rating of record be based only upon an evaluation of their actual agency assigned duties and responsibilities for the Agency designated appraisal period which may be extended. In Reduction in Force (RIF), additional retention service credit for employees missing performance ratings of record (due to official representational duties as described in this article) will be determined in Accordance with appropriate RIF regulations.

Section 7. The CSO and **UNION** President or their designees will initiate contact with appropriate activity official(s) to attempt to reach an arrangement for release of a non-DeCA employee from duty when the **UNION** determines a need for representation for DeCA bargaining unit matter. No such arrangement will involve monetary reimbursement by DeCA, but may include liberal leave or flexible work hours, etc.

Section 8. When a **UNION** representative requests leave in order to conduct **UNION** business not associated with the bargaining unit, liberal leave policy will be applied or flexible work hours will be considered.

Section 9. The **UNION** may request administrative leave or official time, travel and per diem expenses to attend training and/or meeting that are mutually beneficial to both DeCA and IFPTE. If the requests are

disapproved, DeCA shall provide the **UNION** a written explanation for the denial.

Section 10. Training

a. Because it is of mutual benefit to the **EMPLOYER** and the **UNION**, recognized **UNION** representatives will be excused without charge to leave, subject to operational requirements, to attend **UNION** sponsored training within the scope of the labor relations statute.

b. Requests for official time must be submitted to the Commissary Store Officer or designee with as much advance notice as possible but at a minimum of fifteen (15) days in advance of the scheduled training (when possible). Requests must state the name(s) of the representative(s), the date, time, location and agenda (when available). The Commissary Officer or designee will respond promptly to the request. If the request is denied, the Commissary Officer or designee will explain the reason in writing.

c. Official time for initial training of a new **UNION** representative will be granted for up to twenty-four (24) hours. Reasonable official time for other **UNION** sponsored training for **UNION** representative(s) will be granted. For training outside the commuting area, travel time may be during non-duty hours or may be official time, as authorized, for the training.

d. All training that is jointly sponsored or that comes within the Executive Order 12871 or equivalent will be considered duty time (in a pay status).

ARTICLE 9 UNION OFFICE AND FACILITIES

Section 1. The **EMPLOYER** will be provided with the telephone numbers of **UNION** officials who are designated to represent the DeCA bargaining unit.

Section 2. The **EMPLOYER** will provide **UNION** bulletin board(s). The location of the **UNION** bulletin board(s) will be mutually agreed to by the

IFPTE and the **EMPLOYER**. The **UNION** shall maintain the **UNION** bulletin board(s) in an orderly condition, and bulletin boards will properly identify the IFPTE local.

Section 3. All material posted on **UNION** bulletin boards must not violate any law, provision of this Agreement, security regulations or contain obscene or libelous material.

Section 4. Office space (if available) for the **UNION** will be negotiated. If new construction/renovation is anticipated, both parties will discuss any impact as soon as possible. In all cases, the **UNION** will be provided the ability to meet privately/confidentially with the employee and to store and secure records. The **UNION** will be allowed access to the **EMPLOYER's** office equipment where available (e.g., computer, fax capabilities, and services) at no cost to the **UNION**.

Section 5. The **EMPLOYER** will provide access to existing telephone services (DSN, WATTS, commercial, etc.) to conduct labor relations, representational business affecting a DeCA bargaining unit employee. All laws, rules and regulations will be adhered to.

Section 6. Contracted custodial services provided to the Commissary shall also be provided to the designated **UNION** office space.

Section 7. The **UNION** agrees to abide by all security and safety regulations.

ARTICLE 10 MANAGEMENT RIGHTS

Section 1. Subject to Section 2 of this Article, nothing in this Article shall affect the authority of any management official of the Agency.

(a) To determine the mission, budget, organization, number of employees and internal security practices of the Agency; and

(b) In accordance with applicable laws:

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

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

(3) with respect to filling positions, to make selections for appointments from:

(a) among properly ranks and certified candidates for promotions; or

(b) any other appropriate source; and

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

Section 2. Nothing in this Article shall preclude the **EMPLOYER** and the **UNION** from negotiating:

(a) 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 (reference Executive Order 12871);

(b) procedures which management officials of the Agency 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 11 HOURS OF WORK

Section 1. Definitions

a. A tour of duty is the hours of the day and the days within the administrative workweek during which the employee is required to perform service on a regular, repetitive basis. The administrative workweek of employees is the calendar week, 0001 hours Sunday through 2400 hours Saturday. Employees should not be scheduled to work more than five (5) of any consecutive seven (7) days. Although work schedules will be for a minimum of one week, longer work schedules currently in effect may continue unless changed by local negotiations.

b. The basic workweek of full-time employees shall consist of five (5) consecutive eight (8) hour days. The employee will have two consecutive days off, subject to workload considerations. Changes to Tours of Duty are subject to negotiation with the union in accordance with Article 4, Section 6 and applicable regulations.

c. The basic workweek of part-time employees shall consist of 16 to 32 hours, regular or irregular schedule, within the administrative workweek. The EMPLOYER will attempt to schedule two consecutive days off within the administrative workweek for part-time employees subject to workload requirements. The number and sequence of days off to accommodate employee and commissary requirements will be negotiated locally.

Section 2. Meal Period

a. Full-time employees shall be granted on a non-paid basis a meal period scheduled at or near the mid-point of the tour of duty of at least one-half (1/2) hour each workday; or, upon an employee's request and with the supervisor's approval, a meal period of up to one (1) hour.

b. Part-time employees who work six (6) hours or more in a workday will be granted on a non-paid basis a one-half (1/2) hour meal period scheduled at or near the mid-point of the tour of duty, or upon an employee's request and with the supervisor's approval, a meal period of up to one (1) hour.

c. When a normal scheduled meal period is not feasible within a shift, a twenty (20) minute working meal period shall be permitted and considered as time worked for pay purposes, as long as the employee is

required to remain at the work site. Changes in the working meal condition are subject to local negotiations.

Section 3. Breaks

a. Employees working six (6) hours or less will be authorized a total of fifteen (15) minutes of rest time during the workday.

b. Employees working more than six (6) hours will be authorized the above fifteen (15) minutes, plus an additional fifteen (15) minutes of rest during the workday.

c. Provisions addressing the number, timing and sequence of breaks are subject to local negotiations. If rest breaks are in increments of fifteen (15) minutes, the breaks will be taken at or near the midpoint between the start of the employee's workday and the employee's meal period, and the midpoint between the employee's meal period and at the tour of duty.

d. Rest periods will not be scheduled to start or end at the tour of duty or be a continuation of the meal period and are not cumulative.

Section 4. Notification of Schedules

Employees will be notified of their work schedules two (2) weeks in advance of the administrative workweek. In accordance with Title 5 Code of Federal Regulations, 610.121(a), when the **EMPLOYER** determines that the **EMPLOYER** would be seriously handicapped in carrying out its function or that costs would be substantially increases, notification of less than two weeks will be permitted after notification to the **UNION**. A copy of any work schedule changes will be provided to the **UNION**.

The **EMPLOYER** recognizes the need for proper rest and recuperation of its employees. The **EMPLOYER** will schedule reasonable time between an individual employee's shifts.

Section 5. Holiday Work Procedures

Store employees (and the Union) will be notified of the intent to have Unit members work on a holiday two weeks prior to the holiday if possible, or as soon as possible after management becomes aware of the requirement. The employer will determine whether an employee is qualified to perform the work and will determine the number of employees required to perform the holiday work. The employer will first seek volunteers from available and qualified employees. If there are more equally qualified volunteers than necessary, the most senior (based on Service Comp Date for leave) will be assigned first, followed by the next senior, etc.. If there are not enough volunteers, assignment of holiday work will be made based upon inverse seniority (using Service Comp Date for leave). The employer will make reasonable efforts to distribute holiday work assignments in a fair and equitable manner based on qualification requirements and the needs of the organization.

Section 6. Overtime Work

a. Planned Overtime Work Procedures. In the case of planned overtime, notice will be provided as far in advance as possible. When scheduling employees for overtime work, the **EMPLOYER** will first ask for volunteers, and will select the number of needed employees by seniority based on a rotating basis. If an employee is to be scheduled involuntarily (i.e., forced) rotating inverse seniority (based on service computation date) will be used. Personal needs exceptions will be considered on an equitable basis. The **EMPLOYER** will determine whether an employee is qualified to perform the work.

b. Unplanned Overtime Work Procedures. In the case of unplanned overtime, notice will be provided as far in advance as possible. The **EMPLOYER** will first ask for volunteers who are on duty, and will select the number of needed employees by seniority (based on service computation date) on a rotating basis. If an employee is to work overtime involuntarily (i.e., forced), rotating inverse seniority (based on service computation date) will be used. Personal needs exceptions will be considered on an equitable basis. The **EMPLOYER** will determine whether an employee is qualified to perform the work.

c. Compensation for overtime work is normally provided as overtime payment. Individuals working overtime may, at their option, select to be compensated by compensatory time versus overtime pay.

Section 7. Extension of Part-time Employee Workday Before or After Tour of Duty

a. When work requirements dictate the need for additional hours to be worked by employees already scheduled to work on a workday, scheduling decisions will be made by soliciting qualified volunteers first, in seniority order, based on service computation date. This provision will not require that an employee be offered additional work resulting in overtime.

b. If there are insufficient volunteers, the decision will be made using inverse seniority (based on service computation date). Personal needs exceptions will be considered on an equitable basis.

c. The affected employee will be notified as much in advance as possible of the additional hours needed by the **EMPLOYER**. Such notice will be provided at the time the **EMPLOYER** becomes aware of the event that created the need for the additional hours, such as when another employee notified the **EMPLOYER** of a need to be on unplanned sick leave.

Section 8. Clean-up Time

Where the type of work requires, an employee will be allowed a reasonable time (up to fifteen minutes) at meal time, break time and at the end of the workday to perform necessary personal hygiene.

Section 9. Planned Store Closures for Other than Federal Holidays

a. When a planned store closure occurs and there is other work available for affected employees, employees scheduled to work during the closure will have the following options: perform other duties, request annual leave or leave without pay, or have the tour of duty rescheduled to recapture hours otherwise lost for the pay period.

b. When a planned store closure occurs and there is no other work available for affected employees, employees scheduled to work during this closure will have the following options: request annual leave or leave without pay, or to have the tour of duty rescheduled by the

EMPLOYER to recapture hours otherwise lost for the pay period. If the employee does not elect to request annual leave and the tour of duty cannot be rescheduled to recapture those hours, the employee will be granted administrative leave. If the full work force is not required, the selection process will be Section 7(a) and (b) above for all employees.

c. Thirty days notice will be provided to employees of closures.

Section 10. Federal Holidays

a. In accordance with Title 5 USC Section 6003(a), the following are legal public holidays as recognized by DeCA:

New Year's Day, January 1

Birthday of Martin Luther King, Jr., the third Monday in January

Presidents Day, the third Monday in February

Memorial Day, the last Monday in May

Independence Day, July 4

Labor Day, the first Monday in September

Columbus Day, the second Monday in October

Veterans Day, November 11

Thanksgiving Day, the fourth Thursday in November

Christmas Day, December 25

Additional holidays declared by the Congress or the President will also be recognized.

b. If a holiday occurs on Saturday, the Friday immediately before is a legal holiday for employees whose basic workweek is Monday through Friday. If the holiday occurs on Sunday, the following Monday is the holiday. For employees whose basic work week is

Tuesday through Saturday, and a holiday occurs on a Saturday, the employee gets the Saturday off as a holiday. When the holiday falls on a Monday, the employee gets the immediately preceding workday off as the holiday.

c. In accordance with Title 5 USC 6103(b), the following rules apply:

1. Part-time employees who are scheduled to work on a legal public holiday will be paid for that holiday.

2. Part-time employees who are not scheduled to work on a legal public holiday will not be entitled to holiday pay.

d. Part-time employees prevented from working due to In-Lieu-Of-Holiday, the **PARTIES** are encouraged to discuss and, if necessary, negotiate the following options:

-- Administrative leave, if approved by the **EMPLOYER** on a holiday-by-holiday basis;

-- Annual leave, accrued compensatory time, leave without pay, or time off award;

-- Rescheduled hours within the same pay period to recapture hours otherwise lost;

-- A combination of the above.

