



LIUNA! 1776
We Represent US Government Employees

Collective Bargaining Agreement Between:

**The Adjutant General of
the South Dakota National Guard (SDNG)**

and

**The Laborers International
Union of North America (LIUNA)**

**Executed: September 10, 2021
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PREAMBLE

This Agreement is executed between the South Dakota Army National Guard (SDARNG), hereafter referred to as the “Agency,” by and through the Adjutant General (TAG) of South Dakota, and the Laborers International Union of North America (LIUNA), hereafter referred to as the “Union,” and collectively referred to as the “Parties.” The Agreement is made for all federal non-supervisory and non-managerial employees of the SDARNG, hereafter referred to as employees, dual status technicians (DSTs), and/or technicians.

This Agreement identifies the mutual covenants of the Parties hereto, which are intended to:

1. Promote the efficient administration of the SDARNG and the well-being of its employees.
2. Provide for the highest degree of efficiency in the accomplishment of the mission of the SDARNG.
3. Establish a basic understanding of personnel policy, practice, procedure, and matters affecting conditions of employment within the discretion of the Adjutant General.
4. Provide a means for discussion and adjustment to matters of mutual interest.
5. Promote employee communications and knowledge of personnel policy and procedure.

As a result, the Parties hereto agree as follows:

Article 1

General Provisions

Section 1.1 – Bargaining Unit Recognition

1. In accordance with the Federal Labor Relations Authority (FLRA) Certification of Representative Case Number DE-RP-18-0010, LIUNA is the exclusive representative for all non-supervisory, nonprofessional, GS and WG employees, employed by the South Dakota Army National Guard.

Section 1.2 – Excluded Positions

1. Excluded from the Bargaining Units covered by this Agreement are all management officials, supervisors, professional employees, and employees described in 5 USC 7112(b)(2), (3), (4), (6), and (7).
2. The Parties agree that because of reductions, reorganizations, reclassifications, and changes to the Agency's mission it may become necessary to modify the bargaining unit status of a new or established position. The Agency will notify the Union when it determines to change a given position's bargaining unit status. The notice will be given prior to effecting the change. If the Parties are unable to resolve a dispute over whether a given position is included or excluded from the bargaining unit, the position in dispute will not be moved until agreement is reached between the Agency and Union, or a decision is rendered by the FLRA.
3. The Parties understand that the movement of an individual employee from a position that is included in the bargaining unit to a position excluded from the bargaining unit is not subject to this provision.

Section 1.3 –List of Employees

1. Upon request or as otherwise required by this Agreement, the Agency shall provide to the Union an electronic list in spreadsheet format (i.e., file type .xlsx) of bargaining unit employees that contains the following separate data columns: last name, first name, employing agency, email address, duty telephone number, whether the employee is considered essential or non-essential for the purposes of emergency operations (to include during furloughs), position title, position description number, pay plan, occupational code, grade or level, step or rate, name and location of position's organization, veterans preference (as applicable), tenure, veterans preference for RIF (as applicable), duty station, and immediate supervisor's name and email address. For dual status technicians, the list should also include the following data columns: rank, occupational specialty code (i.e., MOS), and military unit of assignment.
2. Upon request or as otherwise required by this Agreement, the Agency shall provide to the Union an electronic list in spreadsheet format (i.e., file type .xlsx) of non-bargaining unit employees that contains the following separate data columns: last name, first name, employing agency (i.e., Department of the Army), position title, whether the employee is considered

essential or non-essential for the purposes of emergency operations (to include during furloughs), position description number, name and location of position's organization, duty station, immediate supervisor's name and email address, and the statutory reference for why the employee is excluded from the bargaining unit (i.e., 5 USC § 7112(b)(2), (3), (4), (5), (6), or (7)).

3. Upon request or as otherwise required by this Agreement, the Agency shall provide to the Union an electronic list in spreadsheet format (i.e., file type .xlsx) of all bargaining unit employees that were separated/terminated during the previous calendar quarter along with the rule, nature of action code (NOAC), NOA reason/description, authorization code, authority, and remarks for the action taken as listed in the Office of Personnel Management (OPM) Guide to Processing Personnel Actions, Chapter 31, Tables 31-A, B, C, and D.

4. The Union will secure all lists provided under this Section from unauthorized access.

5. The Agency shall maintain and provide to the Union an active electronic mailbox address (a.k.a., email distribution list) that enables a single point of simultaneous communication with all bargaining unit employees and their immediate supervisors.

Article 2

Miscellaneous Provisions

Section 2.1 – Laws, Rules, And Regulations

1. In the administration of all matters covered by this Agreement, the Agency, the Union, and employees are governed by the following (listed in order of precedence):

- a. Existing and future federal law (i.e., the United States Code);
- b. US Government-wide regulations (i.e., the Code of Federal Regulations (CFRs)) in effect at the time this Agreement is approved;
- c. This Agreement; and,
- d. Department of Defense (DoD), US Army, National Guard Bureau (NGB), and SDARNG publications in effect at the time this Agreement is approved that are not in conflict with this Agreement.

