

**NEGOTIATED AGREEMENT**  
**BETWEEN**  
**UNITED STATES MILITARY ACADEMY**  
**AND**  
**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES**  
**WEST POINT LOCAL 2367**

## TABLE OF CONTENTS

<b>PREAMBLE</b>		1
<b>AGREEMENT</b>		1
<b>UNION RIGHTS and PRIVILEGES</b>		
Article 1	Union Rights	4
Article 2	Official Time	5
Article 3	Dues Withholding	7
Article 4	Union Office and Equipment	8
Article 5	Correspondence	9
Article 6	Bargaining Unit Listing	9
Article 7	Parking	9
<b>LABOR/MANAGEMENT PARTNERSHIP</b>		
Article 8	Union/Management Partnership	10
Article 9	Partnership Councils	10
<b>EMPLOYEE RIGHTS and PRIVILEGES</b>		
Article 10	Adverse Weather Conditions	12
Article 11	Alcohol and Drug Control Office/Employee Assistance Program	12
Article 12	Army Ideas for Excellence Program	14
Article 13	Benefits – Retirement, Health and Life Insurance	14
Article 14	Child Development Services and School Age Services	15
Article 15	Clean-Up Time	15
Article 16	Commercial Drivers License	15
Article 17	Counseling	16
Article 18	Discipline and Adverse Action	16
Article 19	Emergency Positions and Personnel	19
Article 20	Employees With Disabilities	19
Article 21	Environmental Differential Pay/Hazard Pay	22
Article 22	Equal Employment Opportunity	24
Article 23	Fitness for Duty	26
Article 24	Flexiplace	28
Article 25	Hours of Work	31
Article 26	Investigations	34
Article 27	Job Sharing	36
Article 28	Leave	36
Article 29	Merit Promotion	41
Article 30	Nepotism	45
Article 31	New Employee Orientation	46
Article 32	Overtime	46
Article 33	Pay and Grade Retention	47
Article 34	Performance Appraisals	48
Article 35	Personnel Records	53
Article 36	Position Classification	53
Article 37	Privatization and Other Outsourcing	54
Article 38	Probationary Employees	55

Article 39	Recreational Facility Use	55
Article 40	Reduction in Force	56
Article 41	Rest Periods (Break Time)	58
Article 42	Safety and Health	58
Article 43	Strategic Sourcing	64
Article 44	Training and Professional Development	66
Article 45	Travel/Temporary Duty	68
Article 46	Wage Survey	68
Article 47	Workers' Compensation	69

#### **DISPUTE RESOLUTION**

Article 48	Grievance Procedure	71
Article 49	Binding Arbitration	75
Article 50	Unfair Labor Practice	76

#### **APPENDIX A**

Official Time Report

#### **APPENDIX B**

USMA Environmental Differentials

## **PREAMBLE**

The Employer and the Union agree that a constructive and cooperative working relationship between labor and management is essential to achieving the Employer's mission and to ensuring a quality work environment for all employees. The Parties recognize that this relationship must be built on a solid foundation of trust, mutual respect, and a shared responsibility for organizational success. The Parties agree to work together in partnership and through this collective bargaining agreement to identify problems and craft solutions, enhance productivity, and deliver the best quality of customer service.

## **AGREEMENT**

### **Section 1. Definition**

This Agreement is made and entered into, by and between the United States Military Academy (USMA), the Medical Department Activity (MEDDAC), and the Dental Activity (DENTAC), hereinafter referred to as the Employer, and the American Federation of Government Employees (AFGE), West Point Local 2367, hereinafter referred to as the Union, hereinafter collectively referred to as the Parties. It is the intent and purpose of the Parties to promote and improve the efficient administration of the Federal service and the well-being of the employees pursuant to the policy set forth in the Civil Service Reform Act of 1978, Title VII (5 U.S.C., Section 7101, et. seq.) hereinafter referred to as the Statute, and all its existing and future amendments.

### **Section 2. Provisions of Law, Regulations, and Definitions**

In the administration of all matters covered by this Agreement, officials and employees are governed by existing or future laws and regulations of appropriate authorities including policies published by the Office of Personnel Management (OPM), Department of Defense (DoD), Department of the Army (DA) and the United States Military Academy (USMA). Subsequently published policies and regulations are subject to substantive and/or impact and implementation bargaining as required prior to implementation.

### **Section 3. Intent**

It is the intent of the Employer and the Union to promote and improve the efficient administration of the Government and the well being of its employees, and to establish a basic understanding of relative personnel policies, practices, working conditions, and matters affecting conditions of employment.

### **Section 4. Coverage**

a. The Employer hereby recognizes that for the duration of this Agreement, the Union is the exclusive representative of all current and future permanent civilian employees, temporary employees with the exception of those hired under the "Summer Hire Program" and those with appointments limited to 180 days or less, of the activities mentioned in Section 1, located at the United States Military Academy, West Point, New York, and paid from appropriated funds, with the exception

of: all supervisors, professional employees, employees engaged in Federal personnel work other than a purely clerical capacity, management officials, guards, firefighters, and employees engaged in administering the labor-relations program, as described in 5 U.S.C. 7112(b)(1) through (7).

b. Filing of Petitions. The Parties further agree that if during the term of this Agreement petition is filed with the Federal Labor Relations Authority (FLRA) by the American Federation of Government Employees, West Point Local 2367, for a larger unit of employees, or a consolidation of units for collective bargaining purposes, and such petition includes employees covered by this Agreement, this Agreement will not act as a bar to such petition.

## **Section 5. Effective Date and Duration**

a. This Agreement becomes effective upon approval by the Defense Personnel Management Service.

b. This Agreement remains in full force and effect for a period of 5 years.

c. This Agreement can be renewed year-to-year thereafter unless either party gives to the other party written notice of intention to terminate the Agreement in its entirety not less than sixty (60) days prior to its anniversary date. After such notice has been given, the Parties may, by mutual consent, extend the Agreement for a specified period beyond the termination date. Any extension or renewal will be made a matter of record by amendment to the Agreement signed by responsible officials of both parties. If at any time exclusive recognition is withdrawn under the rules of the FLRA, the Agreement will terminate at once. The present Agreement will remain in full force and effect during the re-negotiation of said Agreement and until such time as a new Agreement is consummated.

## **Section 6. Employer Rights**

Section 7106(a) of the Federal service Labor - Management Relations Statute provides certain rights to management that are non-negotiable. For these matters, there should be an open discussion between the Employer and the Union before this type of management decision is made, even though the decision is a management right and/or responsibility. The impact and implementation of such actions must be bargained, unless the Union has waived this requirement in return for input to the decision-making process, and the decision made is reached through partnership consensus. Specific management reserved rights as defined in the Statute, are:

a. to determine the mission, budget, organization, number of employees, and internal security practices

b. to hire, assign, direct, layoff, and retain employees or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees

c. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted

d. to fill positions by making selections for appointments from among properly ranked and certified candidates for promotion or any other appropriate source

e. to take whatever actions may be necessary to carry out the agency mission during emergencies.

While certain management decisions are not negotiable in their content, the impact on employees is negotiable. Impact and implementation bargaining must occur on issues where the implementation of the management decision may affect working conditions. Negotiations at this level are designed to ease the transition by addressing how a decision is to be implemented, not what that decision was.

**Section 7. Retained Rights of Employees**

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

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

b. to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under the Statute.

**Section 8. Supplements**

Either party may give the other party written notice of its desire to negotiate a supplementary agreement necessitated by changes in law, regulations, or USMA policy during the life of the Agreement. The other party will furnish its response within ten (10) days and negotiations will then be conducted in a matter mutually agreed upon by both parties. Supplemental agreements will remain in effect until the termination of the Agreement.

**Section 9.** If at any time during the life of this Agreement, a matter of interpretation of the Articles arises, it shall be settled through the Grievance Procedure in Article 48.

**Section 10.** Whenever language in this Agreement refers to specific duties or responsibilities of specific employees or management officials, it is intended only to provide a guide as to how a situation may be handled. It is agreed that the Employer retains the sole discretion to assign work and to determine who will perform the function discussed.

**UNION RIGHTS**

**and**

**PRIVILEGES**

## ARTICLE 1

### UNION RIGHTS

#### **Section 1. Requirement to Negotiate**

a. The Employer must conduct partnership discussions and related collective bargaining activities solely with the Union as the exclusive agent for representation purposes. The Employer, through its management officials and supervisors, is required by statute to negotiate certain types of changes that affect bargaining unit employees. Depending on the nature of the change, the matter may be subject to collective bargaining, or negotiations may be required on the impact and implementation of a decision.

b. The Union is the exclusive representative of the employees in the bargaining unit and is entitled to act for all employees in the unit. The Union is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

c. There are a number of possible processes that management officials can utilize when coordinating required actions with the Union. The choice of what process to follow does not change the statutory requirement to negotiate, but merely at what stage the coordination is accomplished. In a partnership environment, early involvement by the Union is recommended. Consideration of all suggested alternatives to an action, including those of the Union, helps insure the best decision is made, and reduces the need for formal negotiations afterward. The intent is to reach consensus on a negotiable topic using interest based bargaining techniques throughout the partnership process. It is inappropriate and counterproductive to reach consensus on an issue, only to have the proposal unilaterally modified.

d. In order for the Union to respond to a proposed management action or decision, the proponent responsible for the proposal must outline the what, why, how, when, and the impact on personnel that the proposed action or decision will have. The Union has four options when responding to written requests for comment:

(1) concur

(2) initiate a request to bargain, in which case the appropriate parties will set a mutually acceptable date to negotiate before any further action on the matter is taken

(3) provide written notification to the proponent that the Union reserves its right to bargain the impact and implementation of the change, but that other actions regarding the issue may proceed, or

(4) no response, in which case the proponent is free to implement the action or decision without further delay.

e. If the Employer inadvertently implements a change that impacts employees in the bargaining unit before required negotiations are completed, the Employer, upon notification, will cease the practice immediately. The appropriate parties will meet to bargain within five (5) workdays on the negotiable topics relative to the action taken. Failure to complete these bargaining responsibilities can create an unfair labor practice (ULP).

**Section 2. Formal Discussions**

a. The Union has a statutory right to be represented at any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment. “Represented” includes not only the right to be present at the meeting but the right to fully participate in the discussion.

b. This is not intended to include discussion on routine work assignments.

c. The Union has the right to reasonable advance notification and to determine who will serve as the Union’s representative at such meeting. If the Union does not appear at the meeting, it has waived the right to be represented and the meeting may be held without the Union.

**Section 3. Examinations**

The Union has a statutory right to be represented at any examination of an employee in the bargaining unit by a representative of the agency 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.

**ARTICLE 2**

**OFFICIAL TIME**

**Section 1.** The Employer shall recognize only duly elected or temporarily designated officers and shop stewards as officials of AFGE, Local 2367, or other representatives when designated by the Union.

a. Local representatives are as listed below. The Employer and Local 2367, as provided by this Agreement, will agree upon other local representatives. The officers are: President, Vice President, Chief Steward, Assistant Chief Steward, Secretary, Treasurer, Safety Representative, Assistant Safety Representative, Workers’ Compensation Representative, Strategic Sourcing Representative, Human Rights Coordinator and one (1) Shop Steward to every one hundred (100) bargaining unit positions.

b. The Union shall furnish the Employer, in writing, with a complete list of officials, shop stewards and representatives immediately upon their election and/or appointment.

**Section 2.** Two and one-half (2.5) work-years will be authorized for officers in the Union from within the USMA bargaining unit to accomplish their labor management responsibilities. This official time will be utilized as follows: President, one hundred percent (100%) official time, and the remaining one and one-half (1.5) work-years to be distributed between the Vice-President, Chief Steward, Secretary and Treasurer. Reasonable official time for labor management responsibilities will be granted when the President establishes that he/she cannot provide the representation within the two and one-half (2.5) work-years of official time allotted above. The Union will provide management annually, or when changes occur, with a list of Union officers and alternates to all USMA standing committees. In the event that an officer in one of these positions is unavailable, a substitute Shop Steward may be designated.

**Section 3.** Officers serving on one hundred percent (100%) official time will return to the same position (title, series, grade) held prior to their election/appointment, unless the position is abolished or impacted by the reduction in force (RIF) process. When that is the case, normal RIF procedures will apply (see Article 40). This will also apply to an individual in a leave without pay (LWOP) status having been elected or appointed to a district or national position.

**Section 4.** The Union agrees that its officers, representatives, and stewards will use official time judiciously and will guard against the use of excessive time in performing those activities. Reasonable official time, during normal work hours, when requested, will be granted to Union shop stewards representing employees at hearings and meetings with management officials. Reasonable official time will also be allowed for shop stewards to meet with employees to discuss, prepare for, and present grievances, appeals, and complaints. Permission will be granted for the activities of the shop steward as described above unless an unforeseen essential situation or circumstance requires the presence of the shop steward at his/her place of duty. If such permission is delayed, the manager or supervisor will immediately give the reasons for the delay and permission will be granted within three (3) days thereafter. It is legitimate for a supervisor/manager to ask a Union representative to schedule his/her official time in advance, if possible, and to provide an estimate of the length of time the individual expects to be gone from the worksite. The Union officials will adjust their use of official time to accommodate mission and customer needs first whenever possible.

**Section 5.**

a. Shop Stewards will be allowed three (3) hours of official time each month to meet with other stewards and union officers for training and to discuss matters of mutual concerns. The Union agrees that no internal Union business will be conducted during these sessions. The Employer will be provided an agenda of the training program if requested. The Union agrees to keep an attendance record of the Union personnel attending each training session. The Employer will be provided a copy of this record if requested.

b. All Union officials will maintain a record of official time. These hours will be recorded on the USMA Form 24-61 at Appendix A.

c. The Tier I Partnership Council (see Article 9) will conduct an annual review of the official time hours expended by the Union. The joint goal will be that the majority of official time hours be spent on proactive issues and labor-management issues rather than grievances/representation.

d. It is agreed that activities concerned with the internal management of the Union and activities not specifically authorized by the terms of this Agreement shall be performed only during non-duty hours. Examples of such activities include the solicitation of members, collection of dues, distribution of literature, hosting open houses, membership meetings, and campaigning for office in the

Union. Official time will not be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress.

e. No official time will be granted to the Union to represent employees in another bargaining unit other than that described in this Agreement. When a Union representative requests leave in order to conduct Union business outside the bargaining unit, liberal leave policy will be applied or flexible work hours will be permitted. Leave will be granted for the activities of the Union official as described in Section 4 above unless an unforeseen essential situation or circumstance requires the presence of the Union official at his/her place of duty. If such permission is delayed, the manager or supervisor will immediately give the reasons for the delay, and permission will be granted within three (3) days thereafter. The representative will schedule this time in advance if possible and will provide an estimate of a length of time expected to be gone from the worksite.

**Section 6.** Outside representatives are Union officials, not employees of the United States Military Academy. The role of outside representatives in other than a grievance is that outside representatives may accompany local representatives in dealing with specific problems or situations. The Union shall notify the Employer in advance that an outside representative will be on Post in the company of a Union official and will also provide the purpose for his/her visit.

## **ARTICLE 3**

### **DUES WITHHOLDING**

**Section 1.** Employees in the bargaining unit have the right to make voluntary allotments from their pay for payment of dues to the Union, as well as the right to revoke such allotment if desired.

**Section 2.** The Union is responsible for supplying the standard allotment form (SF1187); distributing it to its members; certifying as to the amount of dues and that the allottee is a member of the bargaining unit; delivering completed forms to the Civilian Personnel Advisory Center; and educating its members on the allotment program for payment of dues. Allotted dues will be withheld beginning with the first full pay period following receipt of authorization (SF1187) by the Customer Service Representative in the Accounting Division, Directorate of Resource Management (DRM), USMA, or in the Resource Management Division in the MEDDAC, as appropriate. The original SF1187 will be permanently filed in the DRM, USMA, or the Resource Management Division, MEDDAC, as appropriate. The use of forms other than the SF1187 will not be authorized unless mutually agreed upon and its use approved in advance by the Employer and the Union.

**Section 3.** Voluntary cancellation of dues checkoff will be initiated by the employee by completing a SF1188, "Revocation of Voluntary Authorization." However, revocation of an allotment which is otherwise in order and signed by the employee will be accepted and acted upon even though not submitted on the form. A supply of these forms will be maintained by the Customer Service Representative, and a form will be made available to an employee member upon request. A copy of the SF1188, or other appropriate revocation notice, shall be furnished to Local 2367, AFGE, within five (5) days after receipt by the Customer Service Representative. Membership can only be canceled on the anniversary. In accordance with the Statute, Section 7115(a), the one-year period provided for dues revocation will begin from the date on which the employee authorized dues withholding. If this date is unknown, the date of 31 December will be used.

**Section 4.** When dues have not been deducted, the reason will be noted after the employee's name on the Remittance Report.

**Section 5.** When the renegotiation of an agreement containing a dues withholding provision is pending or in process, and the parties are unable to complete such renegotiations by the termination date of the agreement as the result of pending third party proceedings, payroll withholding of the dues of members of the Union shall be continued until resolution of the dispute, whether or not the Parties agree on extension of the existing agreement.

**Section 6.** The Defense Finance Accounting Service shall dispatch remittances for dues withheld to the Treasurer of Local 2367, AFGE.

**Section 7.** The Union will provide the Civilian Personnel Advisory Center with a copy of the Remittance Report on a monthly basis.

## ARTICLE 4

### UNION OFFICE AND EQUIPMENT

**Section 1.** The Union may request new office space through the Chief, Labor Employee Relations, Civilian Personnel Advisory Center, to the Garrison Commander. The request will be acted upon within a reasonable period of time.

**Section 2.** The Union agrees to abide by all existing and future fire prevention requirements of the Employer and to hold the Employer harmless from the loss of any Union-owned property through theft, fire, or related occurrences.

**Section 3.** The Union agrees to keep the interior of the office reasonably clean and orderly to the satisfaction of the Employer. Any damage of Government property not due to fair wear and tear directly attributable to the Union, by incontrovertible evidence, will be repaired, replaced, or reimbursed by the Union to the satisfaction of the Employer.

**Section 4.** No alterations, modifications or installation of equipment requiring utility connections will be accomplished without prior approval from the Directorate of Housing and Public Works (DHPW). All work to be accomplished will be subject to inspection by a representative from DHPW for compliance with applicable standards. Upon vacating the office, it will be restored to original condition, or if acceptable, all modifications and improvements will become the property of the Employer unless otherwise agreed to prior to said modifications and improvements.