Section 11. Daylight Savings

a. If the employee's tour of duty coincides with daylight savings time and requires working an additional hour, the employee will be paid for the actual hours worked.

b. If the hours worked are less than normal because of daylight savings time, the employee will be on leave or work the additional hour.

Section 12. Obtaining and Securing Government Property

Reasonable time will be allowed at the beginning of the tour of duty, before meals and breaks, and at the end of their tour to perform or secure government property and equipment used to perform an employee's duty.

Section 13. Split Shifts

Split shifts are not permitted and will not be used.

Section 14. Types of Schedules

a. Fixed schedules will be used for full-time employees. Fixed schedule means the schedule does not vary from pay period to pay period. Changes to fixed schedules will be negotiated.

b. The numbers of fixed schedules for part-time employees may stay the same or be negotiated locally. A core of fixed scheduled part-time employees will be identified. Where operational needs permit, a fixed schedule will normally be a majority of the positions within a department.

Section 15. Alternate Work Schedule (AWS) and Flexi-Tour Schedule

Provisions for AWS and flexi-tour schedule shall be negotiated when requested by either party. If negotiated, they will include a trial period.

Section 16. Equitable Distribution of Tour of Duty

a. For purposes of this Section, seniority is defined as the employee's service computation date (SCD).

b. By department, and an employee's title, series and grade, when a tour of duty opening arises, service computation date (leave) will prevail if more than one qualified employee bids on that tour of duty. No full-time employee may bid on a part-time tour of duty or vice versa, nor may bids be made on unequal part-time tours of duty. If no individual bids on a needed tour of duty, then reverse seniority will be applied. No employee will be required to bid on a tour of duty opening. Whether this

provision will apply to encumbered tours of duty is an appropriate subject for local negotiations.

c. Notification of tour of duty openings will be provided to employees and the **UNION**.

Section 17. Paggers

In accordance with Title 5 CFR 551.43(a)(1)(2), an off-duty bargaining unit employee who is required to carry and respond to a pager and the individual assigned to monitor freezer/cooler temperatures on off-duty hours will be in a standby pay status and will be subjected to the following restrictions:

a. The employee is restricted to an agency's premises, or so close thereto that the employee cannot use the time effectively for his or her own purposes, or

b. The employee, although not restricted to the agency's premises:

1. Is restricted to his or her living quarters or designated post of duty;
2. Has his or her activities substantially limited, and
3. Is required to remain in a state of readiness to perform work.

ARTICLE 12 SAFETY AND HEALTH

Section 1. General

a. Whenever injury is referenced in this Article, it means injury or illness. The **EMPLOYER** will provide and maintain safe working conditions and industrial health protection for employees (e.g., ergonomic technology). The **UNION** will encourage all employees to work in a safe manner and report all known health or safety hazards. No employee shall work or be required to work on or around or operate

equipment where it would be unsafe or detrimental to health, without proper precautions, protective equipment and safety devices. When an employee, during the course of performance of official duties, believes he or she is exposed to a health and safety hazard which presents imminent danger which may cause death or serious physical injury and/or presents an imminent danger which may cause death or serious physical harm, the employee shall cease the assigned task in order to immediately contact the nearest available supervisor. The supervisor shall make an evaluation of the situation and, after discussion with appropriate safety and **UNION** personnel, make a decision as to whether or not work may proceed. Supervisors shall not order or require any employee to perform any act that is unsafe or unlawful.

b. The **PARTIES** agree to work closely on all safety matters; will be alert for unsafe practices, unsafe equipment, unsafe or hazardous working conditions and environmental conditions in all work areas; and will report all observed unsafe or unhealthy conditions to the appropriate supervisor. The **EMPLOYER** will investigate all safety and health reports and, if necessary, obtain guidance from a safety officer.

Section 2. On the Job Injuries

a. The **PARTIES** agree to encourage all employees to report all accidents and injuries immediately, as required by existing regulation/directive. The **EMPLOYER** will require all supervisors to comply with current regulations/directives and instructions concerning the reporting of accidents and injuries. As required by existing regulations/directives, employees will report all on-the-job injuries, regardless of their severity, as soon as possible after becoming aware of the injuries. The injuries should be reported to the immediate supervisor, but if the supervisor is not available, the injuries will be reported to any manager/supervisor. In the event of an injury on the job, the **EMPLOYER** will obtain and, as appropriate, provide emergency medical treatment and transportation. The **EMPLOYER** agrees to notify the **UNION** within a reasonable time (within 24 hours) of any reported lost time accidents or occupational illnesses which involve bargaining unit employees. Consistent with the Privacy Act, such notification will include the name of the bargaining unit employee, circumstances and nature of injury sustained by the employees.

b. The **EMPLOYER** will supply the appropriate forms to the employee for completion and return. The **EMPLOYER** will advise and assist the employee in filing the applicable compensation forms. The **EMPLOYER** will ensure the completed forms are processed and promptly forwarded to the servicing civilian personnel office (CPO).

Section 3. Light Duty

a. Employees unable to perform their assigned tasks due to injury or illness on or off the job may request light duty. Employees must furnish a statement from a medical authority providing information related to their limitations and the length of time limitations are expected to last.

b. The **EMPLOYER** agrees to consider assigning the injured employees to light duty, when such need is substantiated by a doctor's certificate.

c. Employees working light duty may be required to work a schedule other than their normal schedule in order to perform a light duty available.

Section 4. Protective Equipment/Clothing

The **EMPLOYER** shall furnish protective equipment/clothing for employees engaged in work that requires such equipment/clothing as prescribed by DeCA and federal directives. Cleaning, repair and replacement of such issued equipment/clothing will be provided by the **EMPLOYER** as needed. The employees will be trained on the proper use and care of all safety equipment. Training will be properly documented on proper forms and put in employees files.

Section 5. Safety Council

The **PARTIES** agree that the **UNION** is entitled to a minimum of one representative and one alternate representative on the Safety Council. The **UNION** representative will have the full rights and privileges of other members.

Section 6. Assistance in Lifting Heavy Items

No employee will be required to lift or move any object when there is reasonable possibility that an injury would occur. Employees will receive training on proper lifting techniques prior to being assigned lifting duties.

Section 7. Adverse weather conditions

a. When an installation closure is announced during the workday due to adverse weather conditions, the commissary will close no later than one hour from the time of the installation closure. The **EMPLOYER** will notify the commissary **UNION** representative of the announced impending installation closure at the time of notification from the installation commander.

b. Proactive dialogue between the Installation Commander, **UNION** and Commissary Management should be established to develop procedures for adverse weather conditions.

c. Provisions for employees affected by adverse weather conditions are subject to local negotiations. The following subjects may be included, but are not limited, in the dialogue negotiations:

- Base closure
- Early release
- Delayed reporting
- Essential/non-essential employees
- Arrangements for employees safety

ARTICLE 13 UNIFORMS, TOOLS AND EQUIPMENT

The **EMPLOYER** agrees to provide, clean and replace all special tools, clothing and equipment which the **EMPLOYER** requires bargaining unit employees to use in performing their assigned duties. In addition, the

EMPLOYER shall provide for acquisition and installation of the activity (PNS) closed-circuit television in the employee's break room. Acquisition and installation shall be within sixty (60) days of approval of this Agreement.

ARTICLE 14 SECURITY

Section 1. Employee Lockers

a. In accordance with DeCAD 30-18, all employees will be furnished a locker by the **EMPLOYER** upon request.

b. Employees may provide a lock for their own locker.

c. Management will inspect the employee's locker(s), in the presence of employee(s), to ensure compliance with directives for security, sanitation, safety and property accountability. If the employee is not available, and there is a compelling need, the inspecting manager must have a **UNION** representative present.

Section 2. Spot Checks

a. In accordance with DeCAD 30-18, Management has the right to make unannounced random spot checks of employee hand-carried items.

b. The **UNION** will have the opportunity to observe such spot checks of employee hand-carried items. Absence of the **UNION** does not negate Management's right to proceed with the spot check; advance notice of spot checks to the union is not required.

ARTICLE 15 EMPLOYEE PARKING

Section 1. Employee parking areas will be provided by the host activity, and located as close to the assigned work area as feasible, considering security, safety and customer convenience.

Section 2. Handicapped employee parking will be properly marked, and as close to the employee's assigned work as possible.

Section 3. Other issues regarding employee parking may be negotiated.

ARTICLE 16 (This Article not used)

ARTICLE 17 SMOKING

Section 1. Outdoor smoking areas will be provided for employees. Areas where smoking is prohibited will be properly identified.

Section 2. Rest breaks will be consistent as between smokers and non-smokers.

Section 3. Smoking cessation classes that are available at the installation will be provided during duty time to the employees who wish to stop smoking. If such classes are not available at the installation, information about off-base smoking cessation classes will be provided.

Section 4. Facilities and other issues concerning smoking not covered will be negotiated.

ARTICLE 18 EMPLOYEE TRAINING

Section 1. The **Parties** agree that it is mutually beneficial to have a well-trained workforce. The Employees may inform their supervisor of any

training needs they feel related to their work assignments. Such information shall be taken in consideration by the **EMPLOYER** in identifying training needs. In order to encourage employee career development and improve job skills, the **EMPLOYER** will make available training/education information. Training will be fair and equitable and designed to meet future needs of DeCA and the employees. The **EMPLOYER** will identify its training needs and will select employees for training based on its relevance to the employee's current job. Training will be provided on new technology as required and/or needed.

Section 2. An individual development plan (IDP) will be developed jointly by the employee and the **EMPLOYER** (and reviewed by the **UNION**) for each employee within the first twelve months of this Agreement or subsequent employment, and reviewed annually. The primary emphasis of the plans will be first to address skills needed by employees in their current positions; second, to prepare them for new career opportunities which may come available as a result of organizational restructuring or re-engineering of the positions of the Agency; and third, to address skills needed for advancement beyond their current grade levels. Each plan shall establish a series of milestones and shall state the responsibilities of each party to realize such milestones. The IDP will be maintained in the supervisory work folder (SWF).

Section 3. The availability of training opportunities will be communicated to employees and the **UNION** in a timely manner. The parties agree that employee self-development should be encouraged; therefore, information regarding training opportunities such as correspondence courses, and training/education opportunities through local colleges and technical schools will be made available to employees. Schedule accommodation may be used to encourage self-development where possible.

Section 4. All employees will be selected for training based on employee/organization need, employee requests and relevance to current position will be considered, and final selection will be made by Management. The decisions regarding selection or non-selection for training will be communicated to employees and the **UNION** in a timely manner.

Section 5. Employee training will be documented by entry in both signed supervisory work folder (SWF) and official personnel file (OPF) by means of DD-1556s, training certificates, diplomas, transcripts, signed memos outlining on-the-job training (OJT) and supplemental experience forms (e.g., job application continuation form). The employee is responsible for providing documentation of training to the supervisor for inclusion in the OPF. The employee is encouraged to keep a copy of all training documentation and periodically review it for accuracy. It is the employee's responsibility to ensure their record of training is current and accurate.

Section 6. Training from an external source will carry equal weight as training from peer trainers.

Section 7. Agency-directed training will be funded by the Agency. Other training costs will be shared by the Agency and the employee, if approved by the proper training authority.

Section 8. New employees will receive orientation not later than two weeks after reporting to duty.

ARTICLE 19 EMPLOYEE TRAVEL

Insofar as practicable, TDY travel will be scheduled within the employee's regularly scheduled tour of duty.

ARTICLE 20 EMPLOYEE-SUPERVISOR COMMUNICATION

Section 1. Each employee will be advised of their appropriate chain of command and subsequent changes within their stores.

Section 2. It is highly recommended that both management and employees follow the chain of command.