2. To the greatest extent possible, any changes to federal law that affect a matter covered by this Agreement, or that result in a change to conditions of employment whether covered by this Agreement or not, shall be subject to negotiation (to the extent that the matter may be negotiable) and/or impact and implementation bargaining IAW Section 6.2 prior to enforcement, unless the effective date of the law prevents such negotiation or bargaining from taking place prior to implementation. In that case, the Parties will engage in post-implementation negotiation and/or bargaining, to the extent allowed under the law, IAW Section 6.2(4).

3. The Agency may not enforce any US Government-wide rule or regulation that conflicts with this Agreement if the Agreement was in effect before the date the rule or regulation was prescribed.

4. No later than thirty (30) days after approval of this Agreement by DCPAS, the Agency shall provide the Union with an electronic copy of all SDNG policies and/or regulations (e.g., SDNG PAMs) as well as any state-wide or local-level policy letters or memorandums that were in effect at the time the Parties executed the Agreement (i.e., the date indicated on the signature page) and that directly pertain to employee conditions of employment. A list of all regulations and policies affected by this Paragraph shall be published in Appendix E.

Section 2.2 – Distribution of Contract

1. No later than thirty (30) days after this Agreement is approved by the Defense Civilian Personnel Advisory Service (DCPAS), the Agency shall notify all employees of the publication and effective date of the new Agreement and how to access the document both on the Agency's internal and public websites as well as how to access it on the Union's public website located at www.local1776.org. The Agency will also notify employees on an annual basis, but no later than

January 15th of each calendar year after DCPAS-approval, of the Agreement's applicability and how to access it IAW this Paragraph. The notices required herein shall be accomplished in writing, shall be acknowledged by the employee, and a record of these notices shall be maintained within the employee work folder (or equivalent record normally maintained by their supervisor) to verify notice was provided as required by this Section.

2. The Agency shall ensure continued and uninterrupted access to this Agreement during duty and non-duty hours via the SDARNG public access internet site. Additionally, each employee-supervisor shall maintain a copy of this Agreement at their assigned duty location in case continued internet access is either unavailable or interrupted.

Section 2.3 – Interpretation of Terms Within the Agreement

1. Wherever language in the Agreement refers to specific duties or responsibilities of supervisors or management officials, it is intended only to provide a guide as to how a situation may be handled. It is agreed that the Agency retains the sole discretion to assign work to supervisors and management officials and to determine which supervisors or management officials will perform the supervisory or managerial functions discussed.

2. Unless specifically defined within the Agreement, all terms used shall have the meaning ascribed to them as per:

- a. Federal Court Decisions;
- b. United States Code (USC);
- c. Federal Labor Relations Authority (FLRA) Decisions;
- d. Code of Federal Regulations (CFR's);
- e. Office of Personnel Management (OPM);
- f. National Guard Bureau (NGB) regulations; or,
- g. Blacks' Law Dictionary.

3. Whenever a dispute arises as to the meaning of a particular term, the Parties will attempt to reach agreement by referencing the sources cited above, in the specific order listed.

Section 2.4 – Other Provisions

1. Unless otherwise stated, all timelines are calculated in calendar days and may be adjusted by request and mutual agreement between the Parties.

2. Upon request, to the extent the request is not partially or entirely prohibited by law, and to the extent that the release of information requested is not already covered by this Agreement:

a. The Agency will provide the Union data that is:

- (1) Normally maintained by the agency in the regular course of business;
- (2) Reasonably available;
- (3) Necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining; and
- (4) Does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining

b. Such data will be furnished to the Union, without charge or delay, and upon a statement of particularized need, to include:

- (1) Why the Union seeks or needs the information;
- (2) How the Union will use the information; and,
- (3) How the information relates to the Union carrying out its representational responsibilities under 5 USC Chapter 71.

c. The Agency will respond within ten (10) days as to whether the Unions request will be granted or denied, whether in full or in part, with justification. Requests that are approved will be provided within thirty (30) days.

3. Communications between the Parties will be conducted in a timely manner. Accepted methods of official communication shall be email and/or letter correspondence. Upon receipt of an official request or communication requiring a response, and to the extent that a specific timeline is not stated in this Agreement, the responding Party shall furnish an acknowledgement and/or reply to the other, to include any supporting or requested documents, within seven (7) days.

4. Failure of either Party to enforce or observe any right afforded to it under law or any provision(s) of this Agreement shall not be deemed or construed as a waiver of such right or provision(s) or of the right of such Party thereafter to enforce or seek enforcement of each and every provision contained herein.

Article 3

Duration & Changes to The Agreement

Section 3.1 – Effective Date

1. Providing that the Defense Civilian Personnel Advisory Service (DCPAS) approves the body of this Agreement, the effective date of the contract shall be thirty-one (31) days after execution by the Parties hereto. Both dates (execution and approval) will be made part of the Agreement prior to distribution.