**Section 5.** The Union agrees to permit the Employer to inspect the interior of the office at any time. Except in emergency situations, twenty-four (24) hours notice will be provided. Union records will be excluded from any inspection.

**Section 6.** The Union agrees to vacate the office within thirty (30) calendar days following notification by the Employer that the office is needed to support a mission of the United States Military Academy and a comparable, alternate office is provided.

**Section 7.** The Employer agrees that the Union can hand receipt for furniture and equipment in good working order and excess to the needs of the installation to furnish the office space provided by the Employer. The agency will provide two (2) plain old telephone (POT) lines and computer access to the internet. The Employer will also provide two (2) commercial phone lines for which the service fees will be paid by the Union.

## **ARTICLE 5**

### **CORRESPONDENCE**

All formal correspondence between the Union and the Civilian Personnel Advisory Center (CPAC) will be signed by the President or Vice President for the Union, and the Chief, Labor/Employee Relations for the CPAC.

## **ARTICLE 6**

### **BARGAINING UNIT LISTING**

The Employer will provide the Union with a quarterly listing of bargaining unit employees. The list will include the name, grade, position title, and duty location of the bargaining unit members.

## **ARTICLE 7**

### **PARKING**

Four (4) parking passes provided by the Employer will be issued to the Union President for utilization of local union officials. These passes will consist of one (1) Discretionary, one (1) Official, and two (2) CPA Passes. The Union agrees that the passes will not be used for other than official union-management business.

**LABOR/MANAGEMENT  
PARTNERSHIP**

## ARTICLE 8

### UNION/MANAGEMENT PARTNERSHIP

**Section 1.** The Parties agree to cooperate to improve the efficiency and productivity of the United States Military Academy in accordance with partnership principles. To this end, a Partnership Council will be established. The agenda and operational procedures of the Partnership Council will be as agreed to by the Parties. This will include pre-decisional discussions using interest-based bargaining techniques concerning the number, types and grades of employees or positions assigned to any organizational subdivision, work project, or tours of duty, and technology, methods and means of performing work and concerns dealing with mission, budget, organizational structure, and internal security practices. The goal of the Partnership Council is to foster mutual trust, and every effort will be made to reach agreements that address the interests of both parties.

**Section 2.** Interest-based bargaining requires both parties to avoid taking a position on an issue. The emphasis is on a process of identifying options, developing standards, and then selecting the alternative that best satisfies the interests of both parties.

## ARTICLE 9

### PARTNERSHIP COUNCILS

**Section 1.** The vision of partnership is to improve workforce relationships in order to make the installation a better place to work, live and train. The elements of this vision include supporting the USMA mission, providing a quality workplace and becoming a center of excellence for customer support.

**Section 2.** The goal of each Partnership Council is to attempt to achieve a consensus, where all the participants support the final decision, even though it may not be each person's preference for a workable solution. The councils will continually strive to develop an atmosphere of trust, and will function in such a manner as to be inclusive of both parties.

**Section 3.** Partnership councils are appropriate at two levels at USMA. An executive Partnership Council (Tier I) is structured to address labor relations issues that impact on the entire bargaining unit. A second tier of Partnership Councils (Tier II) is established within each Activity/Tenant Activity in order to address those labor relations issues specific to each individual organization. Partnership councils at both levels are empowered to make binding decisions within their scope of authority upon the constituents that they represent; and all council members accept responsibility for their joint decisions. Officers and Stewards of the Union and/or bargaining unit employees are eligible to serve as the labor representatives on a partnership council. Appointment of each labor representative on a partnership council is the exclusive right of the Union. Management has the right to select its partnership representatives from non-bargaining unit employees. Partnership councils will normally have equal representation from both labor and management but may evolve into some other workable group with the approval of both parties. The shared goal of labor and management is that the participants to each Tier II Partnership Council be limited to personnel from within the organization represented by that council.

**Section 4.** Tier II Partnership Councils will meet periodically, but not less than quarterly. All partnership council members will work to achieve value-added benefits of such meetings, which offset

the time taken from other responsibilities. Partnership councils are not designed to replace day-to-day communications between employees and supervisors. Partnership councils will meet to work on those issues necessary to create a positive and productive work environment. Each partnership council participant has the obligation to propose solutions to problems, raise relevant issues, and truly use the process as a forum for discussing and solving pertinent labor-management problems. The Partnership council process shall be the first and primary mechanism used in resolving differences and in reaching solutions to issues that would otherwise proceed directly to formal negotiations.

**Section 5.** The USMA Partnership Handbook will be used to establish and maintain partnership councils. This handbook provides instructions on how to conduct effective partnership activities. Topics addressed in the handbook include: the scope of each partnership council's responsibility, negotiability requirements, guidance on how to conduct partnership council meetings, preparation of written records, and the mechanics of interest-based bargaining and consensus decision making.

**EMPLOYEE RIGHTS**

**and**

**PRIVILEGES**

## ARTICLE 10

### ADVERSE WEATHER CONDITIONS

**Section 1.** During hazardous weather conditions, the United States Military Academy will remain open to continue operations in support of the mission. Safety of the USMA population comes first and inordinate risks should be avoided.

**Section 2.** When roads are closed or treacherous because of adverse weather, the Garrison Commander, or designee, may decide to either implement the snow policy or grant excused absence without charge to leave. The decision for Tenant Activity employees will be made by Tenant Commanders or their designees.

**Section 3.** When adverse weather conditions develop during normal duty hours, the Garrison Commander, or designee, may decide to institute the snow policy or grant excused absence to employees in non-emergency positions who are on duty at the time of the dismissal. Such decisions will be conveyed to all Major Activity Directors who are responsible for notifying all activities under their control.

**Section 4.** For the definition of, and instructional guidance on the USMA Snow Policy, please refer to USMA Policy 40-96.

## ARTICLE 11

### ALCOHOL AND DRUG CONTROL OFFICE EMPLOYEE ASSISTANCE PROGRAM

**Section 1.** Program

a. The Employer and the Union support the objective of assisting employees with personal problems that may or may not affect their job performance. This assistance includes finding treatment for employees, follow up during their recovery, and helping them return to full productivity.

b. Given this common objective, the Employer and the Union agree to work together to promote the Alcohol and Drug Control Office (ADCO) and the Employee Assistance Program (EAP). The EAP assists employees and their adult family members with adult living problems such as, substance abuse, work and family issues, stress management, and other personal problems that may affect job performance. Employees and supervisors will be informed about the programs.

**Section 2.** Participation

a. An employee may be referred to EAP, Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) for screening by volunteering directly, or by referral from the supervisor, Union representative, or other sources.

b. Although the existence and function of counseling and referral programs will be publicized to employees, no employee will be required to participate or be penalized for merely declining referral to counseling services.

c. Any employee who is enrolled in either program will be granted appropriate leave to obtain the treatment and/or rehabilitation in accordance with existing civilian personnel regulations.

d. The Employer will assure that no employee will have job security or promotion opportunities jeopardized by a request for counseling or referral assistance.

### **Section 3. Alcoholism and Drug Dependence**

a. The Union and the Employer jointly recognize alcoholism and drug dependency as illnesses that are treatable. It is also recognized that it is in the best interests of the employee, the Union, and the Employer that these illnesses be treated and controlled under existing programs. The objective of the program is rehabilitation and not elimination of the employee.

b. It shall be the responsibility of all employees to adhere to the Department of the Army's Alcohol and Drug Control policy. Any employee with an alcohol or drug problem who has requested enrollment in a diagnostic or treatment program will not have his/her job rights or job security jeopardized because of that enrollment. Confidential handling of the diagnosis and treatment of these problems is required.

c. It is recognized that supervisors and Union representatives are not professional diagnosticians in the field of alcoholism and drug dependency and will abide by the provisions of AR 600-85. The Employer encourages supervisors to attend available courses to enhance their ability to recognize the symptoms associated with alcoholism and drug dependency.

### **Section 4. Confidentiality**

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

b. Without an employee's specific written consent, the supervisor may not obtain information about the employee's involvement with a counseling program.

## ARTICLE 12

### THE ARMY IDEAS FOR EXCELLENCE PROGRAM

**Section 1.** The Parties agree that to properly maintain interest and to promote new ideas, it is necessary to have a valid and effective suggestion program. To assure this, the Parties further agree that all eligible suggestions will be fairly and equitably evaluated and promptly processed to include any associated awards.

**Section 2.** When an eligible suggestion is received, it will be processed and forwarded for evaluation. The evaluator may seek advice from other qualified persons who are familiar with the area in which the suggestion may have application.

**Section 3.** When the suggestion reaches the evaluator, it will be evaluated promptly and returned to the Directorate of Resource Management (DRM). The suggestor will be furnished interim progress reports on the status of the suggestion(s).

**Section 4.** Operating officials, to whom authority to approve or disapprove awards and suggestions has been delegated, will ensure adherence to time limits prescribed by regulations.

**Section 5.** The evaluators will decide intangible award amounts fairly, based upon the merits of the suggestion.

**Section 6.** For the purpose of better understanding, the Parties agree to publicize the program and the award recipients. The Parties encourage employees to participate in the suggestion program.

## ARTICLE 13

### BENEFITS – RETIREMENT, HEALTH AND LIFE INSURANCE

**Section 1.** Employees covered under this Agreement will have the opportunity to enroll, during designated open seasons, in any existing health insurance plan available to employees of the United States Military Academy, consistent with applicable laws, rules, and regulations. USMA will make pre-retirement counseling available to employees upon appointment with the Civilian Personnel Advisory Center. Counseling will include items such as the approximate amount of annuity, eligibility to continue health and life insurance, Thrift Savings Plan (TSP), entitlement to a lump sum payment of annual leave, eligibility for future employment, and the effect of outside earnings on the annuity, if appropriate.

**Section 2.** The Union is entitled to full participation along with representatives of the Federal Employee Health Benefits plans at the USMA Health Benefits Fair.

## **ARTICLE 14**

### **CHILD DEVELOPMENT SERVICES AND SCHOOL AGE SERVICES**

The West Point Child Development Center and School Age Services are available to all USMA civilian employees in the bargaining unit, on a space available basis, in accordance with the priorities set forth in Army Regulation (AR) 608-10, and the DA Letter of Instruction for Army Child Development Services (CDS) Central Enrollment Registry and Waiting List.

## **ARTICLE 15**

### **CLEAN UP TIME**

The Parties agree that reasonable time shall be given prior to the beginning of the scheduled lunch period, and at the close of each work shift, for personal clean up for each employee whose duties require such time for the control of health hazards and personal hygiene. There will not be an across-the-board clean up time established. Time required and allotted may vary depending on work areas and conditions. Such employees shall not be required to remain after the end of the shift for the purpose of personal clean up.

## **ARTICLE 16**

### **COMMERCIAL DRIVERS LICENSE**

**Section 1.** As the Employer determines that a Commercial Drivers License (CDL) will be required for encumbered positions, the Employer agrees that:

a. The Employer will provide a government vehicle and driver for two (2) tests. After that, obtaining a vehicle and driver is the employee's responsibility, but the Employer may provide a vehicle and driver at the Employer's discretion. Each employee will be provided up to eight (8) hours total duty time to take the tests.

b. Current employees will be provided up to twenty-four (24) duty hours for training and allowed a reasonable period of time from the date of determination that a CDL is required to obtain the required license and endorsements.

**Section 2.** Failure to earn a CDL and/or loss of license situations will be considered on a case by case basis. If the individual loses the CDL and/or cannot obtain a CDL, efforts will be made to detail the employee to another position, consider reassignment to a position that does not require a CDL, or a change to a lower graded position. Should these efforts fail, the individual may be considered for removal. The Union agrees that employees must notify their supervisor within two (2) duty days if their drivers license and/or CDL is suspended or revoked.

**Section 3.** Drug testing of CDL holders will be accomplished in strict compliance with Department of Transportation laws, and other Federal laws designed to protect the interests and rights of the employee while contributing to the efficiency and effectiveness of the Government.

**Section 4.** It is the intent of the Parties to implement CDL legal requirements in order to allow the Employer to accomplish its mission. It is not the intent of the Parties to place unnecessary burdens or requirements on any employee. The Employer agrees to provide all necessary training. Fees for the license itself are the responsibility of the employee.

## **ARTICLE 17**

### **COUNSELING**

**Section 1.** The counseling of employees shall not normally be in the presence of other non-supervisory employees. The supervisor shall not abuse, ridicule, slander, or defame an employee. Counseling conferences will be conducted privately between the supervisor and employee and, if necessary, higher level supervisory personnel in the employee's chain-of-command may be present.

**Section 2.** If a supervisor has to orally admonish an employee, it shall be done in reasonable privacy and in such manner as to minimize embarrassment to the employee.

## **ARTICLE 18**

### **DISCIPLINE AND ADVERSE ACTION**

**Section 1.** The Employer and the Union recognize that the public interest requires the maintenance of high standards of conduct. No bargaining unit employees will be subject to disciplinary action except for fair, just and sufficient cause. Disciplinary actions will be taken only for such cause as will promote the efficiency of the service. Actions based upon substantively unacceptable performance should be taken in accordance with Title 5, U.S.C. Chapter 43, and will be covered in Article 34, Performance Appraisal. These provisions do not apply to probationary employees.

**Section 2.** Disciplinary actions are formal and informal.

- a. Informal disciplinary actions include oral admonitions and warnings.
- b. Formal disciplinary actions include written reprimands, suspensions, removals, and reduction in grade or pay.
- c. Formal disciplinary actions are further identified as non-adverse and adverse actions.
- d. Non-adverse actions include written reprimands.

e. Adverse actions include suspensions, removals, and reduction in grade or pay.

f. All adverse actions except suspensions of fourteen (14) days or less are appealable to the Merit System Protection Board (MSPB). Suspensions of fourteen (14) days or less are not appealable under law or regulation to the MSPB.

**Section 3.** Insofar as possible, and in order to maintain consistency and to assure that like penalties shall be imposed for like offenses, the guide to disciplinary actions contained in Army Regulation (AR) 690-700, Chapter 751, Table 1-1 (Table of Penalties for Various Offenses) and Appendix A will be consulted and used as a general guide for administering discipline.

**Section 4.** In the event a supervisor decides to maintain an in-house file, the file shall contain, but not be limited to, records of ongoing personnel actions, counseling forms, and performance appraisals. Upon reasonable request by the employee, the contents of the file will be made available for review and discussion within three (3) days of their request. As a minimum, the file will be reviewed with the employee annually during their performance appraisals and documents destroyed when superseded or no longer applicable.

**Section 5.** Administrative reassignments for the purpose of discipline will be done in accordance with appropriate procedures.

**Section 6.** Disciplinary actions must be consistent with applicable laws, regulations, policy, and accepted practice within USMA. Discipline will be applied fairly and equitably and will not be used to harass employees. Disciplinary actions will be timely based upon the circumstances and complexity of each case. Management will inform the Union when it takes formal disciplinary action against a bargaining unit employee.

**Section 7. Investigation of Disciplinary Actions**

a. Management will investigate an incident or situation as soon as possible to determine whether or not discipline is warranted. Ordinarily the appropriate line supervisor will make this inquiry. Employees questioned in connection with the incident who reasonably believe they may be subject to disciplinary action have the right to Union representation upon request.

b. Disciplinary investigations will be conducted fairly and impartially, and a reasonable effort will be made to reconcile conflicting statements by developing additional evidence. In all cases, the information obtained will be documented. All evidence used to support an action detrimental to an employee, will be provided to the employee in a timely manner.

c. Except where outlined in AR 690-700, Chapter 751, the Employer agrees that no disciplinary action shall be taken against any employee for supplying information, giving testimony, or acting as a representative.

## **Section 8. Processing Reprimands**

a. Prior to presenting a letter of reprimand to an employee, management will obtain all available information concerning the alleged misconduct. Management will meet with the employee to discuss the incident to: ensure that all the relevant facts are known to both parties, afford the employee the opportunity to explain the basis for his/her actions, and advise the employee that disciplinary action is under consideration. The employee will be given at least two (2) days advance notice of this meeting.

b. An extension to the notice period may be granted for good cause.

c. Upon request, the employee is entitled to union representation during the meeting as discussed in Section 7.a.

d. The supervisor will prepare a memorandum for record of the meeting. A copy will be provided to the employee.

## **Section 9. Processing and Notification of Adverse Actions**

a. An employee against whom an adverse action proposed is entitled to thirty (30) days advance written notice, except when the crime provisions have been invoked. The notice will state specific reasons for the proposed action. Management agrees that the employee shall be given a reasonable amount of time to review the evidence that is being relied upon to support the proposed action. Additional time may be granted on a case-by-case basis. Upon request, one copy of the evidence file will be provided to the employee and his/her designated representative.

b. The employee and/or representative may respond orally and/or in writing as soon as practical but no later than fourteen (14) calendar days from receipt of the proposed action notice. The response may include written statements of the persons having relevant information and/or other appropriate evidence. Management has the right to restrict the response time to seven (7) days when invoking the crime provision.

c. Extensions for replying to proposed adverse actions and suspensions may be granted when good cause is shown. The appropriate management official will issue a written decision to suspend an employee at least three (3) days prior to the effective date. This requirement does not apply to the written notice to remove an employee. All written decisions shall include the reason for the disciplinary action, a statement of findings and conclusions as to each charge, the evidence relied upon to support the decision, and a statement of the employee's grievance and/or appeal rights. In responding to a proposed disciplinary action, the employee will be entitled to union representation.

## ARTICLE 19

### EMERGENCY POSITIONS AND PERSONNEL

**Section 1.** Identification and notification of employees assigned to emergency positions will be effected in accordance with the provisions of USMA Regulation 690-27.

**Section 2.** On those occasions when employees occupying positions designated as emergency are required to report for work, those employees, after arriving at work, may be released by the supervisor if the work load permits.

**Section 3.** Under the circumstances described in Section 2, designated employees will make a valid attempt to reach the worksite on time. Employees who make a valid attempt, but do not reach the worksite on time, will be given consideration for any tardiness due to road conditions, and will not be penalized for conditions beyond their control.

**Section 4.** Emergency personnel requirements will be kept to a minimum in each activity. This will be accomplished by an annual survey of designated emergency positions by the appropriate partnership council.

**Section 5.** In situations where emergency personnel on duty during adverse weather conditions may be stranded at the Military Academy because of those conditions, emergency lodging and food will be provided by the Employer. The Employer will submit a plan for providing adequate emergency lodging and food along with the annual survey of designated emergency positions.

**Section 6.** Personnel electing to remain under adverse conditions will be available for emergency requirements during their off-duty stay at USMA. Employees performing duties during their stay will be compensated.