ARTICLE 21 ANNUAL LEAVE

Section 1. General Provisions

Employees accrue and have a right to use annual leave in accordance with applicable laws and regulations and this Agreement. The supervisor approves annual leave usage considering employee's desires, staffing workload, and training requirements as determining factors. The minimum charge for annual leave is 15 minutes, with additional charges in multiples thereof. It is the employee's responsibility to request annual leave in advance from the supervisor. When an employee is required to submit a SF-71 in advance, it will be returned expeditiously to the employee indicating the supervisor's approval/disapproval and the reason(s) in the case of disapproval. Supervisors will expeditiously inform employees of their approval/disapproval of advance requests for annual leave. The employer will provide each employee the opportunity to use all earned annual leave in order to avoid forfeiture. All use or lose leave will be scheduled prior to October each year. The supervisor will not cancel or modify previously approved leave except for unforeseen circumstances. The reason(s) will be explained to the employee. Employees may request annual leave for any duration for any time and in any pattern they desire. No arbitrary or capricious restraints will be established to restrict when leave may be requested.

Section 2. Annual Leave Plan

Employees will submit their annual leave plan on DeCA Form 30-14 by 1 March to the appropriate supervisor. The plan will be reviewed and a decision returned to the employee by 1 April. Seniority based on service computation date will be used when a conflict occurs. Provisions in effect will stay in effect unless locally negotiated. Once an employee has made the selection, he/she shall not be permitted to change the selection if such action infringes upon the choice of another employee.

Section 3. Unplanned Leave

Unplanned leave requests will be submitted as soon as the need for leave is known. The supervisor will respond within one (1) working day

from the date of the request, or as much notice as was provided to the supervisor, allowing time for the supervisor to make a decision. Unplanned leave will be on a first come, first serve basis.

Section 4. Emergency Annual Leave

When emergencies of unforeseen circumstances arise requiring the use of annual leave not approved in advance, approval of annual leave cannot be presumed by the employee. If an employee is unable to report for duty due to an emergency, they must notify the **EMPLOYER** within two hours of the beginning of the shift unless compelling circumstances prevent this.

Section 5. Forfeited Leave

Forfeited leave due to no fault of the employee will be restored in accordance with appropriate regulations.

Section 6. Leave Donation

Annual leave may be donated in accordance with approved leave donation programs.

Section 7. Advanced Annual Leave

Requests for advance annual leave will be submitted in writing to the supervisor. Final approval authority will be made by the Commissary Store Officer (or designated representative) within two days of receipt of the request. When the decision is made, the employee will be notified. Advance annual leave may be granted up to the number of hours the employee will accrue within the remaining calendar year.

Section 8. Annual Leave for Internal Union Functions

Annual leave will be approved by Management, if at all possible without further expenditure of resources, when **UNION** officials need leave for internal **UNION** functions.

**ARTICLE 22
FAMILY LEAVE**

Requests for annual leave under this Article must specify if the leave requested is Family Medical Leave Act or Federal Employees Family Friendly Leave Act, and will be in writing in advance when possible. Use of the SF-71 is an acceptable method of written request.

Section 1. Family and Medical Leave Act of 1993

a. Pursuant to the Family and Medical Leave Act (FMLA) and its implementing regulations, an eligible employee who has completed at least twelve (12) months of service as an employee is entitled to a total of twelve (12) administrative workweeks of leave without pay (LWOP) during any twelve (12) month period for one or more of the following reasons:

- The birth of a son or daughter of the employee and the care of such son or daughter;
- The placement of a son or daughter with the employee for adoption or foster care;
- The care of a spouse, son, daughter or parent of the employee who has a serious health condition; or
- A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

b. If leave taken under this Act is foreseeable based on an expected birth, placement for adoption or foster care or planned medical treatment, the employee shall provide notice to the **EMPLOYER** of his or her intention to take leave approximately thirty (30) days before the date the leave is anticipated to begin. If the date of the circumstances requires leave to begin within thirty (30) days, the employee shall provide such notice as is practicable.

c. An employee can substitute accrued annual or sick leave, consistent with current laws and regulations, for any part or all of the twelve (12) week unpaid leave entitlement.

d. If the need for leave taken under this Act is foreseeable based on planned medical treatment, the employee shall consult with the **EMPLOYER** and make a reasonable effort to schedule medical treatment so as not to unduly disrupt the **EMPLOYER's** operations, subject to the approval of the employee's health care provider.

e. An employee may be required to provide acceptable medical documentation as provided by the law.

f. An employee who takes family medical leave act (FMLA) leave is entitled to continue their health benefits coverage. An employee may pay the employee share of the premium on a current basis or pay upon their return to work.

g. An employee who takes FMLA leave is entitled to be returned to the same or equivalent position, with equivalent benefits, pay status and other terms and conditions of employment.

Section 2. Federal Employees Family Friendly Leave Act of 1994

a. Pursuant to applicable Federal Employees Family Friendly Leave laws and implementing regulations, employees may use sick leave for items which include (but not limited to) the following:

- Provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy or childbirth;
- Provide care for a family member as a result of medical, dental or optical examination or treatment;
- Make arrangements necessitated by the death of a family member or attend the funeral of a family member.

b. A covered full-time employee may use forty (40) hours of sick leave each leave year for these purposes. An employee is entitled to use an additional 64 hours per leave year provided the employee

maintains a balance of at least eighty (80) hours of sick leave. In addition, an employee may use up to twelve (12) weeks of accrued sick leave each year to care for a family member with a serious health condition.

c. Part-time employees may also use sick leave for these purposes. The amount of sick leave permitted under the Act is pro-rated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.

d. A family member is defined as:

- Spouses, and parents thereof;
- Children, including adopted children and spouses thereof;
- Parents;
- Brothers and sisters, and spouses thereof; and
- Any individual related by blood or affinity whose close relationship with the employee is the equivalent of a family relationship.

ARTICLE 23 SICK LEAVE

Section 1. Employees will earn sick leave in accordance with applicable statutes and regulations. Sick leave will be charged in one-quarter (1/4) hour increments. The **EMPLOYER** and the **UNION** recognize the importance of sick leave and the obligation of the employee, as well as the advantage to the employee to utilize it only when incapacitated for duty by sickness, injury or other valid reasons. The **PARTIES** agree to jointly encourage employees to conserve such leave so that it will be available to the employees in the event of an extended illness and to increase their retirement benefits.

Section 2. In accordance with applicable DeCA and government regulations approval of sick leave may be granted to employees when

the employee determines they are incapacitated for performance of their duties by such reasons as sickness, injury, or pregnancy. Sick leave is also appropriate when requested in advance for medical, dental or optical examination or treatment, and may be granted. The employee will request sick leave at least one week in advance if the employee has that much notice of the examination or treatment. Sick leave will also be approved when as determined by health authorities having jurisdiction or by a health care provider, the employee's presence on the job would jeopardize the health of others because of exposure to a communicable disease.

Section 3. Employees have the responsibility to notify the supervisor of their need for unplanned sick leave. Unless the degree of injury or illness prevents it, employees will assure the supervisor is notified within two hours of the start of the tour of duty. When this is not possible, the employee will ensure the absence is reported as soon as possible. The **EMPLOYER** will provide a method to receive the notification.

ARTICLE 24 ADMINISTRATIVE LEAVE

Section 1. Administrative leave is approved absence from duty without loss of pay and without charge to leave.

Section 2. When the **EMPLOYER** or the Installation Commander decides during working hours that activities must be curtailed due to inclement weather, acts of God, military necessity, or other events beyond the **EMPLOYER's** control, administrative leave is authorized.

Section 3. Other situations concerning administrative leave for groups of employees may be negotiated.

Section 4. Administrative leave may be granted to individual employees for good cause shown.

**ARTICLE 25
MISCELLANEOUS LEAVE**

Section 1. Court Leave

a. Court leave will be granted, pursuant to applicable law and regulations, to an employee who is summoned to act as a witness before a court, or to perform jury duty in any court of law. When an employee is called as such a witness, or juror, the employee will (as soon as possible) notify the supervisor and submit a copy of the subpoena or summons. Upon completion of the service, the employee shall submit written evidence of the dates the employee served as a witness or a juror. The **EMPLOYER** may provide written request for excusing the employee whose services are required at the job site. If such excusal is not acceptable to the court, the **EMPLOYER** will grant court leave.

b. If an employee is excused from court service with sufficient time to enable the employee to return to duty for at least four (4) hours of the scheduled workday, including travel time, the employee shall return to duty unless granted appropriate leave by the **EMPLOYER**. It is the employee's responsibility to request and receive approval prior to going on leave.

c. If an employee receives their regular pay from the government for a period on court leave, the employee will reimburse the government the amount paid by the court, except that employees may retain reimbursement for out-of-pocket expenses (e.g., mileage, tolls and parking).

d. An evening or night shift employee who performs court services during the day may elect to be granted court leave for the employee's regularly scheduled night tour of duty. The employee will continue to be entitled to night differential.

e. At the employee's request, an employee will be granted an adjustment in the tour of duty so the employee's hours coincide with the court day(s).

Section 2. Blood Donation Leave

Blood Donations. Employees are encouraged to serve as blood donors. If requested, employees will be granted four (4) hours of excused absence, subject to operational requirements, for blood donations conducted on the installation, or, in emergency situations, off of the installation. This time includes times necessary for blood donation, recuperation and necessary travel. Normally requests for absence to donate blood will be made as far in advance as possible.

Section 3. Military Leave

a. Permanent and career-conditional employees who are members of the National Guard, or any reserve unit of the Armed Forces (that is, Army, Navy, Air Force, Marines or Coast Guard) shall be entitled to military leave for each day of active duty, or inactive duty training, in such organization (up to a maximum of fifteen (15) days, which is unused at the beginning of succeeding fiscal year will be carried forward for use in that fiscal year only. This gives a full-time employee the potential for thirty (30) days of military leave during a fiscal year (less for part-time employees, also prorated).

b. Employees should notify their supervisor (or the individual designated by Commissary Store management) of military leave dates at least two pay periods in advance of the start of military leave or at the earliest practicable date. Approval of military leave provided shall be based on a copy of the orders directing the employee to active duty and a copy of the certificate on completion of such duty.

c. Military leave shall be without loss of pay.

Section 4. Voting Leave

a. As a general rule, when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, such employee may be granted an amount of excused leave to vote (or register), which will permit the employee to report to work three (3) hours after the polls open, or leave work three (3) hours before the polls close, whichever requires the lesser amount of time.

b. Under exceptional circumstances where the general rules do not permit sufficient time, an employee may be excused for such additional time as may be needed to enable the employee to vote, depending upon the particular circumstances of the individual case, but not to exceed a full day.

Section 5. Leave for Emergency Rescue or Protective Work

Employees who can be spared without interference to essential operations and obligations may be excused to participate in emergency rescue or protective work such as fire, flood or search operations. Such participation shall normally be limited to a maximum of five (5) workdays of excused absence per year. Employees may not be excused from duty without charge to leave for the purpose of performing Reserve or National Guard duty which otherwise would be covered by military leave as authorized under 5 USC 6323.

Section 6. Leave Without Pay

a. Leave without pay is a temporary non-pay status and absence from duty granted upon an employee's request. All requests for leave without pay, regardless of duration, are subject to approval by the Commissary Store Officer (or designated representative). A period of leave without pay shall not exceed one year for each application.

b. The **EMPLOYER** recognizes that employees may serve as a delegate to a **UNION** convention. In this regard, the **EMPLOYER** will normally grant leave or leave without pay for such employee(s) so they may serve as a delegate to a **UNION** convention, subject to workload considerations and provided the request is submitted in a timely manner to the supervisor.

Section 7. Maternity/Paternity Leave

There will be no specified time granted for maternity/paternity reasons. Absence for maternity reason may be a combination of sick leave, annual leave and/or leave without pay. The length of time for maternity reasons will be determined by the employee and her physician. A male employee who has provided the **EMPLOYER** with reasonable advance notice may be absent on sick leave, annual leave or leave without pay

for a reasonable period of time for the purpose of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons. The length of time will be determined by the employee and his attending physician, as appropriate.

Section 8. Bone Marrow or Organ Donation

Pursuant to Public Law 103-329, Section 629(a), employees are entitled to paid leave each calendar year in addition to annual and sick leave to serve as a bone marrow or organ donor.

Section 9. Sick Leave for Adoption

Pursuant to Public Law 103-329, Section 629(b), employees are entitled to use sick leave for purposes related to the adoption of a child. Employees may use sick leave for appointments with adoption agencies, social workers and attorneys; court proceedings, required travel; and any other activities necessary to allow adoption to proceed.