Section 3.2 – Agency Head Approval

1. DCPAS shall approve the Agreement (including supplements and amendments to) within thirty (30) days from the date the Agreement is executed by the parties, provided the Agreement is in accordance with the provisions of applicable law, rule, or regulation.
2. If DCPAS neither approves nor disapproves the Agreement within the thirty (30) day period, the Agreement shall take effect and be binding on the Agency and the Labor Organization on the thirty-first (31st) day, subject to provisions of applicable law, rule, or regulation.
3. If a particular article, or section of an article, is not approved by DCPAS, the remainder of the Agreement shall take effect as provided by law. The article or section of articles, not approved by DCPAS shall later be incorporated into the contract after negotiations or appropriate remedies are reached by the parties, and subsequent approval by DCPAS is granted.

Section 3.3 – Agreement Duration

1. This Agreement will remain in full force and be effective for three (3) years from the date of approval by DCPAS, or, under the provisions of 5 USC § 7114(c)(3) whichever comes first.

Section 3.4 – Agreement Changes, Amendments, and/or Supplements

1. This Agreement may be subject to changes, amendments, or supplements by mutual consent only for the duration of the Agreement term.
2. Negotiations of changes, amendments, or supplements to this Agreement will be conducted IAW Section 6.3.

Section 3.5 – Negotiating a New Agreement

1. Either Party may request to negotiate a new Agreement after service of notice upon the other no earlier than one hundred and five days (105) nor later than sixty (60) days prior to the termination of the current Agreement term.
2. Negotiations of a new Agreement will be conducted IAW Section 6.3.

Section 3.6 – Renewal of Agreement

1. Failure on behalf of either Party to request negotiations within the window specified in Section 3.5 will allow the Agreement to be automatically renewed for a period of one (1) year to take effect immediately following the expiration of the initial three (3) year term and will be renewed for one (1) year each year thereafter absent such a request.

Section 3.7 – Termination of Agreement

1. This Agreement may be terminated by mutual consent of both Parties or at any time it is determined by the FLRA that the Union is no longer entitled to Exclusive Recognition.

Article 4

Management Rights

Section 4.1 – Retained Rights

1. The Agency retains the right, in accordance with Title 5 USC § 7106(a) to determine the mission, budget, organization, number of employees, internal security practices of the Agency, and in accordance with applicable laws:

- a. To hire, assign, direct, layoff, and retain Military employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
- b. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;
- c. With respect to filling positions, to make selections for appointments from:
 - (1) Among properly ranked and certified candidates for promotion; or,
 - (2) Any other appropriate source; and
- d. To take whatever actions are necessary to carry out the Agency's mission during emergencies.

2. Nothing in this Section shall preclude the Parties from negotiating on:

- a. At the election of the Agency, the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- b. The procedures that Agency officials will observe when exercising any authority granted to the Agency under this Section; or
- c. The appropriate arrangements for employees adversely affected by the exercise of any authority granted to the Agency under this Section.

Section 4.2 – Emergency Considerations

1. An emergency is a serious, unexpected, and/or dangerous situation that was not or could not have been reasonably foreseen or predicted by either Party, and which requires immediate action to prevent loss or injury to life and/or property. When an emergency requires changes to conditions of employment, whether covered by this Agreement, for a period of more than seventy-two (72) hours, the Agency shall provide the Union with the following information:

- a. A list of the conditions of employment that will be temporarily modified;
 - b. A list of individual employees that may be affected; and,
 - c. An estimate of how long changes are expected to remain in place before reverting to pre-emergency operations. Changes expected to last more than thirty (30) calendar days will be subject to negotiation IAW Section 6.3.
 - d. This does not preclude the Agency from implementing changes to conditions of employment during an emergency.
2. The information required in Paragraph 1 may initially be conveyed verbally and will be followed by a written (formal letter or email message) notice to the Union as the emergency permits, but not later than twenty-four (24) hours after changes have been implemented.

Article 5

Employee Rights

Section 5.1 – General Provisions

1. IAW Section 2.2, the Agency will ensure that:

- a. This Agreement is made readily available to all employees in the workplace.
- b. Employees are notified of the Agreement and how it applies to their employment with the Agency during initial in processing and through annual briefings.

2. The Agency may conduct surveys of employees as an information gathering process provided the survey is anonymous and voluntary. This includes climate surveys or assessments. The Union will be provided a copy of the survey before it is fielded, and the results upon the survey's conclusion. Surveys that are mandatory and/or not anonymous are subject to the requirements of Sections 6.2 and 6.3 before the survey is fielded to employees for their response.

Section 5.2 – Access to Personnel Records/Files

1. Upon request, employees will be allowed a reasonable amount of time during their duty day to access their personnel records maintained by the Agency, including but not limited to:

- a. Employee Work Folder (or equivalent) as maintained by their supervisor;
- b. Electronic Official Personnel Folder (eOPF);
- c. All other personnel records maintained by the Agency (i.e., medical, disability, etc.) directly related to the individual's employment with the Agency; and,
- d. Any video or audio recordings maintained by the Agency IAW Section 5.7(3).