## ARTICLE 20

### EMPLOYEES WITH DISABILITIES

**Section 1.** In accordance with Section 501 of the Rehabilitation Act of 1973, as amended, Section 403 of the Vietnam Veterans Readjustment Assistance Act of 1974, as amended, and other Government wide rules and regulations pertaining to the employment of individuals with disabilities, the Employer is committed to affirmative action for the employment, placement, and advancement of qualified individuals with disabilities and disabled veterans.

**Section 2.** The Employer will offer reasonable accommodation to known physical or mental limitations of qualified individuals with a disability regardless of type of appointment, unless the Employer can demonstrate that the accommodation would impose an undue hardship on the operation of the Employer's mission. Undue hardship is defined in 29 C.F.R. Section 1614.203.

**Section 3.** The Parties recognize that individual accommodations will be determined on a case-by-case basis, taking into consideration the employee's specific disability, the employee's suggestions for reasonable accommodations, existing limitations, the work environment, and undue hardship imposed on the operation of the Employer's mission as defined above. Qualified employees with disabilities may request specific accommodations. However, the Employer is not required to provide the employee's accommodation of choice as long as the Employer provides a reasonable accommodation.

**Section 4.** The Parties agree that reasonable accommodation means an adjustment made to a job and/or the work environment that enables a qualified person with a disability to perform the essential duties of that position. The Employer will promptly consider requests for reasonable accommodations for employees with disabilities. Such accommodations will be evaluated on a case-by-case basis with regard to the merit of the request.

**Section 5.** Should a non probationary employee become unable to perform the essential functions of his/her position due to a disability, even with reasonable accommodation, the Employer shall offer to reassign the employee when a funded vacant position is available for which the employee qualifies, subject to all conditions in 29 C.F.R. Section 1614.203(g) being met.

**Section 6.** Job restructuring is one of the principal means by which some qualified workers with disabilities can be accommodated. The principal steps in restructuring jobs are:

- a. identify which factor, if any, makes a job incompatible with the worker's disability
- b. if a barrier is identified in a non-essential job function, eliminate the barrier so that the capabilities of the employee may be used to the best advantage

Job restructuring does not alter the essential functions of the job, rather, any changes made are those which enable the employee with a disability to perform those essential functions.

**Section 7.** The Parties agree that in many cases, changes in the work environment and other accommodations enable employees with disabilities to perform their job duties more effectively. Alterations and accommodations may be, but are not limited to, the following:

- a. rearranging files or shelves
- b. widening access areas
- c. maintaining hazard-free pathways
- d. raising or lowering equipment
- e. moving equipment controls from one side to the other, or modifying them for hand or foot operations
- f. installing special holding devices on desks, benches, chairs or machines, and
- g. providing qualified interpreters for the hearing impaired.

- Section 8.** With respect to the modernized systems environment, examples of accommodations are:
- a. the computer work area will be adjusted to a level suitable to the employee's needs
  - b. the keyboard will have touch-adjustable keys, and other appropriate adaptive devices
  - c. visually impaired employees will be permitted to label keys
  - d. operational and training materials will be available in Braille
  - e. lap trays will be considered
  - f. computer based voice-activated computers, or VDT screen enlargers, or other appropriate devices, will be provided for visually impaired employees
  - g. hardware and software will be configured to accommodate color blindness (blinking cursor, highlighting)
  - h. printer switches will be available with touch adjustable keys, and located in an easily accessible location

**Section 9.** An employee may be provided assistive devices if the Employer determines that the use of the equipment is necessary to perform official duties. Such equipment does not cover personal items which the employee would be expected to provide such as hearing aids or eyeglasses.

**Section 10.** The Employer's facilities shall be accessible to employees with disabilities.

**Section 11.** The Employer will be liberal in granting leave to accommodate the disabling condition of employees, for example:

- a. leave without pay may be granted for illness or disability, and
- b. sick leave can be appropriately used by a disabled employee (who uses prosthetic devices, wheel chairs, crutches, guide dog, or other similar type devices) for equipment repair, or guide dog training, or medical treatment.

**Section 12.** The Employer will provide disabled employees full consideration for all training opportunities. Once an employee is selected for training, the Employer will provide reasonable accommodation to the employee to attend and complete the training. It is the intent of the Employer to provide on-the-job training opportunities to qualified disabled employees on the same basis as non-disabled employees consistent with operational needs.

**Section 13.** For the purpose of continuing to provide reasonable accommodations for hearing-impaired employees, management agrees to provide interpreter services for those employees who seek Union assistance and/or representation for their individual concerns. To the extent possible, interpreter services should be arranged in advance unless the employee wants to retain confidentiality.

**Section 14.** To provide employees with disabilities equal opportunity to perform official business travel, certain additional travel expenses necessarily incurred to reasonably accommodate the employee's disability may be reimbursed under the Federal travel regulations.

**Section 15.** Employees with disabilities may, where appropriate as a reasonable accommodation, utilize work-at-home accommodations or flexiplace work settings.

## **ARTICLE 21**

### **ENVIRONMENTAL DIFFERENTIAL PAY HAZARD DUTY PAY ENERGY CONSERVATION**

#### **Section 1. Policy**

The U. S. Military Academy has as its objective the elimination, or reduction to the lowest level possible, of all hazards, physical hardships and working conditions of an unusually severe nature. Even though environmental differential or hazard pay is authorized, there is a management responsibility to initiate continuing positive action to eliminate danger and risk which contribute to or cause the hazard, physical hardship, or working condition of an unusually severe nature. The existence of environmental differential or hazard pay is not intended to condone work practices that circumvent Federal safety and health laws, rules and regulations.

#### **Section 2. Environmental Differential Pay (Federal Wage System)**

Environmental Differential Pay (EDP) is paid to a wage grade employee who is exposed to a hazard, physical hardship, or working condition of an unusually severe nature beyond that normally associated with the duties of the job, and where the condition is not adequately alleviated by protective devices or protective clothing as described in 5 C.F.R. Part 532, Subpart E, Appendix A.

#### **Section 3. Hazard Duty Pay (General Schedule System)**

a. Hazard Duty Pay differential is paid to a General Schedule (GS) employee if their work involves unusual physical hardships, or hazards that have not been already accounted for in their job classification. Physical hardship means duty that may not in itself be hazardous, but causes extreme physical discomfort or distress and is not adequately alleviated by protective or mechanical devices. Hazardous duty means duty performed under circumstances in which an accident could result in serious injury or death. Pay for irregular or intermittent duty involving physical hardship or hazard for General Schedule employees will be paid in accordance with the provisions of 5 C.F.R., Part 550, Subpart I and Appendix A.

b. The Parties agree that any physical hardship or hazardous duties must be considered as part of position classification. Upon request, the Employer shall inform the employee and the Union whether or not such duties were taken into account in the position classification.

**Section 4.** Environmental Differential Pay or Hazard Pay is not authorized for just reporting to work. Any Federal Wage System or General Schedule employee is entitled to EDP or Hazard Pay, respectively, when he/she is exposed to an unusually severe hazard, physical hardship, or working condition that has not been practically eliminated by protective devices and meets the criteria set forth in the prescribed regulations.

**Section 5.**

a. Following the completion of job hazard analyses, a list of approved environmental differential and hazard pay categories will be added as Appendix B to this agreement. The list will cite each position where hazards, physical hardships, or working conditions payable under applicable law, rule or regulation exist.

b. The list will be reviewed annually by surveying Major Activity Directorates to determine if a work situation should be modified, added or deleted.

**Section 6.**

a. When conditions exist that are detrimental to the physical well being of an employee, a memorandum should be sent through supervisory channels to the Civilian Personnel Advisory Center (CPAC). The memorandum should indicate the employee's name, position title, series, grade, and organization. It should also describe the hazard, physical hardship, or working condition. A copy of the memorandum will be provided to the Union to enable the Union to participate in the review. A member of the CPAC, together with a member of the Safety Office, a Union representative, and a representative from Medical Department Activity (MEDDAC) will review the situation and make a determination on entitlement.

b. When the Union considers a local work situation to be covered by a payable category and not among those officially identified in Appendix B to this Agreement, it will notify the Civilian Personnel Advisory Center of the title and location of the position(s) and nature of exposure so as to show clearly that the hazard, physical hardship, or working condition which results from exposure is of an unusual nature. Such notification by the Union will be given prompt consideration and a determination furnished the Union within thirty (30) workdays after the CPAC receives findings and recommendations from a member of the Safety Office and a representative from MEDDAC. If a dispute then exists over payment of EDP or Hazard Pay for a work situation, the Union and Employer will meet within fifteen (15) days after the Union notifies the Employer of its dispute to discuss the appropriateness of payment.

**Section 7. Energy Conservation**

a. The Union and the Employer agree to actively support measures to enhance environmental protection and support energy conservation.

b. Union support includes, but is not limited to:

(1) encouraging employees to practice environmental protection and energy conservation measures

(2) encouraging employees to be mindful in their work habits and duty performance of any indications of danger to the environment or wastes of energy and take immediate action within their ability to correct such situations

(3) encouraging employees to report to their supervisors any environmental protection/energy conservation violations they detect which they cannot correct

(4) distributing environmental protection and energy conservation literature, posters, or reminders when furnished by the Employer, and

(5) soliciting from members suggestions to protect the environment or conserve energy; any such suggestions are to be submitted through the Army Ideas for Excellence Program (AIEP) (see Article 12).

## ARTICLE 22

### EQUAL EMPLOYMENT OPPORTUNITY

**Section 1.** The Employer and the Union agree to actively support programs developed to provide equal opportunity in employment for all persons; to prohibit discrimination because of age, race, color, religion, sex, national origin, or mental or physical disability and/or reprisal; and to promote the realization of equal employment opportunity (EEO) through continuing affirmative action, upward mobility and handicap accommodation. The Employer will consider making reasonable accommodations through job redesign, and/or physical plant changes, to accommodate employees with special needs resulting from disability. The Parties will make an on-going effort to identify and eliminate illegal acts of prejudice and discrimination. The Employer will have a positive, continuing and results-oriented program of affirmative employment. It is further agreed to provide annual Prevention of Sexual Harassment (POSH) training to promote a mutual understanding of the entire scope of operations. The Parties agree that Equal Employment Opportunity shall be administered in accordance with Title 5 U.S.C., Title 7 U.S.C., the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, the Americans With Disabilities Act of 1990, the Age Discrimination in Employment Act (ADEA), Executive Order 11478, and other authorizing legislation, and applicable regulations.

**Section 2.** The Employer's Equal Employment Opportunity (EEO) Program shall be designed to promote equal employment opportunity in every aspect of the Employer's personnel policy and practice in accordance with applicable law and Government-wide rules and regulations. The program shall include, but not be limited to, the following:

- a. providing reasonable job accommodation for qualified disabled employees
- b. reviewing selection processes and staffing procedures to identify those which are inconsistent with governing Federal EEO rules and regulations, and taking corrective actions consistent with such rules and regulations in those instances where adverse EEO impacts are found
- c. developing procedures that allow for the redesigning of jobs, where feasible and desirable, and which do not create an undue hardship to achieve the Employer's mission to utilize to the maximum extent possible the present skills of qualified disabled employees
- d. assisting management to make reasonable accommodations for the religious needs of employees when such accommodations can be made without undue hardship to the conduct of Employer's programs
- e. continuing the commitment to the prevention of sexual harassment, and

- f. maintaining annual Affirmative Employment Plan(s).

**Section 3. EEO Counselors**

a. The Parties agree that proper training, consistent with appropriate Equal Employment Opportunity Commission (EEOC) regulations, will be provided to designated EEO counselors.

b. The Employer will assure that EEO counselors are available and accessible to employees who may have a discrimination complaint.

c. Training on the subject of sexual harassment will be included in the Employer's training programs provided to EEO counselors.

**Section 4. Complaints**

a. Any employee who wishes to file or has filed an EEO complaint shall be free from coercion, interference, dissuasion, and reprisal for participation in a protected EEO activity.

b. Employees shall be assigned an available EEO counselor to pursue their complaint.

c. EEO counselors will provide employees who seek their assistance with the procedures (including time limits) involved in processing an EEO complaint under the statutory EEO appeals procedure. The EEO counselor will also advise the complainant of the right to file a grievance under the negotiated procedure (See Article 48, Grievance Procedure). If the employee elects to file a complaint, the employee must choose to file the complaint under the negotiated grievance procedure or the statutory EEO process, but not under both. If there is an established dispute resolution procedure, and the aggrieved has agreed to participate in the procedure, there will be an extension of no more than sixty (60) days to the EEO counseling period.

d. The complainant may elect to use an existing Alternative Dispute Resolution (ADR) process; however, the complainant's rights to pursue an EEO complaint are not waived during the ADR process. At the same time, the complainant's responsibilities to comply with all requirements of the EEO process (for example, time limits and points of contact) must be met. In the event that ADR is terminated for any reason, the complainant may continue to pursue an informal resolution of the matter with the EEO counselor or may request a Notice of Final Interview from the EEO counselor. Guidance on the requirements of discrimination complaint appeals will be available at the EEO Office.

e. The representative designated in writing by the EEO complainant will have the same access to information as the complainant.

f. Upon request, the Employer agrees to provide the Union current statistics concerning discrimination complaints filed by employees.

**Section 5.** The EEO process is governed by Army Regulation (AR) 690-600, and the participants to this process are clearly defined by regulation. The Union retains certain representational rights under EEOC regulations and the Federal labor-management relations statute.

**Section 6.** All records pertaining to the employee's complaint are confidential and may be disclosed only to those with an administrative need to know or specifically authorized by the employee. There will be a written statement to the employee of the disclosure.

## ARTICLE 23

### FITNESS FOR DUTY

**Section 1.** The Employer may direct an employee to undergo a fitness for duty examination only under those conditions authorized by 5 C.F.R. 339.

**Section 2.** When there are reasonable grounds to believe that a health problem is causing performance or conduct problems of an employee, the employee shall be given an opportunity to provide medical evidence documenting the health problem affecting his/her performance or conduct, and/or an opportunity to voluntarily initiate an application for disability retirement on his/her own behalf.

**Section 3.** The Employer may require an employee receiving worker's compensation benefits, or assigned to limited duties as a result of an on-the-job traumatic injury, to report for medical evaluation when the Employer has identified an assignment or position (including the employee's regular position) which it reasonably believes the employee can perform consistent with the medical limitations of his/her condition.

**Section 4.** The Employer may offer a medical examination when an individual has made a request for medical reasons for a change in duty status, assignment, or working conditions, or any other benefit or special treatment, and the Employer, after it has received and reviewed medical documentation, determines that it cannot grant, support, or act further on the request without verification of the clinical findings and current clinical status.

a. When the Employer orders or offers a medical examination under the provisions of prevailing regulations, it shall inform the employee in writing of its reasons for ordering or offering the examination and the consequences of failure to cooperate. The Employer shall offer the employee the opportunity to submit medical documentation from his/her personal physician which the Employer shall review and make part of the file.

b. The Employer shall provide the examining physician with a copy of any approved medical evaluation protocol, applicable standards and requirements of the position, and/or the position description, including, physical demands, and environmental factors.

c. The Employer shall order or offer a psychiatric evaluation only when the employee first provides results of a general medical or psychiatric examination, or the Employer has first conducted a non-psychiatric medical examination, and, after review of the documentation or examination report, the Employer's physician concurs that a psychiatric evaluation is warranted for medical reasons.

**Section 5.** All medical examinations ordered or offered pursuant to Section 3 and Section 4 shall be at no cost to the employee and performed on duty time with no charge to leave.

#### **Section 6. Procedures**

In seeking a fitness-for-duty examination, the following rules and procedures shall apply:

a. In discussion with any management official on fitness-for-duty, the employee shall be entitled to Union representation. Management will inform the Union when it orders or offers a medical examination for a bargaining unit employee.

b. During these procedures, the employee will be apprised of his/her rights, and, where supported by appropriate medical evidence, given the opportunity for suitable interim adjustments in his/her work assignments.

c. When the results of the medical examination reveal that the employee:

(1) cannot satisfactorily perform useful and efficient service in his/her regularly assigned job

(2) retains the capacity to do other work at the same grade or pay level, and

(3) otherwise meets the minimum qualifications for an available position that the Employer seeks to fill, the Employer will ordinarily reassign the employee to this position.

d. If the medical evidence and performance records establish that the employee retains the capacity to perform satisfactorily in a vacant lower grade position which the Employer seeks to fill, the Employer will ordinarily demote the employee to this position.

e. When the Employer determines that the medical evidence reveals the employee is totally disabled for service in his/her current position, and reasonable accommodation for another position cannot be made, the Employer will so advise the employee and provide appropriate counseling.

## **Section 7. Counseling**

When a disabled employee meets existing disability retirement requirements, the Employer will counsel him/her concerning disability retirement and explain the procedure for voluntarily applying for disability retirement. In the event that such an employee is unable to file on his/her own behalf, the Employer may initiate, with notice to the employee, an application for the employee in accordance with the limited situations described in the applicable laws and regulation.

**Section 8. Confidentiality of Records**

All records pertaining to the employee’s examination and any subsequent personal information included with an application for disability retirement are confidential and may be disclosed only to those with an administrative need to know or specifically authorized by the employee. There will be a written statement to the employee of the disclosure.

**ARTICLE 24**

**FLEXIPLACE**

**Section 1.** Flexiplace can be used in those circumstances where its application is beneficial to both the Employer and the employee to accommodate different work situations. Balancing work and family responsibilities, assistance to the elderly or disabled employees, and meeting environmental, financial, and commuting concerns are among its advantages. In recognizing these benefits, both parties also acknowledge the needs of USMA to accomplish its mission. These situations may include; non-routine work situations of short-term duration, consideration of an employee’s needs for a predetermined duration, or a permanent flexiplace arrangement for certain types of positions. Mission and customer service requirements must be addressed when evaluating any flexiplace request. Each Tier II Partnership Council will establish a flexiplace evaluation and approval process to be documented in an MOU. In the event the Tier II Partnership Council has not established such a process, the Tier II Partnership Council shall serve as the approval/disapproval authority.

**Section 2.** Flexiplace and Alternate Duty Station (ADS) are defined as the following:

- a. "Flexiplace" is defined as a voluntary program which enables employees to periodically or permanently perform specific assignments at an Alternate Duty Station with supervisory approval.
- b. "Alternate Duty Station" is defined as a specific room or area within an employee’s primary residence.

**Section 3.** All employees who meet the criteria below are eligible to participate in the Program:

- a. The employee volunteered (or concurred with the supervisor’s recommendation) to perform work at the ADS.
- b. The employee has a fully successful rating of record.
- c. The employee has workspace and utilities at home suitable for performing work.
- d. The employee is willing to sign and abide by the Flexiplace Program Agreement concerning participation in the Flexiplace Program (see Section 4 of this Article for details).