ARTICLE 26 EMPLOYEE RIGHTS

Section 1. Pursuant to Title 5, Section 7102, United States Code, employees have the right to freely and without fear of penalty or reprisal, to form, join and assist the **UNION** or to refrain from such activity. The freedom of employees to assist the **UNION** shall extend to participation in the management of the **UNION** and acting for the **UNION** in the capacity of a **UNION** official.

Section 2. All personnel shall be treated with fairness, equity and dignity in all matters without favoritism or regard to political affiliation, race, color, religion, national origin, sex, marital status, age or handicapping condition. Employees' constitutional rights will be protected, and employees will be treated with proper regard and protection of their privacy. Employees have the right to fully pursue their private lives, personal welfare and personal beliefs without interference, coercion or discrimination by management so long as such activities do not conflict with the Standards of Conduct, as outlined in regulatory guidance or with job responsibilities; the standard of nexus shall apply.

Section 3. Employees may bring matters of personal concern to the attention of the **EMPLOYER, UNION** or other appropriate officials.

Section 4. The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or a committee or member thereof, may not be interfered with or denied.

Section 5. The employee shall be given the opportunity to be represented at any examination of the employee by a representative of the **EMPLOYER** in connection with an investigation if:

- a. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
- b. The employee requests representation.

Section 6. Employees have the right to refuse orders that would require the employee to violate the law without fear of reprisal. When an employee refuses to follow an order on these grounds, the employee must notify the supervisor and identify the law that would be violated. If the supervisor or a higher level official determines it is a lawful order, the employee should comply. If the employee still feels there has been a violation of the law, the employee may document the disagreement and refer the memorandum for record to the **UNION** and appropriate official. This does not prohibit the employee from filing a grievance under the negotiated grievance procedure after following the order.

Section 7. When an employee believes that a supervisor has given the employee an order that would violate a directive or regulation, the employee has the right to question the order without fear of reprisal. If the supervisor or a higher level official determines that the order does not conflict with applicable directives or regulations, the employee is required to comply. If the employee still feels there has been a violation of the directive or regulation, the employee may document the disagreement, citing the applicable directive or regulation and refer the memorandum for record to the **UNION** and appropriate official. This does not prohibit the employee from filing a grievance under the negotiated grievance procedure and following the order.

Section 8. Subject to employees' own detriment, they will not be required to sign any document or papers unless performing officially assigned duties. Failure to sign will not be cause for disciplinary action. Failure to sign does not in itself negate the responsibility to comply with a document's content. Except for performing officially assigned duties, signing signifies acknowledgement of receipt, not necessarily agreement.

Section 9. Except in any grievance under this agreement, employees may be represented by an attorney or any other representative of their own choosing, providing there is no conflict of interest. In a grievance under this agreement, the employee may choose to be self-represented or represented by a representative designated by the **UNION**. When the individual chooses to be self-represented in a grievance or counseling session, the **UNION** shall be notified and may be present during all steps of the procedure and meetings related to the grievance.

Section 10. Notice of Open Seasons.

a. Thrift Savings Plan. The open seasons for the Thrift Savings Plan (TSP) are provided on a periodic basis. The **EMPLOYER** will inform employees by a notice to each employee of the open seasons.

b. Federal Employees Health Benefits. Notice of the annual open season for health benefits will be provided to the employees upon receipt from the servicing Civilian Personnel Office.

Section 11. Employee benefits. The **UNION** and the **EMPLOYER** agree to discuss and negotiate any additional benefits that might be offered to the employees at a future time.

ARTICLE 27 EQUAL EMPLOYMENT OPPORTUNITY

Section 1. DeCA prohibits discrimination against any employee based on race, color, religion, age, sex, national origin, or mental or physical disability in all civilian personnel decisions. Sexual harassment violates acceptable standards of conduct requires of all DeCA employees and no instance of sexual harassment will be tolerated.

Section 2. It is agreed that the Commissary Officer (or his designated representative) and **UNION** Officers (or their designated representatives) will meet periodically to exchange information and to discuss matters of general concern which affect employees covered under this agreement within the overall EEO program. Such meetings will not be held to discuss discrimination complaints filed by individuals or groups.

Section 3. Employees will be kept informed of the DeCA EEO program and related programs and how to use them. DeCA will post in conspicuous locations in the workplace a current list of EEO counselors. These lists will provide the name, location and telephone numbers of the counselor. Coercion or reprisal against employees who use these programs will not be tolerated. Such employees are assured of confidentiality throughout the EEO process.

Section 4. EEO Appeal Procedure

a. Employees may choose to pursue EEO violations through the EEO Statutory Procedure.

b. An employee who elects to pursue the EEO Statutory Procedure based on Section 1 of this Article must consult an EEO counselor in order to try to informally resolve this matter. The employee must initiate contact with an EEO counselor within 45 calendar days after the perception of discrimination.

Section 5. At all stages throughout the complaint process, the employee and designated representative are entitled to reasonable duty time to prepare and present an EEO complaint.

ARTICLE 28 EMPLOYEE ASSISTANCE PROGRAM

Section 1. The Employee Assistance Program (EAP) is established to help employees with health problems such as alcohol or drug abuse or with other personal problems that may also result in impaired job performance or misconduct. The **EMPLOYER** and the **UNION** agree to work together to promote use of EAP when needed. An employee who

is interested in this program should contact their supervisor or a **UNION** representative, or the EAP office directly.

Section 2. Employee participation in the program is voluntary. This program is available to all employees and is conducted in a confidential manner consistent with applicable laws, rules, regulations and this agreement. Information about an employee participating in an EAP may not be disclosed to the **EMPLOYER** without an employee's consent; however, the employee's status/attendance in such a program may be provided to the **EMPLOYER**. The employee's job security and promotional opportunities will not be jeopardized solely by participating in the Employee Assistance Program counseling or referral services.

ARTICLE 29 EMPLOYEE RECORDS

Section 1. There are only two types of employee personnel records:

- (1) Official Personnel Folder, and
- (2) Supervisory Work Folder (SWF).

Section 2. Official Personnel Folders are maintained at the servicing Civilian Personnel Office and will be provided in a timely manner (no more than ten (10) calendar days) to the employee upon their written request.

Section 3. SWFs are maintained by an employee supervisor at the Commissary Store and will be provided in a timely manner to the employee upon request, within two (2) workdays of the request. Unreasonable requests may be denied by the supervisor.

Section 4. Administration of employee records will be in accordance with governing laws and government wide regulations.

Section 5. Consistent with government wide regulations, the employee has the right to provide information for inclusion in their records. Records will be accurate and complete. It is understood that there are

limits on what can be maintained in the OPF and time constraints on records maintained by the servicing personnel office.

Section 6. The supervisor will advise the employee when adverse information is placed in the SWF and request the employee initial the entry, and will be provided a copy upon request.

Section 7. When the supervisor becomes aware of performance or conduct items to be included in the SWF, it will be recorded in a reasonable period of time and a copy will be provided to the employee upon request.

Section 8. Supervisory notes (memory joggers) are for the sole use of the supervisor. If they are communicated to any other parties, they must be a part of the system of records and administered in accordance with the Privacy Act and this Agreement.

ARTICLE 30 MERIT PROMOTION

Section 1. Under the Merit Program, bargaining unit employees are given full and fair consideration for advancement into bargaining unit positions and to ensure selection from the best qualified candidates. Rating plans will be valid and job related. The Merit Promotion Program shall be governed by applicable laws, rules and regulations.

Section 2. The minimum area of consideration is where the **EMPLOYER** reasonably expects to get at least three highly qualified candidates for the vacancy. Vacancy announcements will be posted on the official bulletin board. Announcements will be open for the length of time in accordance with the DeCA Supplement 1 to DLAR 1404.1 and be posted for the entire open period. A copy of the announcement will be given to the **UNION**. Employees will advise their supervisors in writing of specific job opportunities in which they are interested and arrange to be notified if such opportunities are advertised while they are absent, on leave, TDY or at a training course. The **EMPLOYER** will provide a copy of an announcement to an employee upon request. Information regarding the cancellation of a vacancy announcement will be posted.

Section 3. Employees are responsible for submitted required application material to the servicing CPO prior to the closing date of the announcement. Official mail may not be used for submission of job applications.

Section 4. If any referred applicant is interviewed, all of the referred applicants will be interviewed.

Section 5. Selections under the Merit Promotions Program will be posted on each stores official bulletin board that are within the area of consideration of the bargaining unit.

Section 6. When an employee fails to receive proper consideration in a promotion action and the promotion decision is allowed to stand, the employee will be considered for the next appropriate vacancy for which he or she is qualified to make up for lost consideration. An appropriate vacancy is a position at the same grade level or promotion potential of the position for which consideration was lost. Promotions will be implemented that are directed by higher authorities to effect corrective action on an equal employment opportunity complaint, appeal or grievance decision or to correct a violation of regulation or law.

Section 7. Priority referral will be given to employees eligible for grade retention who were downgraded through no fault of their own. They will be referred and considered prior to other merit promotion candidates.

Section 8. A maximum of ten promotion candidates will be referred for each vacancy. One additional candidate will be referred for each additional vacancy. When ties exist for the final position among the highly qualified candidates after evaluation and ranking factors, such ties will be broken by seniority (based on service computation date). Referral listings will be sent to the selecting official in alphabetical order. Where the number of qualified candidates is between three and ten inclusive, initial ranking to comprise the referral list will be on the basis of KSA's only. However, if fewer than three qualified applicants, on the basis of KSA's only, would be referred, performance appraisals, awards and education will be used in the ranking of up to ten referred candidates. Referral lists with fewer than three total candidates may be used or may be returned for other recruitment alternatives.

Section 9. The **UNION** may request, and may be provided, the ranking plan under Section 7114(b)(4) of the Federal Service Labor Management Relations Statute (FSLMRS).

ARTICLE 31 TEMPORARY PROMOTIONS

Section 1. Temporary promotions of more than 120 days will be done in accordance with the Merit Promotion Procedure Article.

Section 2. Temporary promotions of 120 days or less are considered non-competitive, i.e., not processed through the merit promotion procedures.

Section 3. When the **EMPLOYER** determines that there is a need to fill a job through a temporary promotion of 120 days or less to a bargaining unit position, the following procedure will be used:

a. An internal announcement will be posted for seven (7) calendar days on employee bulletin board(s) advising of the position to be filled, projected length of promotion, required qualifications, name of selecting supervisor, and closing date of announcement.

b. Interested employees will submit an application (e.g., Standard Form SF-171, SF-172, Optional Form OF-612, or resume) outlining their qualifications for the job to the selecting supervisor, by the close of business of the closing date of the announcement.

c. Selecting supervisor will select from among the most qualified of the applicants. Non-selected applicants will be notified of non-selection. At the applicant's request, the reason for non-selection will be provided.

d. Selected employees must meet the qualifications as prescribed in the OPM Qualifications Standards Handbook or equivalent, and time in grade requirements for the position.

e. To assure that the servicing CPO has current information and to expedite the processing of the action, a copy of the selected

employees application will be attached to the SF-52 forwarded to the servicing CPO.

f. The temporary promotion will expire on the last day of the NTE date indicated on the SF-50 or when the **EMPLOYER** determines the work requirement for the temporary promotion no longer exists. In the latter case, an SF-52 terminating the temporary promotion will be processed.

g. The employee will be paid for the higher grade from the period starting with the effective date of the promotion as stated on the SF-50 through the expiration or termination date.

h. An employee may not be promoted under these same procedures to a higher graded position for more than any 120 days within a calendar year.

ARTICLE 32 REASSIGNMENT

Section 1. The definition of reassignment is permanent change of position without loss of grade or pay.

Section 2. Employees who have a qualified handicap, as defined in 29 CFR, will be provided reasonable accommodations. If such employee is reassigned or detailed, appropriate accommodations must be provided in the new position.

Section 3. An employee who has been injured on the job may be reassigned or detailed under OWCP procedures.