2. Upon request, an employee shall be allowed to review their personnel records/files. Such a request shall not be denied, except that an employee's request to review their records/files cannot interfere with the accomplishment of assigned duties. The Agency cannot require that an employee review their record/file during their break or non-duty hours. If the employee's request cannot be accommodated as requested due to mission requirements, the employee will be informed of the earliest possible time when they will be able to review their records/files. The employee shall be available for call back due to mission requirements.

3. The Agency will ensure each worksite has at least one (1) computer terminal that allows employees direct access to any personnel records/files that are maintained in an electronic format. The computer terminal shall also provide employees the ability to print the information contained in their personnel record/folder, as needed. When an employee is unable to access their

personnel record/information at their normal worksite, excused absence IAW Section 9.6 may be granted so that the employee may travel to another Agency facility that has access.

4. As used in this Section, a reasonable amount of time shall be whatever time the employee needs to review the specific record/file requested under the circumstances (e.g., an employee conducting a periodic review of their records/files may not need as much time as one who is preparing to apply for a vacancy).

Section 5.3 – Conduct and Right to Privacy

1. Employees have a right to conduct their private life as they see fit, both during duty and non-duty hours, and to engage in legal activities of their own choosing, including outside employment during non-duty hours, without any requirement to report said activity to the Agency, except as required by federal law. However, an employee's activities, behavior, and/or statements, to include on or posted/uploaded to or through an internet site or forum, platform, or social media application may be subject to monitoring by the Agency and could become the basis for administrative action if nexus is established between the activity, behavior, or statements and the employee's affiliation with the US Government, to include actions or statements in support of overthrowing said government.

2. Except for limitations allowed during a period of stand-by or on-call IAW Section 8.6, the Agency cannot place restrictions on an employee's rights, movements, or ability to engage in legal activities, including but not limited to:

- a. Any right guaranteed under federal, state, or local law to include their freedom of speech, assembly, religion, to own firearms, or their right to petition the government;
- b. Their ability to patronize a legal business or retail establishment;
- c. Their ability to operate or participate in a business, for profit or otherwise;
- d. Their ability to travel for leisure or for any other reason;
- e. Their ability to participate in the political process IAW the Hatch Act; or,
- f. Their ability to use or access the internet, including a personal social media account, on a personally owned computer or other type of electronic device.

3. Except during periods of stand-by or on-call IAW Section 8.6, an employee is under no obligation to respond to a request or contact-attempt by the Agency during non-duty hours, and they are also under no requirement to report their off-duty activity.

4. Employees shall not accept a fee, compensation, gift, payment or expense, or any other item of monetary value in circumstances for which the acceptance may result in or create the appearance of a conflict of interest.

5. Employees may not engage in outside employment that would interfere with the performance of their assigned duties, and they are also prohibited from receiving compensation or anything of monetary value from a private source in exchange for government services.

6. The Agency will not coerce or in any manner require employees to invest their money, donate to charity, join clubs or fraternal organizations, or participate in activities, meetings or undertakings not related to their performance of official duties and especially as a condition of employment or in exchange for or as a condition of an award or for advancement or promotion.

Section 5.4 – Searches of Personal and Government Property

1. The search of work areas must be reasonable in scope, balancing an employee's expectation of privacy against the Agency's need to supervise and operate the workplace. Pursuant to an investigation, an Agency-directed search or inspection shall be conducted in accordance with applicable Government-wide regulations in place at the time this Agreement goes into effect. The requirements of this Section apply to searches or inspections affecting one or more bargaining unit employees.

2. As used in this Section, the terms search and inspection are interchangeable and apply to searches or inspections, whether visual, physical, or electronic of an employee as well as their personal property or government-issued property in their possession or custody at the time of the search or inspection. This includes but is not limited to:

a. Visual and/or physical searches to include pat-down searches or inspections of an employee's body or body cavities. It also includes but is not limited to searches of clothing/apparel/footwear (whether it is currently being worn by the employee or not), vehicles (except in situations covered by Paragraph 3), physical storage containers (e.g., book bags, suitcases, briefcases, hardened cases, etc.), storage lockers, etc.

b. Physical or electronic search or inspection of cell/smart phones, computers, or other electronic communication or storage devices.

3. This Section does not apply to:

a. Vehicle inspections conducted at established entry control points (i.e., gate inspections). No later than thirty (30) days after approval of this Agreement by DCPAS the Agency shall provide the Union with a list of all current entry control points. The Agency shall also notify the Union anytime an entry control point is opened, closed, or moved.

b. Scheduled or periodic inspections of government property or equipment required by governing regulations and/or conducted by authorized local, state, or federal agencies with oversight or responsibility over such inspections. These include but are not limited to workplace inspections required by DoD or US Army regulations (e.g., COMET or CLRT inspections), workplace safety inspections conducted by OSHA, and compliance inspections conducted by local agencies like the state fire marshal.