**Section 4. Flexiplace Program Agreement**

a. Prior to participating in the Flexiplace Program, employees will be required to complete, on a one-time basis, a Flexiplace Program Agreement. However, a new Flexiplace Program Agreement must be completed if significant changes occur (e.g., change in ADS address/location, change in supervisor, and/or change in official duty station). This agreement will provide employees with sufficient information concerning the Flexiplace Program so as to make an informed decision as to whether or not they wish to participate. This information will include:

- (1) Privacy Act/security provisions
- (2) personal and financial liability
- (3) leave rules and overtime
- (4) time and attendance requirements
- (5) project guidelines and related material
- (6) all government furnished equipment and software will be used for official purposes only, and
- (7) the employee may not use duty time for providing dependent care or any purpose other than official duties.

b. Employees will signify that they have volunteered to participate in the Flexiplace Program and will abide by the flexiplace provisions by signing and dating the Flexiplace Program Agreement.

**Section 5. Flexiplace Program Work Assignment Request**

a. The employee will submit a separate request for each specific assignment to be performed at the ADS. The request will describe the nature of the duties to be performed and the specific day(s) involved. The request will be submitted to the supervisor for approval. The supervisor will document approval or denial of the request as soon as possible. Supervisory documentation will be provided prior to the time requested away from the worksite. Employees must make the request to work at the ADS at least one (1) workday in advance, however, this time frame may be waived at the discretion of the supervisor. If the supervisor initiates the assignment, and the employee concurs, the employee is still responsible for submitting a Flexiplace Program Work Assignment Request in addition to signing the Flexiplace Program Agreement described in Section 4 of this Article.

b. The criteria for approving a request to work at the ADS shall be based on the following:

- (1) the work is portable, may be performed away from the official worksite either in whole or in part, and can be evaluated by the supervisor, and
- (2) the employee's absence from the worksite would not unduly interrupt or interfere with the operation of the main worksite.

**Section 6.** The Employer may remove an employee from the Flexiplace Program based on the employee's failure to adhere to the requirements specified in the Flexiplace Program Agreement, and/or a decline in overall performance below fully successful level. Normally, employees will not be removed from participation for single, minor infractions of Flexiplace Program requirements. Supervisors will make a bona fide effort to counsel employees about specific problems before effecting removal. When a decision is made to remove an employee from the Flexiplace Program, the employee must be given written notice indicating the reason(s) for removal. The employee may reapply for Flexiplace Program participation thirty (30) calendar days after removal from the Program, provided that his/her performance is at least fully successful.

**Section 7.** Employees will promptly inform supervisors whenever any problems arise which adversely affect their ability to perform work at the ADS. Examples could include situations such as equipment failure, power outages, telecommunications difficulties.

**Section 8.** Employees performing work at the ADS are subject to the same maximum workday limits as they would be if they were performing work at the official duty station, consistent with Articles 25 and 32 of this Agreement. Employees performing work at the ADS are not authorized to work overtime or official compensatory time except in special circumstances, for example, to meet priority needs of USMA. In these situations, prior approval must be obtained as specified in the Flexiplace Program Agreement.

Employees performing work at the ADS will follow established procedures for requesting and obtaining approval of leave, consistent with Article 28 of this Agreement.

**Section 9.** On a day when an employee is scheduled to work at the ADS and their official duty station facility is closed for all or part of a day, the following rules apply:

a. Full Day Closing - the employee is not required to perform work at the ADS. However, if the employee voluntarily chooses to perform any work at the ADS, he/she is not entitled to additional compensation such as overtime, compensatory time, or credit hours.

b. Late Arrivals and Early Dismissals - on days when a late arrival or early dismissal occurs, the employee is required to perform his/her full ADS schedule if located at home.

**Section 10.** In the event of a local emergency situation such as a transit strike or a natural disaster which adversely affects an employee's ability to commute to the workplace, the Parties agree to meet immediately to discuss possible temporary flexiplace arrangements for affected employee(s).

**Section 11.** The supervisor, the employee and the Union representative agree to meet three (3) months, or sooner if necessary, after the implementation of the individual Flexiplace Program Agreement to assess any concerns relevant to employees working at their residence.

**Section 12.** The Union will be notified when employees are placed in flexiplace and taken off flexiplace.

## ARTICLE 25

### HOURS OF WORK

**Section 1.** The Employer and the Union recognize that providing several work schedule options to employees has the potential to increase productivity, improve customer service, and increase employee satisfaction. The primary factors in evaluating work schedule options for work centers and individual employees are mission and customer support requirements. Supervisors will also consider employee personal requirements when evaluating work schedule options.

**Section 2.** All work schedules implemented will be in accordance with the OPM Handbook on Alternative Work Schedules, dated December 1996, and subsequent editions. Work schedules are defined as regular work schedules or alternative work schedules. A regular work schedule requires a full-time employee to work an unvarying schedule of eight (8) hours each day for ten (10) days during the pay period. Employees must work forty (40) hours in a workweek and eighty (80) hours in a pay period. Alternative work schedules are either flexible work schedules or compressed work schedules. Flexible work schedules are those that designate core hours when an employee must be present for work. They also include designated hours during which an employee may elect to work in order to complete the basic work requirement of eighty (80) hours per pay period. Compressed work schedules are those in which an employee is scheduled to complete the basic work requirement in less than ten (10) workdays. Compressed work schedules are always fixed schedules. There are various options within each type of work schedule as outlined in Figure 1. Full descriptions are contained in the OPM Handbook. Section 6 of this Article provides guidance for handling work schedule changes within a pay period. All other work schedule changes will be made in accordance with Section 4.

#### **Section 3. Alternative Work Schedule Definitions**

a. Flexible Work Schedules

(1) Flexitour. An employee is allowed to select starting and stopping times within the flexible hours. Once selected, the hours are fixed until the Employer provides an opportunity to select different starting and stopping times. A full-time employee must work eight (8) hours a day, forty (40) hours a week, and eighty (80) hours in a biweekly pay period.

(2) Gliding Schedule. A full-time employee has a basic work requirement of eight (8) hours in each day and forty (40) hours in each week, may select a starting and stopping time each day, and may change starting and stopping times daily within the established flexible hours.

(3) Variable Day Schedule. A work schedule containing core hours on each workday in the week, in which a full time employee has a basic work requirement of forty (40) hours in each week of the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday within the week, within the established flexible and core hours.

(4) Variable Week Schedule. A work schedule containing core hours on each workday in the biweekly pay period, in which a full-time employee has a basic work requirement of eighty (80) hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday, or the number of hours each week within the established flexible and core hours.

(5) Maxiflex Schedule. A work schedule that contains core hours on fewer than ten (10) workdays in the biweekly pay period, in which a full-time employee has a basic work requirement of eighty (80) hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday, or the number of hours each week within the established flexible hours, core hours and core days.

b. Compressed Work Schedule

(1) 5/4-9 Compressed Plan. A work schedule in which a full-time employee works eight (8) 9-hour days and one eight-hour day for a total of eighty (80) hours in a biweekly pay period.

(2) Four Day Workweek. A work schedule in which a full-time employee works ten (10) hours a day, forty (40) hours a week, and eighty (80) hours in a biweekly pay period.

**Section 4.** The eight work schedule options available pursuant to this Agreement are described above. The Parties realize that not every option is applicable to all work centers in the bargaining unit, therefore, the Tier I Partnership Council endorses the following process for evaluating/implementing new or changed work center schedules.

a. The role of a Tier II Partnership Council in this area is to provide a forum to decide which work schedule options are appropriate for their organization.

b. The supervisor of the work unit (or work team) will meet with all affected employees as a group to discuss which work schedule options, as deemed appropriate by the Tier II Partnership Council, could be adopted. The criteria used to evaluate an individual work schedule option will be

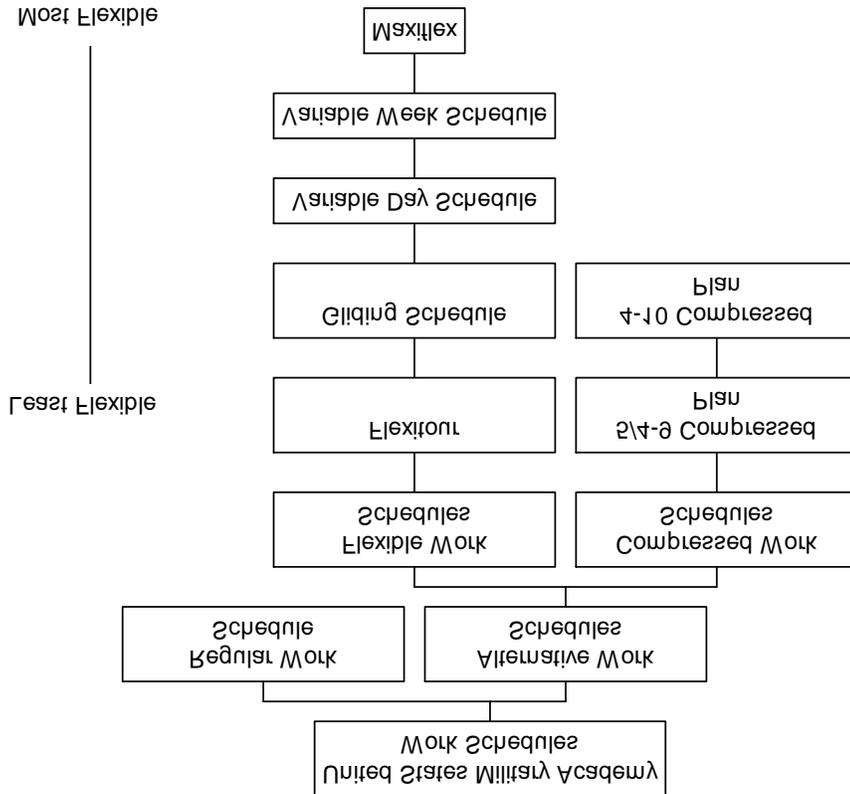
- (1) mission requirements (what and how work is done, and when)
- (2) customer support (i.e., service hours, etc.), and
- (3) employee needs.

c. If during the work schedule evaluation process there is a disagreement about mission/customer support issues as each affects a potential work schedule option, the Tier II Partnership Council will adjudicate and validate the range of options feasible. Individual issues of redress pertaining to work schedule choices are not an appropriate topic for a Tier II Partnership Council discussion.

d. The final decision regarding approval of an employee's choice of a work schedule option rests with the first line supervisor. Individual choice must be balanced with the mission and customer support requirements of the work center (work team) as well as the needs of all employees.

e. The intent is to provide maximum flexibility to effectively and efficiently support a changing customer base, accommodate changing methods of performing work, and allow employees the opportunity to work in schedules that address health and wellness issues.

**FIGURE 1**



**Section 5.** Because of the expanded number of work schedule options available (as stated in Section 3 of this Article) with the implementation of this Agreement, the intent of the Parties is that there will be a review and redefinition of existing work schedule options as well as an evaluation of what new options might be feasible. The intent is not to restrict the options available taking into consideration the criteria of (1) mission, (2) customer service, and (3) employee needs using the above process. However, the range of work schedule options available within a given work center may change as mission and customer service conditions change, and these evaluation factors need to be applied on a continual basis. The initial Tier II Partnership Council review of existing work schedules will be accomplished within three (3) months of the general distribution of this Agreement.

**Section 6.** One of the essential characteristics of high performing organizations is the ability to adapt rapidly to changing work requirements. Such organizations also ensure that employee well-being and satisfaction issues are adequately addressed. Therefore, employees and the Employer will cooperate to occasionally modify work schedules (i.e., single instance requests within one pay period) to meet mission, customer and employee requirements.

a. **Employer Requests.** Regardless of an employee’s work schedule assignment, the Employer may have to require occasional changes in work schedules to accommodate mission and customer requirements. The Employer must make every attempt to notify employees at least five (5) workdays in advance. The Employer may not have to meet the five-day criteria in order to accommodate abnormal, unusual, or unforeseen mission and customer requirements, and where it would otherwise be

handicapped in carrying out its mission or where costs would be substantially increased. The Union will be given the opportunity to I&I bargain over any management directed change of employee work schedules. The Employer retains the right to direct the employee to work overtime in accordance with Article 32.

b. Employee Requests. Regardless of work schedule assignment, employees may request an occasional change in their work schedule to accommodate personal requirements. An employee will make every attempt to submit such requests for consideration to the approving official at least five (5) work days in advance of the requested change. Requests that do not meet this five-day criteria will be considered fully by the Employer with the objective of accommodating the mission, customer service and employee needs.

**Section 7.** The Employer may specify facility opening and closing times which may restrict flexible hours, flexible days, core hours and core days. Each Tier II Partnership Council will be responsible for establishing the core days, core hours, flexible days and flexible hours for their organization and documenting these days/hours in a memorandum of understanding. Established means for recording employee attendance when alternative work schedules are used will be in accordance with the OPM Handbook on Alternative Work Schedules.

**Section 8.** Lunch periods shall be as close to the mid-point of the shift or workday as possible and will be a minimum of thirty (30) minutes. Lunch periods are non-duty time, and employees are free to leave their duty site. Employees are not entitled to additional time to travel to a lunch site of their choice. When employees work at a remote worksite and adequate lunch and/or sanitation facilities are not available, the Employer will provide reasonable time for travel to and from existing facilities in the work areas. In certain circumstances, mission requirements may not permit a lunch period as scheduled and employees must remain on duty. In these specific instances, management officials will provide the lunch break at a later time. If this is not possible the employee will be compensated with overtime pay or compensatory time as applicable

## ARTICLE 26

### INVESTIGATIONS

**Section 1.** General

a. As exclusive representative, the Union shall be given the opportunity to be present at any examination of an employee in the bargaining unit by a representative of the Employer in connection with an investigation if

(1) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(2) the employee requests representation.

b. These examinations include, but are not limited to, those conducted by supervisors, the Criminal Investigation Division (CID), the Inspector General (IG), or Equal Employment Opportunity (EEO) officials.

c. The right to union representation is not intended to interfere with the routine interaction between supervisors and employees in the normal course of a workday.

d. The Employer shall annually inform its employees of their right to union representation under 5 U.S.C. 7114(2)(B) by posting notice of such rights in the Pointer View, in the electronic public folders, and through a civilian personnel bulletin. Supervisors will require employees to sign receipt of this personnel bulletin and will maintain a roster of signatures for one year. Upon request, the Union will have access to this roster. Additionally, a copy of this civilian personnel bulletin will be given to each new employee upon in-processing at the Civilian Personnel Advisory Center (CPAC).

e. If an employee in the bargaining unit requests Union representation, management will reschedule the meeting as soon as possible, and the Union will be given the opportunity to be present.

## **Section 2. Administrative Investigations**

a. Investigators should consider all facts, circumstances, and human factors. An investigation shall be conducted in an expeditious and timely manner.

b. Employees will be advised of their right to union representation when written or sworn statements are requested, if the written or sworn statements may result in disciplinary action against the employee.

c. Before questioning begins or a statement is given, employees will be informed of the reason they are being questioned or asked to provide a statement. If the employee is the subject of the investigation, the employee will also be informed of the nature of the allegation against them.

d. Supervisors, employees, and union representatives will not, except as specifically authorized, disclose any information about an investigation. If no action is taken as a result of the investigation, the employee who was the subject of the investigation will be informed of this in a timely manner.

e. Upon request, all evidence used to support an action detrimental to an employee will be provided to the employee in a timely manner. The Employer will provide a written explanation of any denial of information requested in a timely manner.

## ARTICLE 27

### JOB SHARING

**Section 1.** Job sharing is a way to permit employees to work part-time in positions where full-time coverage is required. Job sharing can be used to provide management and employees with considerable work scheduling flexibility. The establishment of job sharing positions shall not be created for the purpose of eliminating overtime. Entry into job sharing is strictly voluntary, and will be considered when traditional part-time employment is not practical or feasible.

**Section 2.** Although they share the duties of a full-time position, job sharers are considered to be individual part-time employees for purposes of appointment, tour of duty, pay, classification, leave, holidays, benefits, position change, service credit, recordkeeping, reduction in force, adverse actions, grievances, and personnel ceilings. Upon entering into a job sharing arrangement, the sharer will be given a written explanation of the impact of conversion to part-time on their rights and benefits. Employees may at any time request consideration for reassignment from a non-job share arrangement to a job sharing arrangement, and likewise from a job-sharing arrangement to a non-job sharing arrangement.

**Section 3.** Specific work schedules depend on the nature of the job, the needs of the office and the job sharing team. Almost any reasonable arrangement is possible if it meets the needs of the supervisor and the job sharers. Scheduling should take advantage of the fact that two people, rather than one, are filling the job. These possibilities include overlapping time, split shifts, or working in different locations at the same time. Work schedules for job sharers can be from sixteen (16) to thirty-two (32) hours per week and can be varied in the same way as other part-time employees. The amount of scheduled overlap time depends on the need for extra coverage during heavy workload periods. In addition, overlapping coverage may also provide for job sharers to attend staff meetings or familiarize each other with work developments.

## ARTICLE 28

### LEAVE

**Section 1. Annual Leave**

a. The Parties recognize that annual leave is a benefit that accrues to employees. Employees are encouraged to accumulate an annual leave balance to avoid having to take leave without pay during unforeseen emergencies. Employees may request annual leave for any duration, pattern or purpose necessary without interference or coercion in accordance with 5 C.F.R. Part 630.

b. When an employee cannot request annual leave in advance due to an unforeseen emergency, the employee will contact his/her first-line supervisor as soon as the situation becomes known. If the emergency occurs during off-duty hours, the employee will contact his/her supervisor as soon as possible so that other staffing arrangements can be made before the start of that employee's shift/duty day. In all instances, this notification will be made not later than two (2) hours after the start of an employee's scheduled tour of duty. Shift workers must provide notification no later than one (1) hour prior to the start of their shift.

c. In accordance with Department of the Army regulations, annual leave can be requested and approved in fifteen-minute increments.

**Section 2. Sick Leave**

a. The Parties recognize the value of employees conserving their sick leave for unexpected illnesses and hospitalization.

b. Accumulated sick leave, subject to restrictions identified in 5 C.F.R. 630, is available for use when an employee:

(1) is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy or childbirth

(2) receives medical, dental, or optical examination or treatment, including reasonable travel time

(3) is exposed to a contagious disease and his/her presence on duty would, in the determination of competent medical authority, jeopardize the health of other workers

(4) must provide care for a family member as a result of physical or mental illness, injury, pregnancy, or childbirth

(5) must provide care for a family member as a result of medical, dental, or optical examination or treatment

(6) must make arrangements necessitated by the death of a family member or attend the funeral of a family member

(7) must make arrangements for the adoption of a child.