ARTICLE 33 DETAILED EMPLOYMENT

Section 1. Definition

A detail is a temporary assignment of a bargaining unit employee to another position or set of duties within the bargaining unit.

a. A detailed employee:

(1) Is not required to meet the qualification as prescribed in the OPM Qualification Standards Handbook or equivalent, and time-in-grade requirements for the positions to which detailed;

(2) Does not receive additional compensation if the detail is to a higher graded position and the employee is not temporarily promoted in accordance with Article 32 (temporary promotions); and

(3) Continues to officially occupy the position from which the employee has been detailed.

b. An employee may not be detailed to a different position for at least ninety (90) calendar days after initial competitive appointment.

Section 2. Documentation

a. Details in excess of five consecutive workdays shall be recorded in the Official Personnel Folder when the employee initiates a Standard Form 172 (Amendment to Personal Qualifications Statement or its equivalent), and forwards it to the Civilian Personnel Office through his or her supervisor for signature.

b. Details for more than thirty (30) days will be documented on an SF-52, Request for Personnel Action.

c. A formal job description will not be required to cover details of thirty (30) days or less.

Section 3. Procedures

a. Details will be made to meet the mission related needs of the Agency.

b. The **EMPLOYER** agrees that when an employee is detailed, the supervisor will discuss with the employee the reason for the detail, the nature of the duties to be performed, and the anticipated length of the detail. This does not preclude the supervisor to who the employee is detailed from assigning the employee other similar duties.

c. Details will be rotated in a fair and equitable manner. Local Labor-Management Partnerships should attempt to decide procedures for such rotation. If no decision is made through partnership, local negotiations are appropriate.

Section 4. Details to Higher Graded Positions

Employees detailed to higher graded positions will be temporarily promoted, if otherwise eligible and qualified, on the 31st day, if the detail exceeds 30 days.

ARTICLE 34 PERFORMANCE MANAGEMENT

Section 1. General

a. Performance appraisal and performance management are for the purpose of: producing the utmost performance; maintaining cooperation and communication between employees and supervisors; creating the basis for performance-based actions (positive and negative). The Performance Management Systems shall be administered in accordance with DeCAD 50-7 and this Agreement.

b. Performance standards shall be written at the fully successful level. As applied to employees, DeCA's performance appraisal and program(s) including the Performance Plan shall: be attainable, job-related, objective, and not absolute; and permit accurate measurement of performance. When evaluating an employee, the supervisor shall give due consideration to factors beyond the control of the employee.

Section 2. Performance Plan

Management shall request and consider employee input in developing performance plans (defined as performance elements and standards). Any written comments provided by the employee shall be retained with the performance plan. If there is a dispute over the contents of the performance plan, the supervisor shall make the final determination of what goes into the performance plan. An employee may request to be assisted by a **UNION** representative in discussions with the supervisor

concerning development of the contents of the Performance Plan before it has been established. After the Performance Plan has been established by the designated supervisor(s), the employee will be provided a copy of the Plan at the beginning of the performance appraisal cycle. When there is a need for a change in the Performance Plan, the above procedures will again be followed.

Section 3. Performance Discussions

a. The employee and supervisor will discuss the employee's performance under the Performance Plan at appropriate times during the appraisal cycle. At a minimum, such discussions will occur at a mid-point review held during the seventh month. At the request of the local **UNION** official, within ninety (90) days before the end of a rating cycle, a meeting(s) may be scheduled with the bargaining unit to discuss the performance management system. Information critical of employee performance which may be significant enough to affect the employees rating will be called to the employee's attention and documented when the supervisor becomes aware of it. At the end of the rating cycle, the employee will be provided a copy of their performance appraisal rating. If the employee is dissatisfied with the rating, the employee may contest it, as provided in the Negotiated Grievance Procedures article of this Agreement and applicable law.

b. If the supervisor, during a performance discussion, anticipates that the employee may receive a rating below fully successful if current performance continues, the supervisor will inform the employee what is needed to bring his or her performance to the fully successful level. The supervisor will provide the opportunity for assistance, which may include remedial or developmental training, necessary for the employee to improve their performance.

Section 4. Performance Improvement Plan (PIP)

a. When the supervisor determines the employee will fail in one or more critical elements, the supervisor will develop a written comprehensive PIP and include whatever measures the supervisor determines are necessary to bring the employee's performance up to the fully successful level. Any improvement plan that is developed will provide for counseling, training and guidance, as appropriate.

b. The employee will be given a reasonable amount of time in which to bring their performance up to an acceptable level. At the end of the PIP period, a written determination of the employee's performance on the failed element(s) will be issued. If it is determined that the employee still failed the element, the supervisor will initiate action to remove the employee from the position by reassignment, demotion or removal.

c. If the employee successfully completes the PIP, but within a year of the onset of the PIP, the employee again becomes unacceptable on the same element(s), the supervisor will initiate removal, demotion or reassignment action, as appropriate.

d. If a PIP period would end after the normal rating cycle, the rating cycle will be extended by the amount of time needed to complete the PIP before a performance appraisal rating is issued.

Section 5. Procedures for Performance-Based Demotions or Separation

a. Following the completion of the PIP period in Section 4, if the decision is to propose demotion or separation, the employee will be provided thirty (30) days advance written notice of the proposed action. The notice will include:

(1) The type of action proposed;

(2) The specific instances of unacceptable performance by the employee on which the proposed action is based;

(3) The critical element(s) of the employee's position involved in each instance of unacceptable performance;

(4) The employee's right to be represented by an attorney or other representative; and

(5) The employee's right to answer orally and/or in writing within ten (10) calendar days.

b. The thirty (30) day advance notice period may be extended not to exceed thirty (30) additional days for the following reasons:

(1) To obtain and/or evaluate medical information when the employee has raised a medical issue in the answer to the proposed reduction-in-grade or removal;

(2) To arrange for the employee's travel of DeCA official to hear the employee's oral reply;

(3) To consider the employee's answer if an extension to the period for an answer has been granted (for example, because of the employee's illness or incapacitation);

(4) To comply with a stay ordered by an official of the Merit System Protection Board; or

(5) To consider reasonable accommodations of a handicapping condition;

(6) For other reasons approved by OPM.

Decisions on extension requests will be provided as soon as possible.

c. A final written decision must be issued to the employee after the end of the advance notice period. The decision notice must be given to the employee prior to the time the action becomes effective. A decision may not be effective until after the advance notice period has expired.

d. The contents of the final decision must:

(1) Specify instances of unacceptable performance by the employee on which the reduction in grade or removal is based;

(2) Be decided by the reviewing official or other official in the supervisory chain or in a higher position than the individual proposing the action; and

(3) Inform the employee of their rights to appeal that decision to the Merit System Protection Board (MSPB) office for filing the appeal; a copy of the MSPB regulation; and a copy of the MSPB appeal form; and

(4) Inform the employee of the right to grieve the decision through the Negotiated Grievance Procedures Article.

ARTICLE 35 AWARDS

Section 1. In accordance with DeCAD 50-8, Recognition and Incentive Awards, dated 30 June 1995, DeCA will:

a. Encourage DeCA personnel to improve government operations and support and enhance DeCA and national goals; and

b. Recognize and reward personnel appropriately, promptly and on the basis of superior performance, special acts or services, or other personal or group effects that substantially exceed normal standards or expectations and result in improved federal government productivity and/or services;

c. Administer the incentive awards program in accordance with the merit system principles of Title 5, United States Code. Any DeCA employee may nominate their co-workers for all types of awards, either as individuals or as a group. No person will be involved in the approval process of an award that would be considered a conflict of interest. Awards should be presented in a public manner at a ceremony commensurate with the level of the award. The **UNION** will be invited to awards ceremonies held for employees of the bargaining unit.

Section 2. Types of Incentive Awards may include the following:

a. Monetary

- Performance Award
- Special Act or Service Award
- Quality Step Increase
- Time Off Award (e.g., Goal Day)
- On the Spot Award

b. Non-monetary

- Honorary (e.g., Certificate/Memorandum of Appreciation)
- Meritorious Medals
- Length of Service, etc.

Section 3. Suggestion Awards

In accordance with DeCAD 60-1, IDEAS, dated 30 July 1993, DeCA encourages all employees to participate in the IDEAS (Improve Defense Commissary Agency's Efficiency and Service) Program. The **EMPLOYER** will endeavor to process all awards and cost reduction ideas in a timely and manner.

ARTICLE 36

POSITION DESCRIPTION AND POSITION CLASSIFICATION

Section 1. Position Descriptions

a. The purpose of a position description is to describe officially, for pay and classification purposes, the relevant assigned skills and duties of the position.

b. Position descriptions will be based upon the primary duties and responsibilities assigned in accordance with work specification of the position classification standard for title, series and grade level of each position. All identical positions within the same organizational unit will normally be covered by the same position description. When management requires a deviation from such standard position descriptions, the positions will be classified according to the duties and responsibilities actually assigned and performed. Addenda, deletions and amendments to position descriptions will be reviewed by a classifier, and impact thereof recorded on current job descriptions and/or new job descriptions, if applicable, or classified records maintained in the Civilian Personnel Office. Such changes in position descriptions will be

discussed with employees, and they will be furnished a copy of the changed position descriptions. An employee may request a copy of the position evaluation statement for their position from their supervisor.

c. Employees who believe that their position descriptions are inaccurately described may discuss this matter with their supervisor(s) for clarification.

d. Position descriptions do not describe all job assignments. When the term, "Performs other duties as assigned" or its equivalent is used in a position description, the term is mutually understood to mean, "tasks that are related to the position and are of an incidental nature". Such terms will not be used to assign duties outside an employee's classification on a recurring basis.

Section 2. Position Classification & Appeal

a. It is agreed that an employee will be notified in writing when an appropriate determination has been made to downgrade or upgrade the employee's position as a result of a classification action. The notification will be no less than thirty (30) days prior to the personnel action, and will include available appeal procedures. Grades of jobs will not be downgraded except through proper application of classification standards to officially approved job descriptions.

b. The **EMPLOYER** agrees to provide, upon request by the employee or his/her **UNION** representative, copies of applicable classification standards.

c. If employees are dissatisfied with their position's pay plan, series, grade or title, they may pursue a classification appeal through the appropriate appeal procedures. However, employees are encouraged to request a desk audit first. The employee may request a representative of his/her choosing to represent him/her in the classification appeal.

ARTICLE 37

DISCIPLINARY AND ADVERSE ACTION

Section 1. Purpose

The **PARTIES** recognize that fair and constructive discipline promotes the employee/employer relationship. It is also recognized that the earlier and more complete relevant facts about an incident can be established, the better the **PARTIES** can make judgments. Disciplinary and adverse actions shall be constructive and for just cause, promote the efficiency of the service, and assure due process.

Section 2. Definitions

Disciplinary action, for the purposes of this Article, is defined as a suspension for fourteen (14) calendar days or less, or a Letter of Reprimand. Informal actions such as oral admonishments, letters of warning/requirement, etc., are not discipline but are intended to correct the conduct before more serious actions are deemed necessary.

Adverse action for the purpose of this Article is defined as a removal, suspension for more than fourteen (14) calendar days, reduction in pay and/or grade, and furloughs for thirty (30) calendar days or less.

Section 3.

When taking actions under this Article, mitigating and aggravating factors will be considered. For other than informal actions or letters of reprimand, there will be a proposing and deciding official. The deciding official will be at least one level higher than the proposing official. The employee will be provided the original and one (1) copy of proposals and decisions under this Article. When the employer determines that formal disciplinary action may be required to correct the alleged situation on the part of an employee, the supervisor will obtain available information concerning the alleged misconduct. This may include an investigative interview with the employee. The purpose of the investigation is to ensure relevant facts are known and afford employees the opportunity to explain the basis for their actions. Supervisors will inform employees of their (Weingarten) rights to **UNION** representation in these circumstances. Prior to the commencement of an investigator examination, the employee will be informed of the purpose of the examination. The employer will not use any information in support of disciplinary action that was obtained in violation of laws and regulations.

Section 4. Procedures

a. **Written Reprimands.** Written reprimands may be maintained as a temporary record in the supervisor's work folder (SWF) for a period not longer than one year. The supervisor or the employee may initiate a review of the written reprimand at any time to determine if there has been substantial improvement, e.g., no recurrence of similar or related misconduct. If so, the letter will be removed from the supervisory work folder (SWF).

b. Disciplinary Action.