4. An employee has a right to:

- a. Be present during any search or inspection of their personal property or of government-issued property in their possession or custody.
- b. Have a Union representative present prior to and during any search or inspection.
- c. Refuse a request to search, inspect, or seize their personal property unless the search, inspection, or seizure is pursuant to a written order issued by a competent authority (e.g., a warrant). This includes the right to refuse to provide passwords or other credentials used to secure personally owned electronic devices.

5. An employee does not have a right to be present when a search or inspection of personal or government-issued property in their possession or custody is conducted under the following circumstances. However, the requirements of Paragraph 8 shall be observed:

- a. Seized into evidence pursuant to a written order and the search or inspection can only be accomplished at a location other than where the property was initially confiscated due to the technical or scientific nature of the search or inspection methods employed (i.e., forensic-type inspection or testing).
- b. When a search takes place in a restricted/secure area such as a COMSEC vault or any other type of room or facility where entry is normally restricted per governing regulations and where the employee or their Union representative does not already have the authority to enter.

6. An employee's right to be present and/or their right to have a Union representative present shall not unduly delay or impede a search or inspection. The mere fact that the employee or their Union representative is physically present in the general area where a search or inspection is taking place will not be considered an impediment. The employee and/or their Union representative shall be allowed within a close enough proximity that they are able to substantively observe the actions of the individual(s) conducting the search, to include the ability to discern and/or identify the types of items being searched or inspected including their contents (as applicable).

7. Prior to any search or inspection IAW this Section, the Agency shall make an affirmative attempt to make positive contact with the employee to let them know that a search is pending and to notify them of their rights IAW this Agreement. When an employee is incapacitated and unable to either be present or appoint a representative, the Agency shall contact the employee's spouse, next of kin, or other individual with the legal authority to act on behalf of the employee and exercise the rights contained herein on their behalf. The employee's rights include, but are not limited to:

a. Notice of whether the search or inspection is pursuant to an administrative or criminal investigation and whether it is supported by a written order. When supported by a written order:

(1) Providing the employee with a physical copy of the written order authorizing the search or inspection. If the employee is not present, the written order can be served electronically; and,

(2) Allowing a reasonable amount of time for the employee to review the written order and seek clarification regarding the content and scope of the search.

b. If the search is not supported by a written order, notify the employee that absent a written order they do not have to consent to the search or inspection of personal property.

c. If supported by a written order or if the employee consents:

(1) Determine whether the employee wishes to be present during the search or inspection; and,

(2) Determine whether the employee wishes to have a Union representative present during the search or inspection.

8. A search or inspection authorized by a written order may be conducted outside of the presence of an employee when the Agency exhausts all reasonable attempts to make positive contact. In this case, the Agency shall notify the Union of the pending search and allow them the opportunity to be present regardless of whether it was requested by the employee and as long as that presence does not impede the investigation. The Agency will document the date, time, and reasons for said search and provide the employee and/or the Union with a copy of this documentation within twenty-four (24) hours of conducting the search, to include an inventory of any items seized/confiscated and a point of contact for the investigation and any items seized/confiscated. In so far as a search or inspection of a personally owned electronic device is concerned, the Agency shall provide the employee with a summary of all files or items accessed, downloaded, or reviewed while the item was in the Agency's custody.

9. Searches should normally be conducted by individuals professionally trained in the collection of evidence, such as law enforcement personnel. When trained personnel are not readily available, it is recommended that the suspected item(s) or area(s) be sealed by the Agency pending the arrival of such trained personnel in order to prevent tampering or mishandling of evidence. However, it is the Agency's right to conduct their investigation as they see fit.

10. When a search or inspection of the work area is conducted as a result of an emergency (e.g., search for a lost tool that causes the grounding of aircraft) or due to surreptitious activity (e.g., a bomb threat or other security incident), the Agency is not required to give employees notification of an impending search nor does an employee have a right to be present during the search if such notice or presence hinders the Agency's ability to respond.

Section 5.5 – Representation

1. Employees have a basic right to representation in matters regarding conditions of employment, working conditions, and in matters that could have an adverse impact or effect on their employment, such as disciplinary actions. The Union, or the Union's designated representative, is the sole exclusive representative of bargaining unit employees concerning workplace matters. Employees have a right to either represent themselves or retain third party representation in certain matters and processes not covered by this Agreement (e.g., MSPB appeals).

2. The Agency will ensure employees are aware and understand their Weingarten Rights and their rights to have and retain representation. The Agency will inform all employees of their right to Union representation (Weingarten Right) IAW 5 USC §7114(a)(2)(B):

a. At their respective new hire orientation; and,

b. On an annual basis IAW 5 USC 7114(a)(3) via Agency-mailed notice to the individual's home of record; or, electronically to the employee's official email address.

3. When an employee requests Union representation concerning a covered workplace matter and the Union accepts their request for representation, all communication must be made with or furnished through their Union representative, especially in matters related to investigations and disciplinary actions. The Agency cannot communicate directly with the employee about the specific matter or subject for which they requested representation under any circumstance. When this choice is made, the Agency proceeds under the premise that all communication with the Union representative reaches the employee.