**Section 3.** Sick leave requests will be made to supervisors or individuals with the authority to approve the request. Employees will not be required to reveal the nature of the illness as a condition for approval of sick leave. Employees will notify their supervisor of an illness as soon as possible, but no later than two (2) hours after the start of that employee's scheduled tour of duty. Shift workers must provide notification no later than one (1) hour prior to the start of their shift. Employees are responsible for informing their supervisor of the expected duration of the absence. Follow up notifications will be required when agreed upon, or if the duration of the absence changes. An employee's family member may notify the supervisor of the absence if it is not medically possible for the employee to do so. The supervisor may request a doctor's statement regarding an employee's absence due to illness or injury when the absence exceeds three (3) consecutive working days. Upon return to work after an illness or injury, it is the employee's responsibility to inform his/her supervisor of any medical condition (including use of medications) which may affect the employee's ability to perform their assigned duties or would impact the health, safety, and security of others.

**Section 4.** In non-emergency situations, sick leave will be requested in advance for medical and dental appointments and scheduled so as to avoid adverse impact on mission accomplishment.

**Section 5.** The Employer has the authority and responsibility to monitor sick leave usage. If there appears to be an abuse of sick leave (either through excessive use without a major illness or an established pattern of usage), the following steps will be taken:

a. The supervisor will meet with the employee to discuss the suspected abuse. If this discussion does not resolve the supervisor's concern regarding sick leave usage, the employee may provide supporting medical documentation to substantiate the sick leave, and has up to seven (7) calendar days to do so.

b. If the employee chooses not to provide the supporting documentation, or if the supporting documentation does not resolve the supervisor's concern, a formal sick leave restriction letter will be issued to the employee. Any sick leave restriction letter will define the restrictions placed on an employee's sick leave usage (i.e., whom to notify when requesting sick leave, the medical documentation required, and the time period of the restriction, up to a maximum of six (6) months). A review of the employee's sick leave usage will take place at the end of the restricted time period. If during this review no instances of undocumented sick leave usage are identified, the sick leave restrictions will be canceled. All sick leave used under the Family Medical Leave Act (FMLA) will not be considered as unsubstantiated sick leave.

**Section 6.** **Advance Sick Leave**

Employee's can request advance sick leave. Such requests must meet the following requirements:

- a. all accumulated sick leave has been used
- b. the employee will provide a written statement signed by a licensed medical practitioner that specifies when the employee will be able to return to duty and the date when the employee will be able to resume full duty (if these dates are different).
- c. based on a review of such a request, the Employer may advance sick leave up to a maximum of two hundred and forty (240) hours in accordance with applicable regulations.

Employees may request to use annual leave, leave without pay, or to be a participant in the Leave Transfer Program in lieu of using sick leave.

**Section 7.** **Bone Marrow or Organ Donor Leave**

Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave in accordance with 5 C.F.R. Part 630.

**Section 8.** **Excused Absence**

a. Excused absence (sometimes referred to as administrative leave) is absence from assigned duties without charge to leave or loss of pay. The Parties agree that excused absence may be granted for activities which are in the Government's interest. Supervisors may, at their discretion, occasionally excuse an employee's absence from the work place for a brief period of time. Excused absence is not intended for group dismissal such as at the end of a day prior to a holiday, in conjunction with an organization day event, or for weather related situations. Excused absence is to be used for responding to the individual circumstance of one employee. The granting of an excused absence should

be the exception given that an employee can request annual leave in fifteen-minute increments and/or adjust his/her work schedule in order to accommodate their personal situation.

b. In weather emergencies, the liberal approval of annual leave is the appropriate means for dealing with the issue of early worksite dismissal.

c. Employees may be released at no charge to leave for events sponsored by the Employer.

### **Section 9. Organizational Events**

a. Activities such as holiday parties and organization days have value in building morale and workplace unity. Organizations and Tenant Activities are encouraged to hold two such events on duty time during a calendar year.

b. The organization's Tier II Partnership Council will ensure that such events are consistent and fair.

c. Employee participation in such events is strictly voluntary. Employees who elect not to attend such activities will be permitted to work. A liberal leave policy will be in effect for those employees opting to take annual leave during this time period. The normal annual leave approval process will be followed.

### **Section 10. Court Leave**

a. An employee is entitled to paid time off without charge to leave for service as a juror. Employees must provide their supervisor with a copy of the court order, subpoena, or summons as far in advance as possible. Upon return to duty, a statement from the court is required, showing the dates, and hours if possible, of the service.

b. At the employee's request, the supervisor may adjust the schedule of an employee who works nights or weekends and is called to jury duty to avoid undue hardship to the employee.

c. An employee is entitled to paid time off without charge to leave for service as a witness in a judicial proceeding in which the Federal, State, or local government is a party. An employee who is summoned as a witness in an official capacity on behalf of the Federal Government is on official duty, not court leave. In either case, the requirements described in Paragraph 10.a. above apply.

### **Section 11. Leave Without Pay (LWOP)**

a. Requests for LWOP will be given serious, bona fide consideration. The granting of LWOP will be fair and equitable.

b. LWOP may be requested in the same manner and for the same purposes as annual leave and sick leave.

c. Upon return to duty after a period of LWOP, management will restore the employee to the position which the employee held prior to the leave or to a similar position at the same grade and pay within the commuting area.

- d. Employees may request LWOP for educational purposes.
- e. LWOP is granted at the discretion of management, except in the following cases:
  - (1) when a disabled veteran requests LWOP for medical treatment
  - (2) when requested by an employee who has suffered an incapacitating job related injury or illness, and is waiting adjudication of a claim for compensation by the Office of Workers' Compensation Program, or
  - (3) when an employee makes a request under the Family and Medical Leave Act and meets the criteria for that program.

**Section 12. Religious Observances**

a. To the extent that modifications in work schedules do not interfere with the efficient accomplishment of the mission, an employee whose personal religious beliefs require that the employee abstain from work at certain times of the workday, or workweek, must be permitted to work alternative work hours so that the employee can meet the religious obligation. The hours worked in lieu of the normal work schedule do not create any entitlement to premium pay, including overtime pay.

b. An adjusted work schedule must be approved by an employee's supervisor prior to making any changes, and the employee must arrange with the supervisor to be off for the religious observance. The supervisor may determine whether the alternative work hours will be scheduled before or after the religious observance(s). When possible, the alternative work hours will be scheduled during the same pay period as the religious observance.

**Section 13. Military Leave**

a. A full time employee, whose appointment is not limited to one (1) year or less, is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. Military leave is prorated for part time employees.

b. Under certain circumstances, unused military leave can be carried over to the next fiscal year.

c. Management will take into consideration the schedules of employees and will, when possible, arrange schedules to allow employees to have time off immediately preceding and following the required military leave.

d. The military order calling the employee to active military duty is sufficient evidence for the initial authorization of military leave. Upon return to civilian duty, the employee will furnish official evidence of performance of military duty.

**Section 14. Emergency Rescue or Protective Work**

Subject to supervisory approval, employees who are members of chartered emergency rescue squads or volunteer fire companies recognized by civil authorities, and operating in areas near the installation, may be authorized up to forty (40) hours excused absence during the leave year. Employees must make their supervisors aware of the outside activities such as volunteer fire fighting or rescue squad work if they intend to request excused absence. Upon return to duty, squad members will furnish a statement signed by the squad official describing the specific emergency. This statement will support the employee's time and attendance report.

**ARTICLE 29**

**MERIT PROMOTION**

**Section 1. Purpose and Policy**

a. The Parties agree that the purpose and intent of the provisions contained herein are to ensure that promotions are made equitably and in a consistent manner. Promotions shall be based solely on job-related criteria and without regard to political affiliation, religious beliefs, labor organization affiliation or non-affiliation, marital status, race, color, sex, sexual orientation, national origin, non-disqualifying disabling condition, or age. This Article sets forth the merit promotion system, policies, and procedures applicable to bargaining unit positions.

b. Merit promotion actions for positions within the bargaining unit will be processed and made in accordance with this Agreement. Additionally, because 5 C.F.R. Section 335.103, requires a local merit promotion plan, the Parties agree that the USMA plan applies where it does not conflict with this Agreement.

**Section 2. Development of Career Pathways**

a. The Parties will explore various means of enhancing career opportunities by re-engineering positions that will utilize career pathway development.

b. The Parties are committed to establishing positions within the installation in those situations where positions and functions can be grouped in a way compatible with program and work considerations (e.g., multifunctional journey level positions). The Parties are also committed to establishing upward mobility positions. Upward mobility positions can be either bridge positions designed to assist low level employees in moving closer to a journey level position, or journey level positions downgraded for recruitment at the entry level.

c. The Parties agree to develop and implement such positions through the appropriate partnership council and will work together as follows:

(1) the Parties will seek appropriate personnel and classification advice

(2) their review will consider existing positions and work functions within the respective component in all job categories (i.e. technical, administrative, clerical, wage grade)

(3) existing positions will be consolidated, revised and/or restructured where appropriate. The Parties will attempt to provide opportunities for both lateral movement between occupational fields and promotion to higher-grade positions.

**Section 3. Individual Development Plans (IDP)**

a. Upward Mobility/Cross Training positions help employees develop in order to successfully perform higher level or different duties through training and incremental assignment of more complex work. The responsibilities assigned to the entry levels of such positions will involve more basic skills and knowledge compared to journey-level responsibilities. The responsibilities at each level of the position will be communicated to employees through the position description, IDP, and the performance appraisal system. The IDP will be tailored to the complexity of the job duties and will permit individuals to learn and assume the full range of duties.

b. The IDP will be established for the affected position. The IDP for employees in the Upward Mobility Positions (UMP) will outline the objective criteria for each grade level that an employee must meet in order to be promoted. A copy of the plan will be given to each employee upon entry into the program and when the employee is promoted to a next grade level. The employee will also be advised of their earliest date of promotion eligibility. When IDPs are established and/or revised, the Employer will provide notice to the Union. The employee will be provided with a copy of any revised IDP within thirty (30) days of such revision.

**Section 4. Advancement in an Upward Mobility Position (UMP)**

a. At any time that the supervisor and/or employee recognize a need for further assistance in meeting the advancement criteria, the supervisor and employee will develop a supplement to the IDP tailored to assisting the employee. The supplement should include all applicable training, and other additional appropriate support. At the request of the employee, the Union may provide assistance.

b. At the time the employee reaches their earliest date of promotion eligibility, the appropriate management official will decide whether or not to promote the employee.

c. If the employee is meeting the promotion criteria established in the IDP, the supervisor will initiate the request for promotion. The promotion will be effected in accordance with the provisions of the Northeast Civilian Personnel Operations Center (NECPOC) Pay Setting Plan. In the event that the employee met the promotion criteria, but the appropriate management official failed to initiate the promotion timely, the Union reserves the right to file a grievance beginning at the Step 3 level seeking retroactive pay as relief.

d. If the employee is not meeting the criteria for promotion, the promotion will be delayed and the employee will be given a written notice which will describe as a minimum what the employee needs to do to meet the promotion criteria. The supervisor will ensure that the employee has sufficient opportunity to acquire the pertinent skills and knowledge, and to demonstrate that they meet the requirements.

e. If the employee fails to meet the promotion criteria after remedial assistance has been provided, the appropriate management official may:

- (1) provide the employee with additional time to meet the promotion criteria

(2) retain the employee in the position at the grade level that they attained. The position will no longer be considered an Upward Mobility Position. The employee may be reinstated back into the UMP at some time in the future at management's discretion, or

(3) reassign the employee to another position at the same grade and step.

f. If the employee fails to meet the performance expectations for the current grade, the provisions of the performance appraisal system will apply. If unacceptable performance continues after remedial assistance has been provided, the appropriate management official may take any of the steps described in paragraph e above. In addition, a demotion and/or removal from Federal service is a possibility. The employee's status as a probationary employee vs. a non-probationary employee will determine the procedures to be followed.

### **Section 5. Competitive Personnel Actions**

The provisions and requirements of this Article apply to the following, except as provided for in Section 6 below:

- a. temporary promotions over one hundred and twenty (120) days to higher grade positions
- b. selection for details for more than one hundred and twenty (120) days to a higher-grade position or to a position with known promotion potential
- c. selection for training that is given primarily to prepare an employee for advancement or is required for promotion
- d. appointment, promotion, reassignment, change to lower grade, transfer, or reinstatement to a position at a higher grade than, or with more known promotion potential than, the highest grade previously held by the employee on a permanent basis in the competitive service (except as permitted by reduction in-force regulations).

### **Section 6. Non-Competitive Personnel Actions**

Exceptions to this promotion and internal placement system shall be in accordance with applicable laws, Office of Personnel Management (OPM), Department of Defense (DOD), Department of the Army (DA) programs and this Article. This includes, but is not limited to the following:

- a. a promotion resulting from the upgrading of a position without significant change in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error
- b. a position change permitted by reduction in force regulations and this Agreement
- c. career promotions provided the established/full performance grade was identified at the time of appointment, for example GS 5/7/9 or GS 9/11
- d. a position change from a position having known promotion potential to a position having no higher grade potential

- e. a temporary promotion of one hundred and twenty (120) days or less
- f. re-promotion to a grade or position from which an employee was demoted without personal cause and not at his/her request
- g. priority consideration of a candidate not given proper consideration in a competitive promotion action
- h. selection of a candidate from the Re-employment Priority List or DOD Priority Placement Program.

**Section 7. Details, Temporary Promotions and Reassignments**

a. Details: a detail is the temporary assignment of an employee to another position or set of duties, either at the same, higher, or lower grade, or to an unclassified set of duties.

(1) details are restricted to one hundred and twenty (120) days total during the preceding twelve (12) months. Employees on a detail should update their resume in the RESUMIX system to document their detail experience.

(2) management reserves the right to decide when the use of a detail is necessary to accomplish the mission and detail. If a detail of 120 days or less is to be rotated among employees, it must be done fairly and equitably. For details of thirty-one (31) calendar days or more, an original SF 52, Request for Personnel Action, will be provided to the employees along with a copy of the position description. A copy of both documents will be placed in the employee's Official Personnel Folder (OPF).

(3) Details of less than sixty (60) days shall be on a fair and equitable basis.

b. Temporary Promotions

(1) employees detailed to a higher graded position for a period of more than sixty (60) calendar days must be temporarily promoted. If it appears that the detail and the temporary promotion will exceed one hundred and twenty (120) days, management may determine that competitive procedures apply to the temporary promotion.

(2) the temporary promotion will be initiated at the earliest date it is known by management that the detail is expected to exceed sixty (60) days to provide adequate time for the Civilian Personnel Advisory Center (CPAC) and Civilian Personnel Operations Center (CPOC) to process the action.

(3) the 60-day provision will not be circumvented by rotating employees into the higher graded position for less than the 60 days for the sole purpose of avoiding paying the higher rate.

c. Reassignments

(1) the definition of reassignment is a permanent change of position without loss of grade or pay.

(2) employees who have a qualified handicap as defined in 29 C.F.R., will be provided reasonable accommodations. If such employee is reassigned or detailed, appropriate accommodations must be provided in the new position.

(3) an employee who has been injured on the job may be reassigned or detailed under Office of Workers' Compensation Program (OWCP) procedures.

(4) when the Employer directs the reassignment of an employee, the employee will be provided a copy of the position description of the position to which the employee is being reassigned. The position description will be provided at least two (2) work days prior to the beginning of the reassignment. The Parties recognize that the Employer retains the right to direct a reassignment with or without the consent of the employee. Reassignments will not be used as a form of reprisal.

## ARTICLE 30

### NEPOTISM

**Section 1.** Nepotism occurs when relatives are in the same chain-of-command. A management official with authority to take personnel management actions may not select a relative for a position anywhere in the organization under his/her jurisdiction or control. Also, management officials, or other public officials having the authority to appoint, employ, promote, or advance persons or to recommend this action, may not advocate or recommend a relative for a position in the Department of Defense.

**Section 2.** Assignments may not be made which result in a supervisory relationship between relatives, unless an exception is approved by the Superintendent or designee. A supervisory relationship is one involving day-to-day direction, performance appraisal, and leave approval.

**Section 3.** When a supervisor marries a subordinate, the Civilian Personnel Advisory Center must establish procedures to ensure appropriate personnel actions.

**Section 4.** Even when there will be a non-supervisory relationship, assignment of relatives in the same organizational unit (encompassing one supervisor) will be avoided if an equivalent assignment is available in another unit. "Relatives" is defined as follows:

Father	Uncle	Wife	Sister-in-law	Stepsister
Mother	Aunt	Father-in-law	Stepfather	Half Brother
Son	First Cousin	Mother-in-law	Stepmother	Half Sister
Daughter	Nephew	Son-in-law	Stepson	
Brother	Niece	Daughter-in-law	Stepdaughter	
Sister	Husband	Brother-in-law	Stepbrother	

## ARTICLE 31

### NEW EMPLOYEE ORIENTATION

The Union will be included in the orientation program for new employees regarding the exclusive bargaining rights for the unit. A Union representative will be present to provide information regarding benefits and the Steward Program. Failure of a Union representative to attend the orientation will not prohibit the class from occurring.

## **ARTICLE 32**

### **OVERTIME**

**Section 1.** When attempts to accomplish the mission and to reduce operating cost through the procedures outlined in Section 6 of Article 25 (Hours of Work) are unsuccessful, overtime may be required. Overtime is defined as those hours ordered and approved in advance, and worked beyond the hours in the employee's defined work schedule for which compensatory time or overtime wages are earned.

**Section 2.** Employees within an organizational unit will be offered overtime on a rotating basis in accordance with their particular skills. The Parties recognize that this will not necessarily result in everyone having the same number of overtime hours worked. The Union recognizes that, in the absence of sufficient volunteers for overtime work, the Employer has the right to direct overtime. Records of overtime worked, and refused, may be reviewed by the appropriate Steward.

**Section 3.** It is agreed that consideration will be given to assigning overtime for bargaining unit work to bargaining unit employees prior to the overtime being performed by non-bargaining unit employees.

**Section 4.** In the offer or assignment of overtime on days outside of the basic workweek, the Employer agrees, except in cases of unforeseen mission requirements, to notify the affected employee as early as practicable. When overtime is to be performed on a holiday, normally at least one (1) day advance notice will be given to the employee affected, except in cases of unforeseen mission requirements.