(1) Employees against whom a suspension of fourteen (14) days or less is proposed are entitled to:

(a) An advance written notice to enable the employee to understand fully the violation, infraction, misconduct or offense for which the employee is being charged. The notice will include a description of the offense, time, places, dates and events that were basis for the proposed disciplinary action. Upon request, the **EMPLOYER** will furnish the employee, or the designated **UNION** representative, a copy of all pertinent information, both for and against the employee.

(b) A reasonable time, not less than fourteen (14) calendar days, to answer orally and/or in writing, and to furnish affidavits or other evidence in support of the answer. Extensions to this time period will be granted for a demonstrated and valid reason if requested orally or in writing by an employee or a designated **UNION** representative. An employee and designated **UNION** representative, if any, will be authorized a reasonable amount of duty time to prepare an answer, if they are otherwise in a duty status;

(c) Be represented by the **UNION** or other representatives of their choice. Designations will be in writing, signed by the employee. Once the designation has been made, all contacts and correspondence will be through the representative.

(d) A written decision which includes specific reasons and grievance rights normally within fourteen (14) calendar days

of the employee's response (or the earliest practicable date); or, if no response was made, at the earliest practicable date.

c. Adverse Actions

(1) Employees against whom an adverse action is proposed are entitled to:

(a) At least thirty (30) days advance written notice to enable the employee to understand fully the violation, infraction, misconduct or offense for which the employee is being charged. The notice will include a description of the offense, times, places, dates and events that were the basis for the proposed adverse action. However, if there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, the advance notice period may be less than thirty (30) days. Upon request, the **EMPLOYER** will furnish the employee, or the designated **UNION** representative, a copy of all pertinent information, both for and against the employee.

(b) A reasonable time, not less than twenty-one (21) calendar days to answer oral and/or in writing to furnish affidavits or other evidence in support of the answer. When the crime provision is invoked, the response period may be reduced to not less than seven (7) days. Extensions to the response period will be granted for a demonstrated and valid reason if requested orally or in writing by an employee or designated representative.

(c) Be represented by the **UNION** or other representatives of their choice. Designations will be in writing signed by the employee. Once the designation has been made, all contacts and correspondence will be through the representative.

(d) A written decision which includes specific reasons and grievance rights normally within twenty-one (21) calendar days of the employee's response (or at the earliest practicable date); or, if no response was made, at the earliest practicable date.

1. Disciplinary actions are grievable through the negotiated grievance procedure article. Only **UNION** officials may represent bargaining unit members during the negotiated grievance procedure.

2. Adverse actions may be grieved or appealed to the Merit Systems Protection Board (MSPB), but not both.

**ARTICLE 38
ELECTRONIC FUNDS TRANSFER**

Section 1. Electronic Funds Transfer (EFT) is a method of payment for pay and travel of employees. EFT is a payment method which allows individuals to have their net pay and travel reimbursement sent directly to the account of their choice at their designated financial institution. EFT participants benefit from: increased security of the transaction (no check to be lost or stolen); automatic deposit of their money at the opening of business on the payment date; and the elimination of special trips to deposit or cash Treasury checks. DoD benefits from the elimination of the costs of printing, mailing, replacing and processing individual checks.

Section 2. All employees will be paid by EFT unless a waiver is granted upon written certification stating that the employee does not have an account with a financial institution.

Section 3. If pay is more than three working days late, an employee may request and receive a reissued (rectified) payment.

**ARTICLE 39
PAY ADMINISTRATION**

Section 1. Environmental Differential Pay or Hazardous Duty Pay

Wage grade employees are entitled to environmental differential pay in accordance with 5 CFR 532.511. General schedule employees are entitled to hazard pay differential in accordance with 5 CFR 550, Subpart 1. Pay determination will be made on an individual basis. For example, wage grade employees exposed to cold hazard as described in 5 CFR 532.511 will be provided protective equipment/clothing that practically eliminates the hazard. If such protective equipment/clothing is not provided, environmental differential pay will be paid.

Section 2. Shift Differential Pay and Night Differential Pay

a. Wage Grade Shift Differential Pay

REGULAR HOURS	DESCRIPTION	DIFFERENTIAL
Between 0800 and 1500	Shift 1	0%
Between 1500 and 2400	Shift 2	7 ½%
Between 2300 and 0800	Shift 3	10%

Night shift differential is payable when the employee's regularly scheduled non-overtime work, to include meal periods, is between 1500 hours and 2400 hours on second shift, or between 2300 hours and 0800 hours on third shift.

b. General Schedule Night Differential Pay

Night work is defined as work performed by a GS employee between the hours of 1800 and 0600. The amount of night differential pay is 10% of the basic rate of pay. Night differential pay is paid to an employee who is regularly scheduled to perform night work or an employee who is temporarily assigned night work.

Section 3. Overtime Pay

a. Overtime will be compensated in accordance with applicable provisions of Title 5 and the Fair Labor Standards Act. Overtime is defined as time worked by employees in excess of an eight (8) hour work day or in excess of forty (40) hours in any one administrative work week.

b. Overtime pay will be recorded in fifteen (15) minute increments.

c. General schedule overtime will be paid at one and one-half times of the individual's hourly rate of pay, but not to exceed the hourly rate of basic pay of GS-10, Step 1. Wage grade overtime will be paid at one and one-half times of the individual's hourly rate of basic rate of pay.

d. When an employee is called back to work outside of their regularly scheduled tour of duty, a minimum of two hours work will be recorded on the employee's Time and Attendance (T&A) sheet.

e. At the request of the employee (WG and GS), compensatory time will be granted in lieu of overtime paid of an equal amount of time spent in irregular or occasional overtime work.

Section 4. Sunday Premium Pay

a. Any full time GS or WG employee (part time employees are not entitled to Sunday premium pay under any circumstances) is entitled to eight (8) hours of Sunday Premium Pay if any part of the scheduled tour of non-overtime duty falls between midnight Saturday and midnight Sunday. Any employee who has a regularly scheduled tour of duty which includes a shift beginning on Saturday and ending Sunday, and a shift that begins on Sunday and ends on Monday, is entitled to Sunday Premium Pay for both days worked. Employees who are regularly scheduled to work on Sunday, but who do not work and take annual or sick leave instead, are still entitled to premium pay for the "scheduled" Sunday work hours. Employees are entitled to Sunday premium pay for each hour of Sunday work that is not overtime work and in excess of eight (8) hours of each regularly scheduled tour that begins or ends on Sunday.

b. The Sunday Premium Pay rate is 25% of the employees basic hourly rate.

Section 5. Holiday Pay

An employee who performs non-overtime work on a holiday is entitled to basic pay plus holiday pay equal to basic pay.

**ARTICLE 40
LABOR-MANAGEMENT PARTNERSHIP**

Section 1. General

Labor-Management Partnerships will operate in accordance with Executive Order 12871. No model of what each partnership will look like exists because the partners must decide this. The relationship will vary to fit the specific needs and mutual interests of the partners in different situations. Partnerships will determine the decision making process. The most commonly used and recommended method is by consensus, that is, by agreement of every participant. However, a participant who does not agree is obliged to seek alternatives that are acceptable to all participants. If a decision cannot be reached through partnership, it should be recognized that it may be acted on/implemented through other processes. However, partnership is the preferred operating mode of DeCA and IFPTE, Local 4.

Section 2. Purpose and Principles

The purpose of a DeCA-IFPTE, Local 4, labor-management partnership is to design, implement, maintain and improve a cooperative working relationship between labor and management to achieve common goals. The common goals include increased quality and productivity, customer service, mission accomplishment, efficiency, quality of work-life, employee empowerment, organizational performance, military readiness and the viability of success of DeCA. To that end, labor-management partners will make the investment necessary to establish an atmosphere of mutual respect and trust in accomplishing DeCA's mission through the operating principle that each partner can succeed only when the other partner(s) succeed. Partnership will include open and honest communication with a view toward recognizing and addressing the interests of the partners. This relationship must be established and vigorously maintained nationally and through the field structure.

Section 3. Commitment

This Article is a commitment by DeCA and IFPTE, Local 4 to make their best efforts to ensure that partnership and partnership principles are implemented and practiced where appropriate in day-to-day actions.

Section 4. Objectives

- a. Improve the day-to-day operations of DeCA;

- b. Ensure implementation of partnership concepts, which include:

- 1) pre-decisional information sharing and involvement
- 2) shared responsibility when decisions are jointly made
- 3) finding solutions

- 4) forwarding partnership recommendations to a deciding official when the partnership does not have deciding authority.

- c. Ensure implementation of labor-management partnerships, recognizing that the partners have the primary responsibility and accountability for making their partnership succeed;

- d. Develop methods of voluntarily resolving partnership disputes without use of a third party;

- e. Identify training needed to accomplish partnership objectives;

- f. Follow Office of Personnel Management guidance on implementing Executive Order 12871;

- g. Evaluate the performance of each partnership structure and make necessary changes to improve it;

- h. Develop categories or criteria to evaluate and understand which decisions made in partnership will be final and binding, and which, if any, will be advisory or not final;

- i. Apply the categories or criteria during partnership decision-making and before a problem-solving effort is begun.

Section 5. Training for Implementation

- a. Joint training for members of partnership councils should be provided as soon as possible. Such training considerations may include: adapting examples of other successful partnership experiences; interest-based bargaining techniques; alternative dispute resolution approaches; and communication and cooperation skills.

b. Such training should, to the maximum extent possible, draw upon low cost or no cost resources of the Federal Labor Relations Authority (FLRA), the Federal Mediation and Conciliation Service (FMCS), the Department of Labor (DoL), DoD Field Advisory Services, and others.

c. This training should be conducted as required to accommodate new methods and personnel.

Section 6. Communications

The Labor-Management Partnership Council shall foster honest and effective communication through the sharing of information that will affect the relationship of this Partnership. Partnerships shall establish an open line of communication that is available to all members. Partnership will provide information about actions and potential actions affecting employees or reflecting the efforts and results of partnership.

Section 7. National Labor Management Partnership

IFPTE Local 4 shall attempt to join the National Labor Management Partnership.

Section 8. Levels

Labor-Management Partnerships will be established at the store level.

Section 9. Local Partnership Councils

a. A Local Partnership Council (LPC) will be established. Partners are entitled to equal representation from each participating organization. The membership will consist of a mutually agreed upon number of members from each participating entity of labor and management, but if no agreement is immediately reached, then the minimum number shall be two (2) from each.

b. The frequency, duration of meetings, and agenda items of each LPC will be mutually agreed upon locally.

c. Members of partnership councils shall have access to communication tools (computers, copy machines, telephones, etc.) for the purpose of effectively conducting partnership business.

d. In an effort to improve partnership communication, management is encouraged to include the Local **UNION** in management staff meetings when relevant to partnership.

ARTICLE 41 CATEGORIES OF EMPLOYEES

The appropriate use of term, intermittent, part-time and full-time and temporary employees is a paramount concern of the **EMPLOYER** and the **UNION**. The **EMPLOYER** will provide the **UNION**, upon request, the Unit Manning Document and other appropriate available data concerning the use of categories of employment. If surveys are conducted at the store level regarding categories of employment, the **UNION** will be invited to participate. The **UNION** and the **EMPLOYER** should have ongoing discussions between the **PARTIES** that may affect use of categories of employment.

ARTICLE 42 ALTERNATIVE DISCIPLINE

The IFPTE and DeCA will investigate further the possibility of designing a mutually beneficial alternative to traditional ways of managing discipline. If such a program is agreed upon, it will be forwarded to the installation – Local level, where it may be adopted pursuant to mutual agreement by the **UNION** and the installation operating under this Agreement.

ARTICLE 43 WAGE SURVEYS

The IFPTE shall participate in wage surveys. Representatives will be released for the survey on official time.

ARTICLE 44
REDUCTION IN FORCE/TRANSFER OF
FUNCTION/REORGANIZATION

Section 1. Definitions

Reduction in Force (RIF) occurs when a competing employee is released from their competitive level by separation; furlough for more than thirty (30) days; or reassignment requiring displacement. A RIF action may be conducted because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment rights or restoration rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a RIF in the employee's competitive area and when the RIF will take effect within 180 days.