4. An initial request or designation of the Union as an employee's representative may be conveyed verbally to the Agency; however, the Agency may require that such designation be formalized by the employee later either in writing or via email. There is no specific format for conveying such a designation.

5. When an employee requests a Union representative the Agency shall immediately notify the State Representative, or the Local 1776 Business Manager if the State Representative cannot be reached. The Union will then provide the Agency with the contact information of who will be appointed as the employee's representative. The Union is the only entity that can appoint a representative(s) to act on their behalf or on behalf of an employee. The Union also has the right to determine who will attend or be present on their behalf during any meeting or conference held pursuant to a request for representation by an employee. In the same way that the Union cannot interfere with the Agency's right to determine their internal practices, the Agency cannot interfere with the Union's right to assign a representative(s) on their behalf, or place limits on who can be present at a meeting or conference on behalf of the Union.

6. While it is preferred that a representative(s) be physically present in the room with the employee, there are times when a representative may only be able to attend via telephone. Whenever a Union representative attends via telephone, it is important that the representative be able to clearly communicate with all parties involved, especially the employee, to provide

adequate representation. This includes having access to, or being provided copies of, all documents being presented to the employee during the interview. Whenever technical difficulties prevent the Union from providing adequate representation, and/or whenever the Union does not have copies of all documents being presented, the meeting cannot continue until proper teleconference capabilities are secured and/or the Union has been provided all relevant documents. Delaying a meeting for the purposes of securing teleconference capabilities and/or documents under this Paragraph will not be considered an undue delay.

Section 5.6 – Right to Organize and Discuss Matters of Concern

1. Each employee shall have the right to form, join or assist the Union, or to refrain from any such activity, freely and without fear of penalty or reprisal.
2. An employee shall not be disciplined or otherwise discriminated against based on having filed a formal grievance, complaint, or for giving testimony under 5 USC Chapter 71.
3. No employee shall be precluded, regardless of Union membership, from bringing matters of personal concern to the attention of appropriate officials.

Section 5.7 – Employee Treatment

1. Employees have a right to be treated with the common courtesy, respect, and consideration customary of any employer-employee relationship. Agency representatives will not threaten, intimidate, or retaliate against employees or use abusive or vulgar language in dealing with employees at any time. Employees, as well, will treat Agency representatives with common courtesy and respect and will not use abusive or vulgar language in their mutual dealings.
2. Employee discipline should be conducted privately in a manner that provides confidentiality and allows for professional feedback to the employee. No employee shall be asked or directed to make a public statement or disclosure regarding any matter which concerns personal discipline. The Agency will also not discuss or reveal pending or final administrative actions regarding an employee, including discipline, with individuals that do not have a need to know.
3. In general, the Parties are governed by South Dakota Codified Law (SDCL) regarding the recording of audio and/or video while on Agency property. Upon request, an employee shall have the right to review any video or audio recordings of themselves maintained by the Agency IAW Section 5.2(1)(d).
4. An employee has the right to refuse orders that would require them to violate an applicable law, rule, regulation, or this Agreement. Refusal to obey an unlawful or improper order will not subject the employee to disciplinary or adverse action.
5. The Agency shall provide employees with the ability to securely store their personal belongings while at work. This includes secure work facilities that prevent access to unauthorized persons, vehicle parking areas that are lighted and monitored for safety, as well as secure storage of personal belongings. An employee who is on duty, and whose personal

property is damaged, irretrievably lost, or destroyed as a result of the Agency's failure to comply with this Paragraph shall be entitled to file a claim for reimbursement IAW 31 USC § 3721. This Paragraph also applies to any personal item damaged after being seized or confiscated by the Agency IAW Section 5.4

Section 5.8 – Requests for Hardship Reassignment

1. An employee may request, individually or through their supervisor to the HRO, that the Agency reassign them to a different position and or work location because of a personal hardship. The request shall be submitted in writing and must include an explanation of the hardship, how the reassignment would alleviate the hardship, and whether the reassignment would be temporary or permanent.
2. The Agency shall provide a written response no later than thirty (30) days after receipt of a request. If the request is denied the Agency shall state the reason(s) for their decision, to include justification of any claims of undue hardship or negative impacts on its ability to accomplish the mission.

Section 5.9 – Voluntary Actions

1. An Employee may resign their position for any reason, at any time, with or without notice.
2. Barring evidence of unusual or compelling circumstances, especially circumstances beyond the employee's control, when an employee is absent from work for a period of ten (10) consecutive calendar days or more without approval from the Agency they will be considered to have abandoned their position and the Agency may process the employee for termination. However, prior to termination, the Agency should make a deliberate attempt to contact the employee.