**Section 5.** When employees in a voluntary situation indicate in advance that they will work overtime, the Employer should have an expectation that they will keep their commitment. It is understood that employees occasionally may be unable to report for assigned overtime work. Therefore, an employee who volunteers for overtime work and fails to report as scheduled without good cause may have their name placed at the end of any overtime roster.

**Section 6.** When overtime work is directed, personnel will be compensated for overtime hours worked in accordance with the provisions of the Fair Labor Standards Act (FLSA) and other applicable statutes and regulations. Leave usage or balances will not be a factor in offering or assigning employees overtime.

**Section 7.** Employees called back to work outside of and unconnected with their basic workweek shall be immediately excused upon completion of the task they were called in to perform, unless there is other meaningful work available. In all callback situations, the employee will be paid a minimum of two (2) hours of overtime, as provided for by regulation. Employees will be considered on duty from the time they report to their place of work, ready, willing, and able to begin work at the specified time directed.

**Section 8.** Breaks during overtime will be the same type as available during the regular workday. Breaks during periods of overtime are paid periods of rest during which an employee must be available for work, if needed.

a. If an employee is expected to work continuously in excess of the regularly scheduled workday for a period that is expected to last more than one (1) hour, he/she will be given a fifteen (15) minute break prior to the beginning of the overtime period when the situation permits.

b. In the event of an extension of the regular work shift into an evening or night work shift for more than a three-hour overtime work period, reasonable time not to exceed twenty (20) minutes will be allowed for the procurement and eating of food no later than three (3) hours after the overtime starts. It is the intent of this Agreement that this meal period is provided. The Parties recognize that emergency situations may prevent and/or delay compliance.

c. A full day of overtime work will be treated in the same manner as a regular duty day for the purpose of breaks (see Article 41).

## **ARTICLE 33**

### **PAY AND GRADE RETENTION**

**Section 1.** Pay retention for employees subject to a reduction in force will be in accordance with 5 U.S.C. 5363, and Federal, Department of the Army (DA), and local supplemental regulations.

**Section 2.** A reasonable offer, for the purposes of applying 5 U.S.C. 5362(d)(3), is defined as the offer of a position, the grade of which is equal to or higher than the retained grade and is a full-time continuing position, one for which the employee is qualified and in the same commuting area.

## ARTICLE 34

### PERFORMANCE APPRAISALS

#### **Section 1.** Overview

a. The Employer will strive for continuous improvement in performance to fulfill the Employer's commitment to providing quality customer service. Accomplishment of the mission is intended to be achieved within an environment that both recognizes the interdependence of employee contributions and promotes teamwork. Improvement in overall performance will be sought through each appropriate Tier 2 Partnership Council to analyze work processes and correct systemic problems and/or revise processes, as appropriate.

b. The purpose of the appraisal process agreed to in this Article is to provide a fair and equitable framework for honest feedback and open, two-way communication between employees and their supervisors. The system focuses on contributions within the scope of the employee's job description in achievement of the activity's overall mission. The performance appraisal process includes an annual written evaluation for each employee.

The performance appraisal process will emphasize:

- a. continuous communication
- b. employee development that is viewed as positive rather than negative
- c. administrative simplicity (rather than labor-intensive)
- d. the evolution of the supervisor's role in coaching
- e. recognition of special skills and contributions as part of or in addition to regular job duties
- f. employee input into group objectives
- g. overall employee contributions
- h. encouragement of unit and group achievement towards accomplishment of the activity's mission

#### **Section 2.** Performance Awards

a. The current annual appraisal will be used as a basis for decisions to grant performance based awards under the Department of the Army's performance appraisal system.

b. Through partnership, the Parties may jointly develop a different awards system at an appropriate partnership council that is delinked from the appraisal system and may reward individuals, teams, or work groups. Examples of possible systems would be immediately rewarding employees for specific work accomplishments, giving performance award money to a team to allocate among its members based on results achieved, or rewarding work groups for accomplishing specific projects.

Because of the experimental nature of such programs, they must be submitted to the Tier 2 Partnership Council for review and approval before implementation. It will be the responsibility of each Tier 2 Partnership Council to ensure that this uniquely designed award system is fully utilized to recognize deserving employees.

c. An employee who receives a Block 1 rating must be considered for recognition, which can be in the form of a performance award, a quality step increase (QSI), time-off award (TOA), an honorary award, certificate of appreciation, or some other similar means.

d. Any employee who performs work under a detail or temporary promotion and exceeds the standard set for the job, can be considered for an award solely based on that temporary set of duties.

### **Section 3. Performance Objectives**

a. The Parties agree that supervisors will establish and communicate performance objectives to employees subject to law and regulations, and this Article. Employees will have input into the establishment of performance objectives.

b. Performance objectives that assess an employee's manner of performance must be job related, documented and objective. There must be a nexus between the expected manner of performance and the expected job results.

### **Section 4. Communications**

a. The supervisor will assure that the employee has an up-to-date position description, up-to-date copy of the organization's mission and goals, and will initiate a dialogue with the employee to discuss the employee's duties and responsibilities in relation to said mission.

b. The supervisor will conduct an initial discussion within thirty (30) days of the beginning of a rating period. This discussion will include an explanation of the employee's job responsibilities as articulated in the employee's position description and/or performance plan. The purpose of this discussion is to ensure that there is a clear and common understanding of the employee's duties and responsibilities.

c. The Employer will hold a midpoint counseling session with each employee during each rating period. During this session, and subsequent sessions, employees will be informed of their level of performance to date by comparison with their documented performance standards and responsibilities/objectives, provided in their initial counseling session.

d. When applicable, employees will be provided advice and assistance as to how to improve their work productivity, to include utilizing training resources. Highlights of discussions pertaining to performance must be recorded on the appropriate form and will be initialed by both Employer and employee. Any written input provided by the employee will be discussed, initialed by the supervisor and employee, and attached to the plan. The initials constitute neither agreement nor disagreement with the content of the written input; it will simply indicate that both parties were made aware of the content and did discuss the issues.

e. At any time during the rating period that an employee's performance fails to meet a documented standard/responsibility/objective, the supervisor will inform the employee in writing that their performance is failing to meet the standards required.

f. Counseling sessions should be held when there is a change in the work situation. Examples may include:

- (1) a change in the supervisor of record
- (2) when the employee is detailed
- (3) a change in the work unit's goals or objectives
- (4) a change in assignments
- (5) a change in the work processes of the unit

g. Informal discussions are a standard part of supervision and should occur throughout an appraisal period.

(1) Discussions may be initiated by the supervisor or employee. Discussions may be held one-on-one or between a supervisor and a work group.

(2) Discussions should be candid, forthright dialogue between the supervisor and employee(s) aimed at improving the work product and/or work relationships. Discussions will provide the opportunity to assess accomplishments and progress, and identify and resolve any problems in the employee's or work team's work product. Where indicated, the supervisor should provide additional guidance aimed at developing the employee and improving the work product or work outcome. Discussions will provide the employee the opportunity to seek further guidance and understanding of his or her work performance.

h. All bargaining unit employees will receive an annual performance appraisal at the end of a rating period. The employee will be given their annual appraisal/evaluation no later than forty-five (45) days from completion of their rating period.

i. When evaluating performance, the supervisor will not hold employees accountable for factors which affect performance that are beyond the control of the employee. The participation of any Union representative, or bargaining unit employee on the partnership councils, will not adversely affect their annual performance evaluation.

## **Section 5. Remedial Assistance**

a. If at any time during the appraisal year the supervisor identifies a significant performance-related problem with an employee, the supervisor will meet with the employee to advise the employee of the problem, determine the root cause, and develop a plan to resolve the problem. A Union representative may attend the session if requested by the employee. This counseling session will be documented in writing, and a copy will be provided to the employee.

b. The plan will afford the employee a reasonable opportunity of at least thirty (30) calendar days to resolve the identified performance-related problem.

c. The plan will be tailored to the specific needs of the employee and may include formal training, on-the-job training, counseling, assignment of a mentor, or other assistance as appropriate. The

Parties agree that only placing the employee on closer supervision does not equate to appropriate assistance.

d. The purpose of this period of assistance is to help the employee improve rather than accumulate documentation solely as the basis for a future performance-related adverse action.

e. At any time during this period the supervisor may conclude that assistance is no longer necessary. The supervisor will notify the employee.

f. If, following this period, the supervisor is unable to make a determination that the employee is successfully performing his/her job duties and responsibilities, the supervisor will conduct a documented performance counseling session. If requested by the employee, a Union representative may be present. In the performance counseling session, the supervisor will inform the employee that (1) the employee will be placed on a formal Performance Improvement Plan (PIP), and (2) that personnel related actions (quality step increase, within grade increase, awards, etc.) will be withheld while this level of performance continues. The employee and the Union representative, if any, will be given the opportunity to provide input to the Performance Improvement Plan.

g. In the event that the employee's performance is assessed to be unsuccessful, the PIP process must be initiated. Concurrently with the development of the PIP, the remedial assistance process will be initiated as well. If the remedial assistance results in improving the employee's performance to the successful level, the PIP process may be terminated.

#### **Section 6. Performance Improvement Plan (PIP)**

a. The PIP will identify the employee's performance deficiencies, define the successful level of performance, describe the action(s) that must be taken by the employee to achieve the successful level of performance, the methods that will be employed to measure the employee's progress, and any provisions for counseling, training, or other appropriate assistance. The goal of this PIP is to return the employee to successful performance as soon as possible. The employee will also be given the opportunity to identify any medical and/or personal issues that might be contributing to their performance deficiencies.

b. A reasonable period of time will be provided to allow the employee to achieve successful performance. The period of time allowed will not be less than thirty (30) calendar days.

c. At any time during the PIP period, the supervisor may conclude that the employee's performance has improved to the successful level and the PIP can be terminated. In that event, the supervisor will notify the employee in writing, terminate the PIP, and complete the performance evaluation, if appropriate.

#### **Section 7. Performance-Based Actions**

a. Should all remedial action fail and the employee's performance is determined to be unacceptable, one of the following actions will be taken: reassignment, reduction to the next lower appropriate grade, or removal.

b. An employee who is reassigned or demoted to a position at a lower grade will be informed of his/her standing after ninety (90) calendar days in the new position.

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

(1) thirty (30) calendar days' advance written notice of the proposed action which identifies the specific basis for the proposed action, including specific instances of unacceptable performance, and,

(2) a reasonable time, not to exceed fourteen (14) calendar days, to answer orally and/or in writing.

The decision to retain, reduce in grade, or remove an employee shall be made within thirty (30) calendar days after the date of expiration of the notice period.

d. The employee will be given a written decision which:

(1) specifies directly or by reference the instances of unacceptable performance on which the decision is based, and

(2) specifies the effective date, the action to be taken, and the employee's right to appeal to the Merit Systems Protection Board in accordance with applicable law, or file a grievance under the negotiated grievance procedure.

**Section 8.** Section 2 of this Article may be reopened for negotiation by either party after three years from the implementation of this Agreement.

## ARTICLE 35

### PERSONNEL RECORDS

**Section 1.** It is agreed that to the extent it is not contrary to law, rule, regulations, or Office of Personnel Management, employees shall have the right to inspect their Official Personnel Folder (OPF). The employee will request their OPF directly from the Civilian Personnel Advisory Center (CPAC). Upon receipt of the OPF, the CPAC will schedule an appointment with the employee, who may be accompanied by a representative of his/her choosing.

The contents of Official Personnel Folders shall be protected from unauthorized disclosure. Disclosure of information will be only as permitted under appropriate Federal law and regulations. Copies of all written materials placed in the Official Personnel Folders shall be routinely given to the employee.

Employees can also access their own automated personnel record using the automated personnel system without having to contact the Civilian Personnel Advisory Center. The CPAC will publish instructions on an annual basis and/or as changes occur.

**Section 2.** In the event a supervisor decides to maintain an in-house file, the file shall contain, but not be limited to, records of ongoing personnel actions, counseling forms, and performance appraisals. Upon reasonable request by the employee, the contents of the file will be made available for review and discussion within three (3) days of the request. As a minimum, the file will be reviewed with the employee annually during their performance appraisals and documents destroyed when superseded or no longer applicable.

## ARTICLE 36

### POSITION CLASSIFICATION

**Section 1.** The Parties agree to the principle of equal pay for substantially equal work within the bargaining unit. The Employer recognizes that position descriptions that accurately reflect the major duties and responsibilities in a manner adequate for correct classification and effective recruitment are fundamental to this principle. The Employer agrees that the supervisor will review each employee's position description regularly (at least annually, or when significant changes are made to duties assigned) for adequacy and accuracy. The supervisor will promptly consult Civilian Personnel Advisory Center (CPAC) regarding any necessary changes.

**Section 2.** Position descriptions of employees who are performing identical duties, at the same level of responsibility, with the same degree of supervision under the same supervisor, and with all other evaluation factors identical, will be uniform to the extent practical. Each employee will receive a copy of their position description upon appointment, position change, or a change in their position description.

**Section 3.** Position descriptions will contain the major duties assigned to each position. The Employer retains the right to assign the duties contained in a position description. The duties listed in a position description are not designed to strictly limit the assignment of work to only those tasks, nor will position descriptions contain a complete list of all the duties normally performed. Position descriptions

will include the major grade controlling duties of a position. The purpose of using the terminology “performs other duties as assigned” in a position description is to include tasks that are of an incidental nature, are not grade controlling, or are tasks performed on a limited basis. Duties that may not be related to a position, such as shoveling snow, cleaning the work area, and performing messenger duties, etc., may be assigned.

**Section 4.** The Employer agrees to take action to correct a position description when an employee consistently performs major duties other than those outlined in his/her position description. If a change in an existing position description is made, the responsible supervisor will discuss the change with the affected employee. Any employee who feels that the major duties listed in their position are improperly described will consult with his/her immediate supervisor for clarification. If the supervisor agrees that the position description is inaccurate, the supervisor will initiate appropriate action to correct the position description within forty-five (45) days.

**Section 5.** Employees who believe that the major duties in their position description are properly described, but that their position description is inaccurately classified as to title, series and grade, will first consult with their immediate supervisor and the person with delegated classification authority for that work center. If this discussion fails to resolve the employee’s questions, the employee may file a written classification appeal in accordance with applicable regulations. The Employer will ensure that all such classification appeals when received will be processed within applicable regulations.

**Section 6.** The Employer agrees to notify the Union when there are going to be organizational studies affecting positions in the bargaining unit. When requested by the Union, the Employer agree to discuss with the Union at a minimum, study procedures, sampling techniques, and study schedules. The President of the Union, or designated representative, may attend formal studies openings and closings.

## ARTICLE 37

### PRIVATIZATION AND OTHER OUTSOURCING

#### **Section 1.** Privatization

Privatization is the turnover of government real property assets to a vendor who will use the assets to provide a service through a contractual agreement. The Union will be given an opportunity to participate in the Employer’s decision making process involving privatization. This involvement is in no way intended to interfere with management’s statutory right to make decisions relative to privatization and other outsourcing.

#### **Section 2.** Other Outsourcing

The Union will be allowed to participate (either through the appropriate partnership council or other agreed-to forum) in the process the Employer may use to determine whether new work will be done by bargaining unit employees or by an external vendor. New work may have to be performed through external means because of time constraints, the lack of availability of in-house manpower, the lack of in-house expertise, introduction of new technology, or resourcing limitations. If bargaining unit positions are jeopardized due to change in work processes or the way services are performed as a result of a contracted service (e.g., use of an International Merchant Purchase Authorization Card (IMPAC) card),

coordination with the Union will be made through the appropriate partnership council, or formal impact and implementation bargaining will be done before the contracted service will begin.

## **ARTICLE 38**

### **PROBATIONARY EMPLOYEES**

**Section 1.** A probationary employee who is separated during the probationary period for unsatisfactory performance or conduct after appointment, may appeal to the Merit Systems Protection Board (MSPB) if the employee alleges the separation was based on:

- a. partisan political reasons (political affiliation) or marital status, or
- b. race, color, religion, sex, national origin, handicapping condition, or age (provided that at the time of the alleged discriminatory action, the employee was at least 40 years of age) if such discrimination is raised in addition to paragraph a above.

**Section 2.** A probationary employee who is separated during the probationary period for conduct before appointment, may appeal to the MSPB on the grounds that the Employer failed to observe the procedures required for separation, in addition to paragraphs a or b above.

**Section 3.** Probationary employees have grievance rights under Article 48 of this Agreement for issues other than separation.

## **ARTICLE 39**

### **RECREATIONAL FACILITY USE**

The use of recreational facilities which are open to the employees, shall be provided in a fair and equitable manner in accordance with the priorities in Army Regulation (AR) 215-2. Any change in the use of recreational facilities shall be negotiated with the Union.

## ARTICLE 40

### REDUCTION IN FORCE

**Section 1.** This Article is intended to establish and describe procedures the Employer will take in the event of a reduction in force (RIF). It is also intended to establish a balance to protect the interests of employees while allowing the Employer to exercise its rights and duties in carrying out the mission of USMA.

**Section 2.** The policy, procedures and terminology established in this Article are to be interpreted in conformance with 5 U.S.C., 5 C.F.R., and appropriate implementing regulations.

**Section 3.** Where the Employer is left discretion in matters covered under this Article, the action will be subject to impact and implementation negotiations.

**Section 4.** RIF means the release of a competing employee from his/her competitive level by

- a. separation
- b. demotion
- c. furlough for more than thirty (30) consecutive days or more than twenty-two (22) work days if done on a discontinuous basis for not more than one year, or
- d. reassignment requiring displacement

when the release is required because of

- a. lack of work
- b. shortage of funds
- c. insufficient personnel ceiling
- d. exercise of reemployment rights or restoration rights
- e. reclassification of an employee's position under circumstances described in 5 C.F.R. 351.201, or
- f. reorganization.

**Section 5.** From the time that it becomes apparent that a RIF may be necessary, the Employer will keep the Union and employees informed. The Employer and the Union agree to support actions that will mitigate a potential RIF, to share any ideas for such actions, and to implement those ideas which are feasible. If a RIF becomes necessary, the Employer agrees to notify the Union of the reasons that the RIF is being proposed, approximate number and types of positions affected, proposed effective date of the action, and to provide an opportunity for the Union to negotiate as appropriate. As the RIF planning proceeds, the CPAC will provide monthly status reports to the Union. The Employer further agrees to

provide specific and, if applicable, general RIF notices to the Union concurrent with issuance to employees.