Transfer of Function (TOF) means: A transfer of the performance of the continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

Reorganization means the planned elimination, addition or redistribution of functions or duties in the organization.

Section 2. RIF, TOF and reorganization will be conducted in accordance with applicable laws, government-wide regulations and this agreement.

Section 3. The **EMPLOYER** shall notify the **UNION**, with as much advance notice as possible (i.e., ten (10) calendar days), prior to notifying any bargaining unit employee, when a RIF, TOF or reorganization may be necessary. The notice will include the reason(s) for RIF, TOF, reorganization; the approximate number of positions or employees impacted; and the approximate date the action is expected to take place. The **UNION** agrees to assist the **EMPLOYER** in keeping employees informed.

Section 4. The **EMPLOYER** will provide all other pertinent information regarding RIF, TOF, and reorganization to the **UNION** if and when it

becomes available. The **EMPLOYER** will endeavor to provide this information at least 120 days prior to the effective date of a RIF, TOF or reorganization. Additional information, as it becomes available, will be provided.

Section 5. When the **EMPLOYER** issues a specific written notice to an affected employee, the **EMPLOYER** will give written notice to the employee, it will include another copy of the notice with the heading, "THIS COPY MAY BE FURNISHED TO YOUR UNION REPRESENTATIVE". Upon request and in accordance with applicable laws, and prior to employees receiving specific written notice, the **UNION** will be provided a list of affected unit employees, to include their offers (if applicable), and a copy of the retention register and any revised registers.

Section 6. Employees affected by a RIF shall be given the opportunity to review the retention register(s) and other documents pertaining to the RIF, and to discuss RIF procedures with an appropriate staff member of the **EMPLOYER**. Employees also have the right to designate a representative to assist them in making this review.

Section 7. Affected employees shall be offered counseling services concerning placement rights, severance pay, retirement eligibility and benefits, the Department of Defense Priority Placement Program (PPP) and other available job placement, training and reemployment programs.

Section 8. The **EMPLOYER** agrees to make every reasonable effort to minimize the impact of any RIF, TOF or reorganization. To avoid the separation of employees, such methods as reassignment of continuing positions, to include waiver of qualifications, or restriction of recruiting will be utilized to the maximum extent feasible.

Section 9. The **UNION** has the right to bargain, to the extent allowed by law, concerning actions to carry out the RIF, TOF or reorganization.

ARTICLE 45
CONTRACTING OUT

Section 1. Management agrees to notify and consult with the **UNION** regarding any anticipated review of a function for contracting out that affects bargaining unit positions, as required or allowed by Title X USC, Section 2467, and other law, rule, regulation, OMB Circular A-76 and its supplement, and this Agreement.

a. At the earliest possible stages of development prior to the determination of whether to contract out, consistent with procurement and conflict of interest requirements, the **UNION** will fully participate in the development of supporting documents and proposals, including the development of performance standards, performance work statements, management plans/management efficiency study, the milestone chart governing the conduct of the CA study, the development of in-house and contract cost estimates, and any other information used in the development of the above documents. The **UNION** will have the opportunity to meet with management at least monthly.

b. Upon issuance, a solicitation used in the conduct of a cost comparison will be made available to the **UNION** for review and comment. The **UNION** will be given the opportunity to review the document and submit comments before final receipt of offers from the private sector. The private sector shall comment as provided by the federal acquisition regulations (FAR).

Section 2. The **EMPLOYER** agrees that to minimize adverse action and reduce separations of employees affected by a contracting out decision, it will use attrition and restrict new hires, and to the maximum extent possible will place affected employees in continuing positions. Negotiations will be held upon request of the **UNION**, including but not limited to matters under Section 710(b) of Title 5.

Section 3. Briefings/meetings will be held with affected bargaining unit employees at least monthly, unless mutually agreed by both **UNION** and management to postpone, for the purpose of providing timely information concerning CA studies. The **UNION** may participate in such briefings/meetings.

Section 4. The management and the **UNION** recognize the right of first refusal required by OMB circular A-76 and its supplement. Disputes over compliance with the application of the A-76 process are handled

through the A-76 appeals procedure, rather than through the grievance procedure. Declining to exercise the right of first refusal due to displacement from contracting out shall not be deemed to be a waiver of any appeal grievance rights by a bargaining unit employee he/she might have under applicable law, regulations and this Agreement.

Section 5. The **EMPLOYER** and the **UNION** will cooperate and communicate to the maximum extent possible.

Section 6. During the contract performance period, the **UNION** is encouraged to bring known contract discrepancies to the appropriate contract administrator or designee's attention.

ARTICLE 46 NEGOTIATED GRIEVANCE PROCEDURE

Section 1. The **PARTIES** agree that this Article establishes the exclusive procedure available to unit employees and the **PARTIES** for the processing and settlement of grievances which fall within its scope, including questions of grievability and arbitrability. The **PARTIES** recognize and endorse the importance of bringing to light and resolving grievances in a prompt manner. Normally the expeditious settlement of grievances at the lowest level is in the best interest of the **PARTIES**.

Section 2. A grievance means any complaint:

a. by any employee concerning any matter relating to the employment of the employee;

b. by the **UNION** concerning any matter relating to the employment of any employee; or

c. by the **UNION** or the **EMPLOYER** concerning:

(1) the effect or interpretation, or claim of breach of this Agreement; or

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

Section 3. Only the employee or a representative designated by the **UNION** may be the representative in a grievance under this procedure. Once a grievance is filed, the **UNION** has the right to be present at all stages, and to be provided a copy of any decision issued. Any resolution of the grievance must comply with the terms and conditions of applicable collective bargaining agreement(s). If the **UNION** is the designated representative, the employee will so state in writing, and any changes to that designation also will be in writing. Communications under this procedure shall be to the official designated on the grievance form. If the **UNION** designated representative is changed, the **UNION** will notify management of said change, in advance if possible.

Section 4. If two or more employees or the **UNION** have identical grievances with no individual variation, the **UNION** may select one grievance for processing and any decision on that grievance shall be binding to all of the other identical grievances. Each grievance and the **UNION** shall be provided a copy of the grievance decision.

Section 5. Grievance time limits shall be followed by all **PARTIES**. In unusual circumstances, exceptions may be made for good cause shown. Time limits may be extended by mutual agreement.

Section 6. The following procedures shall be used in cases of grievance(s) filed by an employee and the **UNION** in behalf of an employee:

A. This provides the procedure for the settlement of employee grievances. A grievance means any complaint:

a. By any employee concerning any matter relating to the employment of the employee;

b. By the Union concerning any matter relating to the employment of the employee, or any claimed violations, misinterpretation or misapplication of any law, rule or regulation affecting conditions of employment.

B. Only the following types of actions are specifically excluded from this procedure. Matters thus excluded may be subject to administrative and/or statutory appeals and should be addressed to the

appropriate authority for resolution, as provided for in the applicable Defense Commissary Agency Directives, Federal Personnel Directives, Code of Federal Regulations and Title 5 of the United States Code:

a. Any claimed violation of Subchapter III of Chapter 73 of Title 5 of the United States Code (relating to prohibited political activities);

b. Retirement, life insurance or health insurance;

c. A suspension or removal under Section 7532 of Title 5 of the United States Code (national security);

d. Any examination, certification or appointment;

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

f. Termination of a temporary employee;

g. Oral admonishment; memorandum of counseling/warning;

h. Substance of critical elements and performance standards;

i. An allegation or complaint of discrimination reviewable under Equal Employment Opportunity regulations;

j. Separation of probationers;

k. Reduction in force;

l. The filling of non-unit positions;

m. Matters that would otherwise be subject to negotiations;

n. Matters appealable to the Merit System Protection Board (excluding Adverse Actions as defined in Article 37, Section 2).

C. Grievances concerning letters of reprimand and suspensions of fourteen (14) days or less will begin with Step 2 of Paragraph 6.G of this Article.

D. The Employer and the Union agree that at the option of the employee, he/she may elect to appeal a removal, reduction in grade or pay, suspension of more than fourteen (14) calendar days or furlough of thirty (30) days or less either to the Merit Systems Protection Board, or may grieve the action through the grievance procedure, but not both. Should an employee elect to grieve the adverse action through the grievance procedure, the grievant must present the grievance on an adverse action form (appendix (1)) to the Commissary Store Officer (CSO) within twenty-one (21) days from the date of the decision, or when it becomes known to the employee. The grievance shall be processed as specified in Step 2 of paragraph 6.G of this Article.

E. Any grievance, except as provided for in Section 4, shall be taken up by the employee or the Union within twenty-one (21) days after the incident out of which the grievance arose, or within twenty-one (21) days after the date the employee or the Union became aware of the incident. Grievances concerning alleged misassignments (performing duties outside of position description) of a continuing nature beyond thirty (30) calendar days may be submitted at any time during the assignment, but in no case later than twenty-one (21) days after termination of the alleged misassignment. However, personal relief granted in the form of pay under the provisions of this procedure shall not be retroactive beyond the date on which the employee is assigned to duties.

F. Employees of the Unit may present their own grievances without Union representation. If the Employee chooses not to have Union representation, the Employee may select any employee of the PNS Commissary as his/her designated representative, if he/she so chooses. The Union may be present at all meetings, including the relief, concerning the grievance. The IFPTE will make the final decision as to whether or not a grievance will go to arbitration, regardless of Union representation up to that point in the grievance procedure.

G. The following procedure shall constitute the formal steps of the grievance procedure. Except as provided in Section 6 above, employees using this procedure will be represented by a Representative of the IFPTE, Local 4.

Step 1. A grievance shall be taken up by the employee and one representative with his/her supervisor within the time limits specified in Section 5 above. The grievance will be presented in writing on a grievance form (Appendix (1)). The grievance must contain the specific nature of the grievance, the specific provision of the policy or regulation alleged to have been violated, the corrective action desired, and any pertinent additional information. The corrective action desired must be directly personal to the grievant. The grievance must be signed by the employee and his/her Union representative. If resolution of the grievance is not within the authority of the supervisor, he/she shall so inform the grievant and refer him/her to the official having such authority. The supervisor or other official authority shall review the grievance and obtain further information as considered necessary, and give his/her decision in writing to the grievant no later than twenty-one (21) days following receipt of the grievance.

Step 2. If the decision received in Step 1 is not satisfactory, the employee may within twenty-one (21) days elect to proceed to the following:

a. Forward his/her grievance to the Commissary Store Officer, DeCA. The Commissary Store Officer, and/or his/her designated representative, shall give his/her decision in writing to the employee not later than twenty-one (21) days after receipt of the grievance.

H. If subsequent to the filing of a written grievance under the provisions of this procedure, it is decided that the stated relief desired will be granted, the Employer will so notify the grievant(s) in writing, with a copy to the Union.

I. Except in the case of disciplinary actions, the Union and the Employer agree that in the case of a grievance involving a group of employees, the Union will select one (1) employee's grievance for processing and the decision thereon shall be binding on the other grievants.

J. The Employer shall, upon written request of the Union, permit inspection of pertinent payroll and other records as permissible without violating laws, rules or Government policy for the purpose of

substantiating the claim of the parties, in advance of Section 7, Step 2 of the grievance procedure.

K. Requests for extensions may be entertained by written mutual agreement for valid reasons. Failure of a grievant to proceed with a grievance with any of the time limits or extensions specified in this procedure shall render the grievance terminated and settled on the basis of the last rendered decision. If the appropriate official fails to render a decision within the above time limit, the grievance may proceed to the next step of the grievance procedure.

Section 7. In the event the immediate supervisor is directly involved with the grievance or the grievance involves matters outside his/her authority, the supervisor will elevate the grievance to the next level in the chain of command who can render a decision on the grievance. If the CSO is directly involved with the grievance, the grievance will be elevated to the next level in the chain of command.