Section 5.10 – Dress Code and Appearance for Title 5 Employees

1. There is no specific uniform, clothing material, or style of dress required for Title 5 employees. However, employees are expected to maintain a neat and professional appearance during duty hours. Clothing that is disruptive to the work environment (i.e., loose, torn, soiled, or that presents a safety/health hazard to others) is not allowed.
2. Personnel will generally wear business casual attire and footwear that is compatible with their assigned position. However, personnel who have daily contact with the public, or who are representing the Agency in a forum where members of the general public will be present, may be required to wear specific clothing items up to and including appropriate business attire.
3. When the Agency requires that an employee wear a specific type of attire as a condition of employment, the Agency will provide the item at no cost to the employee to include fair wear and tear replacement. This includes any directive or request to wear a specific type of coat, shirt, tie, pants, business suit, shoe, headgear, or a combination of some or all of these types of clothing items as a condition of the employee's ability to accomplish their assigned duties.

4. Preferences regarding hairstyle and facial hair are a matter of individual concern. The wearing of jewelry is a gender-neutral issue. Visible tattoos must not contain offensive writing or emblems, racist symbols, depictions of explicit sexual activity, or advocate violence. The Agency may not enforce clothing/appearance standards that do not violate the provisions of this Section.

5. An employee whose dress and/or appearance does not comply with this Section may be asked to change their clothing in order to remain at the worksite and may be charged leave if the time needed to change clothing will exceed the time allowed in Section 9.6. Repeated dress code violations may result in disciplinary action.

6. The following clothing items and/or accessories are prohibited:

- a. Flip-flops, beach sandals, slippers.
- b. Sleeveless shirts or tank tops.
- c. Visible face or body piercings (not including earrings or nose studs). All piercings must be reasonably sized, not to exceed eighteen (18) gauge.
- d. Revealing clothing (e.g., mid-drifts, high-cut shorts, miniskirts, low-cut or see-through shirts, tattered or ripped clothing, low hanging pants).
- e. When wearing leggings, shirts and dresses must be long enough (both front and back) to cover the top half of the leggings.
- f. Clothing with offensive writing, emblems, or symbols that are racist, sexually explicit, advocate violence, or political in nature (i.e., campaign pins, buttons, hats, etc.).
- g. Clothing with names, slogans, or advertisements for alcohol or tobacco.

7. In accordance with Title VII of the Civil Rights Act, 42 U.S.C. §2000e, exceptions for religious reasons will be made. Reasonable accommodations for medical needs will also be made. The Agency may not discriminate or enforce clothing or appearance standards based upon gender, age, or cultural differences.

Section 5.11 – Personal Electronic Devices

1. Employees shall be allowed to possess and use personal electronic devices (i.e., cell phones, smart phones, laptops, tablets, iPods, etc.) during duty hours.

2. Use of personal electronic devices is not authorized under the following circumstances:

- a. In secure areas such as COMSEC vaults or any other type of room or facility where the use of personal electronic devices is specifically prohibited by governing regulations pursuant to national security concerns.
 - b. Within hazard areas (e.g., inside the yellow or red lines) such as in a maintenance bay while actively performing work on vehicles, aircraft, or other equipment. Employees may use, store, or keep personal devices immediately outside of hazard areas (e.g., on top of a work bench or toolbox) as long as the device's use or presence does not interfere with general good order and discipline or hinder the ability of the employee or their co-workers from performing their assigned duties.
 - c. While operating government vehicles of any type. However, employees operating GSA passenger vehicles for official travel purposes can use hands-free features that may be available as provided by the vehicle manufacturer.
 - d. To the extent that the use of the device creates a safety risk.
4. The use of personal electronic devices during duty hours should not interfere with the Agency's ability to accomplish its mission. Excessive use of a personal communication device to a degree that interferes with the ability of one or more employees to accomplish their assigned duties will not be allowed and may result in disciplinary action.
5. The Agency may not confiscate nor request that an employee surrender or allow examination of the contents of a personal communication device except during a bona fide investigation, and after the presentation of a properly formulated request issued by appropriate authority. When the Agency seeks to confiscate or examine an employee's personal communication device pursuant to an investigation, the provisions of Sections 5.3, 5.4, and 13.2 will apply.
6. Except for limitations or requirements imposed during a period of stand-by or on-call IAW Section 8.6, an employee is under no requirement to respond to attempts by the Agency to contact them during non-duty hours. The Agency may not enforce any conditions or restrictions governing the use of personal communication devices during non-duty hours, to include any requirement that employees monitor, answer, or respond to calls, voicemails, text messages, emails, or other forms of electronic communication while off-duty.
7. Employees shall comply with South Dakota Codified Law (SDCL) regarding the recording of audio (SDCL 23A-35A-20) and/or video (SDCL 22-21-1).

Section 5.12 – Conditions of Employment

1. When an employee can no longer meet a condition of employment for reasons other than cause, the Agency must take one of the following actions:
 - a. If the situation is of a temporary nature the Agency can:

- (1) Modify the employee's duties to account for the portion they are not able to temporarily fulfill, thus allowing the employee to remain in his/her position;
- (2) Temporarily detail or reassign the employee to a different position. Details or reassignments to a higher-graded position cannot exceed one-hundred and twenty (120) days; or,
- (3) Place the employee on administrative leave.

b. If the situation is permanent, the Agency can:

- (1) Permanently reassign the employee to a different position if one is available and the employee meets the qualifications. Employees reassigned to a lower-graded position shall be entitled to pay retention. The Agency can opt to temporarily detail or reassign the employee IAW Paragraph 1(a)(2) pending permanent disposition.
- (2) Terminate the employee. This should be considered as a last resort and the Agency should exhaust all other options before terminating an employee to include non-competitive appointment if they are qualified for another position.