**Section 6.** Registers and other records concerned with the RIF will be maintained for inspection in the Civilian Personnel Advisory Center. Subject to the Privacy Act, employees and their representatives will be permitted to inspect not only the register for their own competitive level, but also other registers and records which have a bearing on RIF actions in their specific case. The Employer shall make available for review the retention register affecting employees with the issuance of RIF notices to affected employees.

**Section 7.** RIFs will be administered in a manner which will effect the necessary reductions in personnel strength with a minimum of disruption to the mission and dislocation of employees.

**Section 8.** Funded vacancies within the competitive area, for which an official personnel action has been initiated, will be used in lieu of RIF to satisfy placement rights, or in lieu of RIF separation.

**Section 9.** The Employer will give advance information using a variety of media and training regarding the RIF process to employees who may be affected by a RIF action. The Employer will provide a specific notice of sixty (60) days to individual employees who will be affected by a RIF action, and one hundred and twenty (120) days in case of RIFs affecting numbers of fifty (50) or more persons.

**Section 10.** Employees who receive a notice of separation who are nearly eligible for retirement are entitled to use accumulated annual leave in order to become eligible for an immediate annuity. This will allow employees to remain on the employment rolls beyond the date of the RIF if they become retirement eligible before their annual leave runs out.

**Section 11.** The Employer and the Union agree to work in concert to provide employees who may be affected by RIF with comprehensive information on the RIF process, potential entitlements, and the variety of options available to them. These may include: training and placement programs, eligibility for Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentives Program (VSIP), Priority Placement Program (PPP), retirement, permanent change of station (PCS), grade and pay retention, severance pay, etc.

**Section 12.** If two (2) or more vacant positions are equal in terms of representative rate, the Civilian Personnel Operations Center (CPOC) will determine the position to be offered, considering the documented medical and physical condition of the employee.

**Section 13.** Materials submitted to the Civilian Personnel Advisory Center (CPAC) for inclusion into an Official Personnel Folder (OPF) prior to an established date (published at least one (1) week in advance) will be considered in determining placement rights.

**Section 14.** Prior to a RIF, the CPAC will approach other Federal employers within the commuting area to request that they consider using their funded vacancies to place affected employees.

**Section 15.** Qualifications may be waived in offering vacant positions to employees, when the employee has the capacity, adaptability, minimum educational requirements and special skills needed. Both parties support the goal of maximizing employee retention by waiving qualifications when appropriate.

**Section 16.** Nothing in this Article is intended to waive the Union's right to bargain over the impact or implementation of any RIF affecting employees during the life of this Agreement.

## **ARTICLE 41**

### **REST PERIODS (BREAK TIME)**

A fifteen (15) minute rest period is permitted for every four (4) hours worked when it is beneficial and/or necessary. It is generally expected that the rest periods be taken at the mid-point of the four (4) hour time period but can be adjusted due to mission requirements and employee needs.

## **ARTICLE 42**

### **SAFETY AND HEALTH**

#### **Section 1. General**

The Parties recognize that a safe and healthful work environment is valued by the Employer, is necessary for the accomplishment of the Employer's mission, and contributes to a high quality of life for the employees. It shall be the responsibility of the Employer to establish and maintain an effective and comprehensive Occupational Safety and Health Program in accordance with Public Law 91-596, the Occupational Safety and Health Act (OSHA) of 1970 (referred to as the Act), Executive Order 12196, and 29 C.F.R. Part 1960. In administering the program, the Employer agrees to recognize the Union as the exclusive representative of bargaining unit employees. The Employer shall furnish places and conditions of employment which are free of recognized hazards and unhealthful working conditions.

#### **Section 2. Union Participation**

The Employer recognizes that Union participation in its Occupational Safety and Health Program is essential for the success of that program. The Union may designate representatives who will represent the interests of the Union and the employees in the development and implementation of this program. The Parties agree that work on the Safety and Health Program is a part of the ongoing partnership between the Employer and the Union. Time spent serving as a Union representative during safety and health inspections, as a member of the West Point Safety and Health Council or its subcommittees, developing plans for abatement of materials, investigating accidents, and safety related committee assignments, will be considered duty time and will be accounted for on USMA Form 24-61.

### **Section 3. Report, Evaluation, and Abatement of Unsafe and Unhealthful Working Conditions**

a. Any employee, group of employees, or representative of employees who believe that an unsafe or unhealthful working condition exists in any workplace, has the right to report such condition to the appropriate supervisor, the Activity Director, appropriate USMA safety and health personnel, and the Union. In the case of immediate threat to life, or danger of serious physical harm, the employee shall immediately report the situation to the supervisor and/or the appropriate USMA safety and health personnel.

b. USMA safety and health personnel and local safety representatives will evaluate employee reports of unsafe or unhealthful working conditions in accordance with 29 C.F.R. 1960. The Union will be formally notified of all serious hazards as defined in 29 C.F.R. 1960.

c. The Employer agrees to ensure abatement of unsafe and unhealthful working conditions in accordance with Army Regulation (AR) 385-10 timelines.

d. Any equipment, devices, structures, clothing, supplies, tools, or instruments that are found to be unsafe will be removed from service, locked-out, and/or tagged-out or rendered inoperative, as appropriate.

### **Section 4. Personal Protective Equipment and Clothing**

a. The Employer will provide personal protective equipment and clothing to protect employees from safety and health hazards. The Employer shall comply with 29 C.F.R. 1960, and 29 C.F.R. 1910.132(a). It is agreed that the Employer will consider Union input on equipment selection and purchase. Employees operating or riding in Government owned, rented, or privately owned vehicles on official business are to use safety belts (both seat and shoulder) if available.

b. Personal Protective Equipment (PPE), as required by appropriate OSHA standards to protect employees from hazardous conditions encountered during the performance of their official duties, will be provided at no cost to employees who are required to wear specific PPE. The Employer will conduct hazard assessments to determine the need for PPE for each workplace. These assessments will also evaluate the need for, and feasibility of, engineering controls or other devices designed to reduce workplace injuries and illnesses or eliminate the need for PPE. These assessments will be documented and a copy provided to the Union. When assessments determine the appropriateness of PPE, affected employees will have the opportunity to choose from available styles and sizes to optimize employee comfort and protection. Employees will receive training on the proper use and care of PPE.

c. Employees are required to make proper use of protective clothing and equipment furnished by the Employer.

d. Government furnished safety equipment will be used only for job-related functions.

### **Section 5. Safety and Health Inspections**

The Union will be given the opportunity to participate in all scheduled workplace inspections which are intended to detect hazards to employee safety and health, whether conducted by USMA safety and health personnel, non-USMA employees acting on behalf of the Employer, OSHA and Environmental Protection Agency (EPA) personnel, or other regulatory agencies and bodies.

## **Section 6. Exposure to Hazardous Materials**

It is the policy of the Employer to protect employees from exposure to hazardous materials through the Employer's Hazard Communication Program, as stipulated in USMA Regulation 385-12, Safety Program. Employees who are accidentally exposed to carcinogenic or similar hazardous material will be offered an opportunity to take a physical examination provided by the Employer. Any subsequent examinations will also be voluntary. The Employer will provide a means by which employees may document any exposure to chemical hazards contacted on-the-job by utilizing Office of Workers' Compensation Program (OWCP) forms.

## **Section 7. Imminent Danger Situations**

a. The term "imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures (29 C.F.R. 1960.2(u)).

b. In the case of imminent danger situations, employees shall make reports by the most expeditious means available. The employee has a right to decline to perform his/her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. However, in these instances, the employee must report the situation to his/her supervisor or another supervisor who is immediately available.

c. If the condition can be corrected and the corrected condition does not pose an imminent danger, the employee must perform the assigned tasks. If the supervisor cannot correct the condition or does not feel that an imminent danger condition exists, the supervisor shall request an inspection by USMA safety or health personnel.

d. A Union representative will be given the opportunity to be present during the inspection by USMA safety or health personnel. If USMA safety or health personnel decide the condition does not pose an imminent danger, the instruction to return to work shall be in writing and contain a statement declaring the area or assignment to be safe. Refusal to perform an assignment after USMA safety or health personnel have deemed it to be safe may result in disciplinary action.

e. When the Employer receives a report that a potential or actual dangerous or unhealthful condition is present at a particular work site, the Employer shall notify the USMA Safety Office and the Union.

## **Section 8. Training**

a. The Employer shall provide safety and health training for employees, including specialized job safety training, appropriate to the work performed by the employee. This training will address the Employer's Occupational Safety and Health Program, to include the rights and responsibilities of employees.

b. The Union safety and health representative may participate in all on-site safety and health training in order to serve as a credible representative. Consideration will be given to individual requests for off-site training.

c. The Union may have pre-decisional input in the development of safety and health training, including curriculum and training materials.

d. The Employer will pay tuition, travel, and per diem expenses for one Union Safety and Health Representative to attend the annual OSHA Federal Safety Conference and the Department of Army Safety and Health Conference on alternating years.

### **Section 9. Allegations of Reprisal**

The Employer agrees there will be no restraint, interference, coercion, discrimination, or reprisal directed against an employee for filing a report of an unsafe or unhealthful working condition, or for participating in the Employer's Occupational Safety and Health Program activities, or because of the exercise by an employee on behalf of his/herself or others of any right afforded by Section 19 of the Occupational Safety and Health Act, Executive Order 12196, or 29 C.F.R. 1960.

### **Section 10. Temperature Conditions**

The Parties recognize that temperature conditions in and around work areas can have a direct bearing on employees' health. The Parties agree that the problem of temperature extremes, either hot or cold, and appropriate measures to reduce the risk of exposed employees are appropriate matters for referral to the USMA Safety and Health Council or to the USMA Safety Office.

### **Section 11. Asbestos**

a. The Employer will review all construction and/or space modification contracts and/or work orders to determine if asbestos is present and, if so, how to proceed with appropriate removal or containment.

b. The Employer will notify the local Union prior to initiating procedures for asbestos removal.

c. The Employer will conduct periodic air sampling in accordance with OSHA standards where an asbestos hazard has been identified.

d. If the airborne asbestos concentration exceeds limits established by 29 C.F.R. 1910.1001(c), the Employer will insure abatement of the asbestos hazard pursuant to 29 C.F.R. 1910.1001(f).

e. The Employer will provide the Union with a copy of results of all tests monitoring asbestos levels.

f. Asbestos abatement plans may include the discontinuance of work or the shifting of employee work location. Notice of such abatement action will be provided to the Union in advance, except in an emergency situation in which the Union will be notified as soon as possible. The Employer will meet its labor obligations in both instances.

g. The Employer will institute a medical surveillance program for all employees in accordance with 29 C.F.R. 1001(1)(1)(i).

h. The Employer will make available medical examinations and consultations to each employee prior to assignment to an area containing asbestos which requires that negative pressure respirators be worn.

### **Section 12. Use of Respirators**

Situations requiring employees to wear respirators for safety shall be in accordance with USMA Regulation 385-14, USMA Respiratory Protection Program.

### **Section 13. Ergonomic Hazards**

The Employer agrees that employees should be provided information about ergonomic hazards and how to prevent ergonomic related injuries. This information could be provided by OSHA Safety and Health guidelines and available literature. When replacement is necessary, the Employer agrees to the maximum extent possible to provide equipment that meets ergonomic design criteria. It is also agreed to the extent possible when equipment is purchased, that training should be provided by the vendor on how to safely and properly operate the equipment.

### **Section 14. Video Display Terminals**

"Video Display Terminal" (VDT) refers to a word processor or computer terminal which displays information on a television-like screen (cathode ray tube).

a. The policy of the Employer is to provide a safe and healthful workplace for all employees. In keeping with the policy, the Employer acknowledges that there are certain ergonomic and environmental factors that can contribute to the health and comfort of VDT users. These factors involve the proper design of work stations and the education of managers, supervisors, and employees about the ergonomic job design and organizational solutions to VDT problems.

b. The Employer will achieve this policy by:

(1) providing VDTs and accessory equipment that, to the maximum practical extent, provide comfort to the user and keyboards, worktables, and chairs that are height-adjustable and provide proper back support

(2) consulting where practical with employees prior to purchase about furniture for use with VDTs

(3) seeking and acquiring information and technical assistance, as needed, from appropriate resources on methods for most effectively designing VDT work station layouts

(4) laying out workspaces that are properly illuminated to reduce glare and ensure visual comfort to VDT users while providing adequate lighting for traditional clerical tasks

(5) educating employees about the proper and safe operations of VDTs, including the value of interspersing prolonged periods of VDT use with other work tasks requiring less intensive visual concentration. Where there are prolonged periods of VDT use and no other work tasks available, those employees should be given a break from VDT duties.

(6) reviewing the set-up of equipment and furniture for VDT work stations as a regular part of safety and health inspections.

**Section 15. Equipment, Machinery, and Furniture**

a. Employees are encouraged to report equipment, machinery, or furniture that cause or have potential to cause injuries (see Section 4). The Employer agrees to investigate such reports expeditiously and to implement appropriate corrective action.

b. The Employer will ensure that employees have been oriented in the use of new equipment or machinery and will ensure that this equipment or machinery has been inspected before initial use, when required.

c. Only qualified personnel shall perform maintenance or repair on or about moving or operating machines. This does not preclude the normal or necessary adjustments to be made to machinery or equipment while in operation. Qualified personnel shall not be required to perform any maintenance or repair while the machine is in operation where it can be shown that there is a substantial risk of injury or a feasible alternative exists.

**Section 16. Pollution Prevention Strategy**

a. The Employer will maintain a current list of all hazardous materials in their respective work sections, and will be required to provide accessible, current Material Safety Data Sheets (MSDS) in each workplace.

b. The Employer will identify each employee using hazardous chemicals in the performance of his/her duties.

c. Assessments will be made for each of the hazardous chemicals to determine if there could be a less hazardous chemical which would fulfill the respective need.

d. All chemicals or hazardous materials purchased shall require MSDS with purchase.

e. Employees will be retrained at least annually on the handling and disposal of each hazardous chemical.

f. Types and quantities of hazardous waste generated at USMA and the methods used for disposal of each type of waste will be identified.

g. The Employer will review methods used to dispose of hazardous waste for compliance with applicable criteria.

**Section 17.**

For its part, the Union

a. will encourage employees to observe safety and health precautions, posted rules, written and oral safety instructions, use protective clothing or equipment where specified, and report personal work injuries, illnesses, or accidents. When unsafe or unhealthful conditions are observed, they will be reported to the appropriate supervisor.

b. will cooperate through its designees on the USMA Safety and Health Council in improving safety conditions, programs, and employee alertness to safe working habits.

c. agrees that willful neglect and failure by any person to obey the Employer's safety and health regulations, and to use safety devices provided by the Employer, shall be just cause for disciplinary action.

## **ARTICLE 43**

### **STRATEGIC SOURCING**

#### **Section 1.**

a. The Employer and the Union will cooperate and communicate to the maximum extent possible concerning strategic sourcing issues. The Employer will provide the Union, without charge, a list of all strategic sourcing affecting the bargaining unit as of the effective date of this Agreement. The list will identify who is performing the work.

b. The Employer's oversight and advisory groups will include a Union representative during the conduct of a cost study.

c. The Union will have the opportunity to review and make comments on the Employer's submission to the annual OMB Circular No. A-76 Inventory, as required by Part 1, Chapter 1, paragraph F and Appendix 2 of the circular's supplement.

#### **Section 2. Joint Participation**

a. The Union will have the opportunity to consult and fully participate in the development of supporting documents and proposals such as the development of performance standards, performance work statements, management plans/management efficiency study, the milestone chart governing the conduct of the strategic sourcing study, the development of in-house and contract cost estimates, Quality Assurance Surveillance Plan (QASP), solicitation, and any other information used in the development of the above documents.

b. A Union representative will be permitted to participate in the "walk through" held for potential offerors. That Union representative will not be a member of the management study team, and will be required to sign an anti-disclosure statement prior to participating in the "walk throughs".

#### **Section 3. Information**

a. The Employer will provide to the Union, in a timely manner, copies of pertinent information relative to strategic sourcing, to the extent permissible under law, rule, and regulation. Any questions regarding requests for information or access to documentation will be jointly addressed by labor and management as soon as they arise.

b. Upon issuance, a solicitation used in the conduct of a cost comparison will be made available to the Union for comment. The Union will be given the opportunity to review the document and submit comments before final receipt of offers from the private sector. Private sector offerors shall comment as provided by Federal Acquisition Regulations (FAR).

c. Briefings will be held with affected bargaining unit employees at least monthly during the duration of the study, unless the Union and management mutually agree to postpone for the purpose of providing timely information concerning strategic sourcing initiatives. The Union will be given the opportunity to participate in such briefings. The Employer will meet monthly with the Union if a briefing with the entire workforce is not possible.

d. Any questions about information under this Article requested by the Union will be discussed as soon as they arise.

#### **Section 4. Bargaining**

When the Employer determines that bargaining unit work will be subject to a strategic sourcing initiative, the Union shall be provided the opportunity to bargain concerning matters set forth in and consistent with 5 U.S.C., Chapter 71.

#### **Section 5. Appeals**

a. The Employer and the Union recognize the right of first refusal required by OMB Circular No. A-76 and its supplement. Declining to exercise the right of first refusal due to displacement by strategic sourcing shall not be deemed to be a waiver of any appeal/grievance rights a bargaining unit employee may have under applicable law, regulations, and this Agreement.

b. The Employer agrees to take actions that will minimize adverse effects on bargaining unit positions and employees affected by a strategic sourcing decision as described in Article 40, Reduction in Force (RIF.)

c. The Employer recognizes the Union's right to file an appeal of tentative waiver and cost comparison decisions, and to have necessary documentation for purposes of filing this appeal. Additionally, consideration will be given to extending the appeal period to a maximum of thirty (30) calendar days, if the cost comparison is particularly complex.

#### **Section 6. Performance Monitoring**

Should a strategic sourcing initiative result in a decision to convert to contract, the Union is encouraged during the period of contract performance to bring known contract discrepancies to the attention of the appropriate contract administrator or designee.

**Section 7.** The Union representative appointed to participate in any given outsourcing initiative will be released on official time to the maximum extent possible.

## ARTICLE 44

### TRAINING AND PROFESSIONAL DEVELOPMENT

**Section 1.** The Employer and the Union agree that the training and professional development of employees within the bargaining unit is an important matter. Training is the joint responsibility of the Parties. Training programs may be formal courses, on-the-job/cross-training programs, or self-development programs. The Parties' goal is for supervisors to encourage employees in self-improvement efforts.

**Section 2.**

a. Employees are responsible for learning what is expected of them and for successfully applying the knowledge gained in training classes. Employees should discuss their ideas about their work and their own professional development goals with their supervisors, and should inform their rating chain when they have questions and/or training needs. Although assessment of individual training needs is a continuous process, the performance appraisal is the primary means for determining employee training and development needs.

b. It is important that employees maintain their own record of completed training to ensure that their personal resume remains up-to-date.