Section 8. In order to foster cost-effective and efficient management, promote orderly operations and to foster their partnership, the **UNION** and **MANAGEMENT** agree that problems should be addressed through partnership on an ongoing basis. Grievances are the right of employees, **EMPLOYER** and the **UNION**, and when used should be taken seriously by all **PARTIES** with commitment to using them as a means to resolve problems.

Section 9. When management files a grievance or the **UNION** files a grievance in its own name, the following procedure will be used: In other cases, the grievance procedure as outlined in Section 6 will be used. If a grievance arises between the **PARTIES**, either the **UNION** President or CSO or their designees may file a written grievance with the other **PARTY** within twenty-one (21) calendar days after the matter giving rise to the grievance or the day the **PARTY** could have reasonably been expected to be aware of the matter given rise to the grievance. The grievance will state the basis for the grievance, the provision of law, cite the regulation or article and section of this Agreement allegedly violated if known and applicable, the relevant facts and the relief being sought. Within ten (10) calendar days after the grievance was filed, the **PARTIES** will meet and attempt to resolve the grievance. If resolution is not reached during this meeting, either **PARTY** can request grievance

mediation in the same manner outlined in the grievance mediation Article.

a. If grievance mediation is invoked, the decision will be issued within ten (10) calendar days after final mediation contact, unless the grievance was concluded by written mediation settlement; or

b. If there is no mediation, a final written decision, including any position on grievability or arbitrability must be rendered by the respondent within ten (10) calendar days of the grievance meeting. If a timely decision is not issued as required above or the grieving **PARTY** is dissatisfied with the decision, the grieving **PARTY** may proceed to arbitration in accordance with the arbitration Article. Time limits may be extended by mutual agreement.

Section 10. In the event the respondent should declare a grievance to be non-grievable or non-arbitrable, the original grievance shall be considered amended to include that issue. Non-grievability or non-arbitrability shall be raised by the respondent making the allegation not later than the final written decision.

ARTICLE 47 GRIEVANCE MEDIATION

Section 1. The **PARTIES** agree that grievance mediation may be an effective method of resolving grievances efficiently and economically by using the services of an objective third party to help the **PARTIES** gain mutually acceptable grievance resolutions. Grievance mediation is available after the first step of the grievance procedure, if requested in accordance with the following.

Section 2. The **PARTIES** agree that grievance mediation will occur in each grievance as long as:

a. Either **PARTY** requests mediation within ten (10) calendar days of receipt of the first step grievance decision,

b. Grievance mediation is completed within thirty (30) days of a timely request; extensions of this time limit can be mutually agreed to. If

no extension occurs, the time limit to move the grievance to step two resumes on the thirty first (31) day.

c. Grievance mediation will occur only in those areas where FMCS, FEB, DoD or other mutually agreeable low cost/no cost mediators are available.

Section 3. The PARTIES agree to the following mediation procedures:

a. The PARTIES will jointly select a mediator from the sources identified in 2c.

b. Should mediation be unsuccessful, second step time limits will begin the day following the final mediation contact.

c. Proceedings before the mediator will be informal. Rules of evidence shall not apply. No record of the meetings shall be made.

d. In accordance with the negotiated grievance procedure article, the grievant(s) may be represented by the representative(s) of their choice. Discussion will be open to all participants (grievant(s), management representative(s), **UNION** representative(s), mediator).

e. While the mediator shall have no authority to impose a resolution of the grievance, either or both PARTIES may request that the mediator suggest a resolution or offer a recommendation to the PARTIES. The mediator will have the authority to meet separately with either PARTY.

f. If a recommendation is adopted, it will be reduced to writing, signed and implemented and the grievance will be considered concluded.

g. Grievances not resolved through mediation may proceed to Step 2. Any grievance and arbitration proceedings will be held as if grievance mediation had not occurred. Nothing said or done by the PARTIES or the mediator during the mediation session may be used or referred to during arbitration proceedings.

h. Any materials presented to the mediator shall be returned to the PARTY presenting the materials at the termination of the mediation conference.

i. Mediation conferences will be held at a local area which is agreeable to the PARTIES and the mediator. By mutual consent of the PARTIES, mediation conferences may be conducted telephonically.

j. No cost mediation will be used when available. Regardless of which PARTY requests mediation, mediation will not occur if it would require either PARTY to incur costs against its wishes. If it is decided that mediation is cost prohibitive, time frames for Step 2 of the grievance procedure will start the following day.

Section 4. The PARTIES agree that grievance mediation is a supplement to, and not a substitute for, the contractual procedure.

Section 5. All matters subject to the negotiated grievance procedure are appropriate for inclusion in the grievance mediation process.

ARTICLE 48 ARBITRATION

Section 1. If the **EMPLOYER** and the **UNION** fail to settle any grievance properly processed under the negotiated grievance procedure, and either PARTY desires to further pursue the matter, the grievance, upon written request by the **UNION** or the **EMPLOYER**, may be submitted to arbitration. A request for arbitration must be submitted by either the **EMPLOYER** or the **UNION** within thirty (30) calendar days after issuance of the applicable PARTY's final decision with respect to the grievance.

Section 2. The PARTIES are encouraged to attempt settlement at the time arbitration is invoked and throughout the process. The notice to invoke arbitration must be signed by the CSO/designee or the **UNION** president/designee, as appropriate.

Section 3. The process for selecting an arbitrator and proceeding to hearing shall be as follows:

a. Within seven (7) calendar days from the date of the written notice to invoke arbitration, the PARTIES will jointly request a list of seven arbitrators from the Federal Mediation and Conciliation Service (FMCS).

b. Within fourteen (14) calendar days following receipt of the list of arbitrators, the **EMPLOYER** and the **UNION** will select an arbitrator. If the PARTIES cannot mutually agree upon one of the listed arbitrators, then the **EMPLOYER** and the **UNION** will alternately strike one name from the list and will repeat this procedure until only one name remains. The remaining name person will be the duly assigned arbitrator. The decision on who will strike first will be decided by the toss of a coin. Within five (5) calendar days after selection of the arbitrator, the PARTIES will notify the FMCS in writing of the PARTIES' selection. Upon contact by the arbitrator with the PARTIES, a conference will be held to discuss arrangements for the arbitration hearing.

c. The PARTIES may attempt to jointly stipulate the issue(s) to be arbitrated. If the PARTIES fail to agree on a joint submission of the issue for arbitration, each PARTY may prepare a separate submission and the arbitrator shall determine the issue(s) to be heard.

d. The PARTIES may mutually agree to extend the time limits set forth in the process.

Section 4. Threshold issues such as compliance or non-compliance with negotiated grievance and arbitration procedure are matters for decision by the arbitrator.

Section 5. By mutual agreement, expedited arbitration may be used for grievances involving reprimands, awards, performance appraisals where unacceptable performance is not in dispute, and ALOC determinations. If mutual agreement is not reached, the regular arbitration process will be used. Under expedited arbitration: briefs and transcripts will not be used; each PARTY will have up to two (2) hours to present his/her case (expandable by the arbitrator, as he/she deems necessary); and a bench decision may be requested.

Section 6. The arbitration hearing, if held, shall be conducted during the regular day shifts Monday through Friday. The grievant and approved

witnesses who are otherwise on duty shall be excused from duty to participate in the arbitration proceedings during the time they are required without loss of pay or charge to annual leave. If necessary, the grievant's tour of duty will be rescheduled to allow the grievant to attend the hearing. Witnesses' tours of duty will be rescheduled only for the time necessary to provide testimony at the hearing. Scheduling of witnesses will be done in consideration of the mission of the Commissary.

Section 7. The PARTIES will request the arbitrator render a decision as quickly as possible, but no later than thirty (30) calendar days from the conclusion of the hearing unless the PARTIES agree otherwise.

Section 8. The arbitrator shall not have authority to change, modify, alter or delete any terms of this agreement, or any supplements thereto. The arbitrator's decision shall be final and binding. Either PARTY may file an exception to the arbitrator's award with the Federal Labor Relations Authority in accordance with law and regulation.

Section 9. Arbitrators Fees and Expenses

a. The fees and expenses of the arbitrator shall be borne equally by the **EMPLOYER** and the **UNION**.

b. The cost of transcription services, where such is mutually agreed upon by the PARTIES or where requested by the arbitrator, shall be shared equally by the PARTIES. Absent mutual agreement, either PARTY may unilaterally request that a transcript be prepared but must bear all costs incurred in its preparation.

ARTICLE 49 ALTERNATIVE DISPUTE RESOLUTION

The PARTIES agree that Alternative Dispute Resolution (ADR) should be considered as an effective means of resolving, reducing and possibly eliminating workplace disputes. ADR techniques include, but are not limited to, the following:

a. Alternative Dispute

- b. Binding arbitration
- c. Conciliation
- d. Dispute Panels
- e. Facilitation
- f. Interest Based Problem Solving
- g. Fact Finding
- h. Mediation
- i. Mini-trials
- j. Settlement Conferences
- k. Partnership

Additional information may also be obtained from the Federal Mediation and Conciliation Service.

**ARTICLE 50
UNFAIR LABOR PRACTICES**

Information: An unfair labor practice is a violation of FSLMRS. See 5 USC section 7116.

Section 1. IFPTE Local 4 and the PNS DeCA Commissary are encouraged to discuss potential charges of unfair labor practice(s) (ULP) through their local labor-management partnerships (if established) prior to filing them with the Federal Labor Relations Authority. Alleged violations of the Federal Service Labor Management Relations Statute (FSLMRS) that could result in the formal filing of a ULP charge by either party should be subject to frank and open discussion in such partnership.

Section 2. When a PARTY elects to apply this Article, the PARTY alleging the violation will provide the other PARTY a written outline of the dispute to expedite understanding of the dispute.

-- The PARTIES will then discuss the issue and make a good faith attempt to resolve the alleged violation, including corrective action.

-- If resolution is reached, it shall be reduced to writing, and signed and implemented by the PARTIES.

-- If resolution is not reached, each PARTY is free to pursue its position in accordance with the rules of the Federal Labor Relations Authority.

Section 3. If a ULP charge is filed, the charging PARTY shall provide the other PARTY with a copy in accordance with the rules of the Federal Labor Relations Authority. PARTIES may agree to establish other ways to resolve ULP charges that have been filed, and to utilize the services of the Federal Labor Relations Authority's Collaboration and Alternative Dispute Resolution (CADR) program.

Section 4. Failure to follow the above procedures does not constitute a violation of the Agreement, and is not included within the scope of the negotiated grievance procedure Article. In the event of a conflict between this Article and the statutory time limit to file a ULP charge, a PARTY/PERSON is governed by the statutory time limit.

APPENDIX (1)

INTERNATIONAL FEDERATION OF PROFESSIONAL & TECHNICAL
ENGINEERS, LOCAL 4
&
DEFENSE COMMISSARY AGENCY
GRIEVANCE PROCEDURE/ADVERSE ACTION FORM

Employee's Name: _____ Check Number: _____
I hereby grieve the decision of (name of official) _____
concerning (nature of adverse action) _____
which was effected on (date) _____.

The following states the specific nature of my grievance and any other pertinent information: (This must contain a precise description of the matter being grieved.)

The incident about which I am aggrieved occurred on _____.
The provision(s) of law, policy or regulation alleged to have been violated are:

The following corrective action is desired:

Signature of Employee: _____ Date: _____
Signature of Union Representative: _____ Date: _____

To: Manager, DeCA _____ Date Received: _____
Manager's decision and basis therefore:

Signature of the Manager: _____ Date: _____
Copy to: Employee, IFPTE, Division

The following individuals participated, fully or in part, as members of their respective teams:

MANAGEMENT

UNION

Store Director
Portsmouth NH Commissary

1st Vice President
IFPTE Local 4

Store Administrator
Portsmouth NH Commissary

3rd Vice President
IFPTE Local 4

DeCA Eastern Region
Personnel Satellite

Chief Steward
IFPTE Local 4

DeCA Eastern Region
Personnel Satellite

Steward
IFPTE Local 4

This Agreement is executed on June 22, 2000 to become effective within thirty (30) days or upon approval by the Department of Defense Civilian Personnel Management Service (CPMS), whichever is earlier.

For the Employer:

For the Union:

Store Director,
Portsmouth New Hampshire
Commissary

Date

Professional and Technical
Engineers, Local 4

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