**Section 3.** The Parties agree that there may be reorganizations, technological changes, a reduction in force (RIF), or other major actions that could have an impact on job security. In recognition of this, the Employer will make every effort to provide training that would allow employees to move into existing or projected vacancies, consistent with budget and staffing restrictions.

**Section 4. Local Training**

The partnership councils' agenda will address training and career development programs. The councils will address training issues such as:

- a. orientation sessions for new employees
- b. in-service or on-the-job training to improve the employees' capability to perform their current jobs
- c. training for career enhancement
- d. cross-training and rotational assignments
- e. funding for training
- f. upward mobility, and
- g. tuition support.

**Section 5. Training Costs**

a. The Employer will pay all authorized expenses, including tuition and travel, in connection with training required by the activity to perform the duties of an employee's current position. This will include training to meet the demands of new technology and new equipment.

b. Depending upon the availability of funds and training priorities, the Employer will also pay appropriate expenses for work-related training that will increase an employee's knowledge or skills in connection with career growth or advancement opportunities. Merit system principles will apply when required. Approval of some training may also be contingent upon an agreement by the employee to share any costs with the Employer.

c. When resources for training are limited, the appropriate partnership council shall establish criteria for the fair and equitable selection and assignment of employees to training.

**Section 6. Reassignments and New Assignments**

When employees are reassigned to new positions or assigned new duties in connection with their current positions, the Employer will provide the training necessary to enable employees to perform all required duties.

**Section 7. Training Information**

a. The Employer shall inform employees, at least annually, about training opportunities, policies, and nomination procedures.

b. The Employer will maintain up-to-date information about training courses, programs, and seminars conducted or sponsored by either the Employer, or available from some other source. This information shall be accessible to employees and publicized in such a way as to provide adequate notice to interested employees.

**Section 8. Notification**

Employees will be notified of approval or disapproval of training requests as soon as possible but in every case prior to the starting date of the training. Should an employee's request for training be disapproved solely for lack of funds, the employee may resubmit a request for training as funds become available. That request will be given first consideration but may be disapproved due to higher training priorities. If not selected for training, the employee will be notified of the reasons.

## **ARTICLE 45**

### **TRAVEL/TEMPORARY DUTY**

**Section 1.** Employees will be informed of the opportunity or the requirement to perform temporary duty (TDY) as much in advance as practical. The employee's work schedule will be changed accordingly to accommodate TDY. When the Employer requires emergency or unexpected TDY and is unable to provide two-week notice, reasonable efforts will be made by the employee and supervisor to accommodate special needs of the employee due to the short notice. Employees will not be expected to travel without valid travel orders and authorized travel pay. The Employer agrees to consider financial hardship and other factors in assigning TDY, planned or unexpected, when more than one (1) employee is available for such assignment.

**Section 2.** Travel will be scheduled during the employee's work schedule whenever that is reasonably feasible. When travel is scheduled outside the regular work schedule, overtime or compensatory time will be provided as stated in the Fair Labor Standards Act (FLSA) and 5 C.F.R.

**Section 3.** Employees are entitled to benefits provided by the Joint Travel Regulation (JTR) or any successor regulation, and accept that local travel at the TDY point will be limited to provisions in the JTR.

**Section 4.** When there is a choice to the mode of transportation or accommodations, the employee's desires will be given due consideration by their supervisor. Employees will not be required to use their privately owned vehicle (POV). POV use may be permitted when it is requested by the employee and it is advantageous to the Government. Rental cars will be authorized to employees when warranted.

## **ARTICLE 46**

### **WAGE SURVEY**

The Employer agrees to include the Union on any and all wage surveys in accordance with applicable regulations. The Union members participating shall, if possible, be from different United States Military Academy directorates. Vehicles used for transportation in wage surveys will be provided by the Government.

## ARTICLE 47

### WORKERS' COMPENSATION

#### **Section 1. Counseling**

a. As soon as possible after experiencing a job-related traumatic injury or illness, the employee should contact his/her supervisor. Injured employees must be referred to the Emergency Room of Keller Army Community Hospital (KACH) for an initial assessment following an on-the-job traumatic injury. The supervisor and/or the appropriate management official will immediately inform the affected employees of their rights under the Federal Employees Compensation Act (FECA). These rights include the following:

- (1) the employee's right to file for compensation benefits
- (2) the types of benefits available
- (3) the procedure for filing claims, and
- (4) the option to use compensation benefits, if approved, in lieu of sick or annual leave.

b. The affected employee's supervisor will inform the employee of the location and telephone number of the appropriate Injury Compensation Specialists (ICS) office and will provide all forms necessary to initiate the claim.

#### **Section 2. Definitions**

a. Traumatic injury/illness means a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single workday or work shift.

b. Occupational disease means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection, continued or repeated stress or strain, or exposure to hazardous elements such as but not limited to, toxins, poisons, fumes, noise, particulates, radiation, or other continued or repeated conditions or factors of the work environment.

#### **Section 3. Election of Benefits Options**

a. Continuation of Pay (COP): An employee with a medically approved, totally disabling, job-related, traumatic injury is entitled to receive up to forty-five (45) days continuation of the employee's regular salary without charge to leave if the claim is filed within thirty (30) days of the injury. The entitlement to COP is not available to employees who file an occupational disease claim.

b. Following the period of continuation of pay, an employee with a job-related traumatic injury may elect to be placed on sick or annual leave, or leave without pay.

c. If the employee's claim is approved, the employee shall have the option of buying back any leave used and having it reinstated to the employee's leave account.

d. If the employee's claim for compensation is disallowed by the Department of Labor, Office of Workers' Compensation Program (OWCP), any of the forty-five (45) days of COP that were previously granted will be converted to sick leave, annual leave, and/or leave without pay.

e. The Employer shall assist employees in obtaining technical information from the ICS, Directorate of Resource Management, regarding the proper procedures for filing claim appeals to the Department of Labor.

#### **Section 4. Light Duty**

a. Light duty assignments will be provided to employees faced with a job-related traumatic injury, occupational illness or disease. When medical care is authorized under FECA, the supervisor in coordination with the ICS, will offer the employee light duty work in his/her assigned position, or in another position, compatible with medically imposed restrictions/limitations. Any position offered must be evaluated by the employee's attending physician to ensure the modified work assignment can safely be performed by the employee in light of his/her medical condition. If the employee does not accept valid offers, FECA benefits may be terminated.

b. The ICS and the Civilian Personnel Advisory Center (CPAC) will work with management officials to locate and/or develop light duty assignments. All fill actions being processed are reviewed, to identify positions which may be used for light duty assignments.

c. If the Department of Labor, OWCP, determines that an employee who was previously deemed disabled has now recovered and is medically able to return to duty, the Employer must make a serious effort to offer appropriate employment.

## **DISPUTE RESOLUTION**

## ARTICLE 48

### GRIEVANCE PROCEDURE

**Section 1.** The purpose of this Article is to provide instructional guidance when utilizing the grievance procedure to solve labor management disputes. Most grievances arise from misunderstanding or disputes, which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. Inasmuch as dissatisfactions and grievances arise occasionally among people in any work situation, the filing of a grievance will not be construed as reflecting unfavorably on an employee's good standing, his/her performance, or his/her loyalty or desirability to the organization. The Parties strongly endorse the concept that grievances should be resolved at the lowest appropriate level before filing a formal grievance. A reasonable and concerted effort should be made by both parties toward informal resolution.

**Section 2.** Any bargaining unit employee has the right to file a formal grievance with or without the assistance of the Union. In those situations when the employee files a grievance without the assistance of the Union, the following will apply:

a. After the formal grievance is filed, the Union will be notified and has the right to be present at any discussions or adjustments of the grievance between the grievant and representatives of the Employer. Although the Union has the right to be present at these discussions, it also has the right to elect not to participate.

b. When the Union exercises its right in paragraph a above, the Union will be given a copy of the grievance within two (2) working days after it is filed.

**Section 3.** The Union has the right to file a grievance on behalf of any employee or group of employees.

**Section 4.** Should two or more employees have identical grievances, the grievances will be combined and processed as one grievance. The decision on the combined grievance will be binding on the other grievance(s).

**Section 5.** A grievance means any complaint:

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

b. by the Union concerning any matter relating to the employment of any bargaining unit employee

c. by any bargaining unit employee, the Union, or the Employer concerning

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

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

d. except that it shall not include a grievance concerning

- (1) any claimed violation relating to prohibited political activities
- (2) retirement, life insurance, or health insurance
- (3) a suspension or removal for national security reasons
- (4) any examination, certification or appointment
- (5) the classification of any position which does not result in the reduction in grade or pay of an employee
- (6) non-selection for promotion from a group of properly ranked and certified candidates
- (7) separation of temporary hires
- (8) separation of probationary employees
- (9) questions as to interpretation of published agency policies or regulations of an authority outside the Employer.

**Section 6.** Where a grievance creates (or there otherwise exists) a difference of interpretation on a regulation or policy originating above the Employer level, the Employer will complete a record of facts bearing on the case. Included will be a reference to the regulation or policy involved, and a copy of the grievance and any other supporting material. The employee and/or his/her representative will be provided an opportunity to review and comment on the submission. Such comments must be in writing and given to the Employer within fifteen (15) days and will become a part of the official record in this matter. The Employer will forward this official record through appropriate command channels to the proponent of the regulation/policy in question, requesting an interpretation based on the facts forwarded. All such requests for interpretation will ask for a prompt response. The Parties agree to accept the policy/regulation interpretation received from the proponent as the basis for further discussion on this matter. A copy of the interpretation received will be provided to the Union. If parts of the grievance remain unresolved once the interpretation is applied, the matter may proceed through the grievance process.

**Section 7.**

a. Except as provided in Section 8 below, this negotiated procedure is one of two methods of resolving disputes. The other method referenced here is the Alternative Dispute Resolution (ADR) process.

b. In the event that either party should declare a complaint non-grievable or non-arbitrable, such determination will be served upon the employee and Union/Employer (whichever is applicable) in writing, at the earliest reasonable date but not later than Step 2 of this grievance procedure.

**Section 8.** An aggrieved employee affected by a removal, a suspension for more than fourteen (14) days, a reduction in grade, a reduction in pay, a furlough of thirty days or less, or discrimination which falls under the coverage of the negotiated grievance procedure and ADR, may raise the matter under a statutory procedure, the negotiated grievance procedure, or ADR, but not a combination of the three. An employee shall be deemed to have exercised his/her option to raise the matter under a statutory procedure, the negotiated grievance procedure, or ADR, at such time as the employee timely initiates an action under the applicable statutory procedure, timely files a grievance in writing, or initiates ADR, in accordance with the provisions of said procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to 5 U.S.C. Section 7702 in case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission (EEOC) to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the EEOC.

**Section 9.** The Parties agree to observe the terms of this Agreement concerning the timely processing and resolution of employee grievances. In the event either party cannot comply with the time limits set forth, that party will reasonably request an extension of time, in writing, with a brief explanation of the reason for the delay. The Parties will then attempt to agree on a mutually reasonable extension of time. If the Parties cannot agree to the reasons or length of the delay, or there is no request for delay, the non-delaying party may move the grievance to the next step.

**Section 10.** Use of official time by Union representatives for the informal resolution stage and for the formal grievance procedure is authorized as provided in Official Time, Article 2.

**Section 11.** The following procedures will apply in processing grievances covered by this Article. The employee, or designated Union representative, must present the grievance within ten (10) days from the incident (the effective date for personnel actions, and the date of the event for other matters) or of learning of its occurrence. In no case will a grievance be presented later than three (3) months after the date of the incident. Grievances over continuing conditions may be submitted at any time.

a. **STEP 1:** The aggrieved employee will present the grievance orally or in writing to the immediate supervisor. If the grievance is against that supervisor, the grievance will be presented at Step 1 to the next level supervisor. When an employee has Union representation and the grievance is being presented orally, both the employee and the Union representative will present the grievance. A decision will be rendered to the aggrieved employee within five (5) workdays after the conclusion of the Step 1 grievance discussion.

b. **STEP 2:** If no satisfactory solution is reached as a result of Step 1 proceedings, and the grievant chooses to pursue the matter further, he/she must submit a copy of the grievance in writing through the Civilian Personnel Advisory Center (CPAC) to the appropriate Activity Director within five (5) workdays of the Step 1 decision. The written grievance must identify the employee by name, title, grade, and organizational unit, and must state the specific nature of the grievance, the article(s) and section(s) of this Agreement in dispute, the remedial action sought, and the name of the designated representative, if any. The hearing official at this level will meet with the employee and his/her Union representative, if any, within five (5) workdays after receipt of the written grievance. Within five (5) workdays of the Step 2 discussion, a written decision will be rendered.

c. **STEP 3:** If the grievant (or the Union in case of Union grievances) is not satisfied with the decision issued at Step 2, and if he/she chooses to pursue the matter further, the grievant must, within five (5) workdays after receipt of the Step 2 decision, submit a copy of the written grievance and the Step 2 written decision through the CPAC to the Superintendent or Tenant Activity Commander, or designee, as appropriate, for review and decision. This submission by the grievant at Step 3 must show which specific aspects of the grievance, if any, were resolved at Step 2. The deciding official at this level will review the grievance, consult with the parties if necessary, and render the decision in writing within fifteen (15) workdays after receipt of the grievance by the CPAC. When requested by the grievant, a meeting will be held prior to rendering a decision.

**Section 12.** Grievances submitted by the Employer will be initiated within fifteen (15) workdays of the date of the occurrence. Such grievances will be submitted in writing to the Union; will state the provision(s) of the Agreement allegedly violated by the Union; and the remedial action sought. The Local President, or designee, will meet with the grieving official or designee within five (5) workdays of receipt of the grievance and attempt an informal resolution. The Local President will submit a written decision on the matter within ten (10) workdays of the meeting, unless a mutually satisfactory resolution is reached at the meeting.

<b>Step</b>	<b>Initiated with</b>	<b>Initiated within</b>	<b>Decision due w/in</b>
Step 1 (oral or written)	First appropriate supervisory level	10 days of the incident	5 workdays
If not satisfactorily settled, the grievant may continue on with -			
Step 2 (written)	Activity Director	5 workdays following Step 1 decision	5 workdays after Step 2 discussion
If not satisfactorily settled, the grievant may continue on with -			
Step 3 (written)	Superintendent, Tenant Commander, or designee	5 workdays following Step 2 decision	15 workdays after receipt of grievance by the CPAC

**Section 13. Mediation.** If the Parties fail to settle any grievance, the matter may be submitted to mediation upon written request by either the Employer or the Union within five (5) workdays after receipt of the Step 3 decision. The mediator will attempt to help the Parties settle the matter in a mutually satisfactory way. Rules of evidence will not apply, and formal examination and reexamination of witnesses will not be used. All participants will be encouraged to ask and offer information, as no record of proceedings will be made. If a settlement is not reached, the mediator will be asked to provide an immediate opinion, based on this Agreement, as to how the grievance would be decided by an arbitrator. Mediators may be from the Federal Mediation Conciliation Service (FMCS), if available, or any individual mutually acceptable to both parties. If no mediator is available that meets these criteria, or if there is cost that neither of the Parties is willing to bear, then the matter may be taken directly to arbitration.

## ARTICLE 49

### BINDING ARBITRATION

**Section 1.** If the Employer and the Union fail to settle any grievance arising under Article 48, Grievance Procedure, such grievance shall, upon written notice by the party requesting arbitration to the other party, be referred to arbitration. Arbitration of a grievance may be invoked only by the Employer or the Union (President) and does not require the approval of the employee(s) involved.

**Section 2.** Written intent to invoke arbitration must be served on the party within fifteen (15) workdays following receipt of the final decision of the last step of the grievance procedure. Within five (5) workdays after notification, the party desiring arbitration shall request the Federal Mediation and Conciliation Service (FMCS) to submit a list of seven (7) impartial persons qualified to act as arbitrators. The Parties shall meet within ten (10) workdays after receipt of such list. The Employer and the Union will each strike one (1) arbitrator's name from the list and shall then repeat this procedure. The remaining name shall be the duly elected arbitrator.

**Section 3.** If for any reason the Employer or the Union refuses to participate in the selection of an arbitrator, the FMCS shall be empowered to make a direct designation of an arbitrator to hear the case.

**Section 4.** Arbitration under this Article will be conducted as an oral proceeding, however, either party may request a verbatim transcript or provide its own stenographic service, at no cost to the other party.

**Section 5.** If the Parties fail to agree in a joint submission of the issue for arbitration, each shall submit a separate submission with a copy to be furnished to the other party, and the arbitrator shall determine the issue or issues to be heard.

**Section 6.** The arbitrator's fee and all expenses of the arbitration shall be borne by the losing party. The arbitration hearing will be held, if possible, on the Employer's premises during the regular day shift hours of the basic workweek. All witnesses and official Union representatives employed by USMA shall be in a duty status while at the hearing. Time spent at the hearing by witnesses will be limited to the time required as a witness.

**Section 7.** The arbitrator will be requested by the Parties to render his/her award, dated as quickly as possible, in any event no later than thirty (30) calendar days after the conclusion of the hearing unless the Parties otherwise agree. The award will be dispatched on the date of the award.

**Section 8.** The arbitrator shall render his/her award to the Superintendent or the Tenant Commander with a copy to the Union, which will be binding on the Parties. Either party may file exceptions to the arbitrator's award with the Federal Labor Relations Authority (FLRA), as prescribed in the Statute.

## ARTICLE 50

### UNFAIR LABOR PRACTICE

**Section 1.** The Employer and the Union fully recognize their respective obligations and restraints as prescribed in 5 U.S.C. Section 7116, the violation of which constitutes an Unfair Labor Practice (ULP).

**Section 2.** The Parties agree to serve notice on the other of an unfair labor practice. The notice will specify the name(s), date, and violation(s) alleged.

**Section 3.** The Chief, Labor/Employee Relations, Civilian Personnel Advisory Center, and/or appropriate Personnel Advisor, and the President, AFGE, Local 2367, and/or the Union representative of record, will meet within five (5) workdays of receipt of the notice for the purpose of discussing and presenting facts on both sides in an earnest attempt to resolve the matter. Subsequent discussions will include other parties as appropriate.

**Section 4.** If settlement is not achieved within ten (10) workdays of the discussion held in accordance with Section 3, a formal charge may be submitted to the Regional Director of the Federal Labor Relations Authority. A copy will be provided to the other party.