2. Absent cause, the Agency cannot arbitrarily suspend, curtail, revoke, or restrict an employee's ability to fulfill a condition of employment especially if the employee is ready, willing, and able to perform their assigned duties and would otherwise be able to fulfill the condition(s) of employment were it not for the Agency's action. This includes an employee's ability to enter government property and/or be present at the worksite, or to operate government-owned vehicles. When the Agency prevents an employee from fulfilling a condition of employment, either temporarily or permanently, despite their being ready, willing, and able to fulfill and/or comply with all applicable conditions of employment, the provisions of Paragraph 1 (as applicable) will be observed. When the Agency's action is based on cause, the provisions of Article 13 apply.

3. An employee whose position requires a security clearance, whose access to classified information has been suspended pending adjudication, who is in the process of pursuing an appeal, and who is awaiting a final decision from the Combined Adjudication Facility (CAF) is considered to be temporarily unable to meet a condition of employment IAW Paragraph 1(a).

4. An employee who becomes rank inverted IAW Section 10.5(3) because of an Agency action, to include their being promoted by the Agency in their military capacity, shall be reassigned IAW Paragraph 1(b)(1).

5. Employees assigned to large installations, where the distance between the installation's entry control point and the parking lot adjacent to the employee's assigned duty station exceeds a reasonable distance, will be allowed to use their personally owned vehicles to travel between the installation's entry control point and the duty station's adjacent parking lot. When installation security requirements prohibit the use of personal vehicles, or when an employee's driving

privileges on Agency-owned property are curtailed or revoked despite the employee possessing a valid state-issued driver's license and complying with all safety requirements, the Agency shall provide an alternate means of transportation between the entry control point and the employee's assigned duty station. The provisions in Sections 8.2(1) and 19.5(1) shall also apply.

6. Employees facing administrative actions under this Section shall be entitled to all pay, benefits, and protections afforded to them under federal law, rule, regulation, and this Agreement.

Article 6

Union Rights

Section 6.1 – Recognition and Representation

1. The Union is the exclusive representative of all bargaining unit employees and has a right to be represented in negotiations, formal discussions, and meetings between employees and the Agency that concern conditions of employment, grievances, personnel policies and practices, or any other matter affecting general working conditions regardless of whether employees desire Union representation, to include during meetings conducted for the purpose of alternative dispute resolution (ADR) such as mediation.
2. The Union's right to be represented does not extend to informal discussions between an employee and the Agency, to include performance discussions or EEO counseling.
3. The right to meet and confer will apply to all levels of management within the SDARNG and within the Union, starting with the Union Steward (if one is assigned) and the first level supervisor. It is the intent of the Parties to meet and confer at the lowest level for problem resolution. If the Parties at the initial point of contact feel resolution of a matter is outside their jurisdiction, the matter will be referred to a higher level. This includes Agency sponsored Committees/Meetings dealing with the subjects herein.
4. The Agency shall recognize all Officers and Representatives designated by the Union, to include National Representatives. Upon request, the Union will provide the Agency, in writing, a list of all current Officers and Representatives, to include Stewards.
5. The Union's primary point of contact for all matters is the designated State Representative, or any other representative appointed by the Union. The State Representative or designee will be given reasonable notice of and will be provided reasonable time to be present at meetings or formal discussions concerning any grievance, personnel policy or practice, or other general condition of employment.
6. The Agency shall not interfere in internal Union business. Internal Union business shall be conducted during non-duty hours, or while an employee is in a non-duty status.
7. The Agency agrees that there will be no restraint, interference, coercion, or discrimination against Union representatives as a result of performing their authorized duties under the Statute, and that no employee will be reassigned as a result of participating in protected activity.
8. In consonance with its right to represent, the Union may at any time propose new policy, changes in policy, or resolutions to issues involving conditions of employment or working conditions that are not covered by this Agreement. When the Union submits a proposal to the Agency IAW this Paragraph, the Parties have a duty to negotiate (to the extent that the subject is negotiable) and/or bargain the impact/implementation of said proposal IAW Section 6.3.

9. The LIUNA Local 1776 Business Manager, or their designated representative, is the only official authorized to reach final binding agreement on behalf of the Union concerning any workplace matter and regardless of whether the matter is covered by this Agreement.

Section 6.2 – Conditions of Employment not Covered by this Agreement

1. Except in situations arising out of Section 4.2, the Agency shall negotiate (to the extent that the subject is negotiable) and/or engage in impact/implementation bargaining with the Union prior to implementing, modifying, or cancelling any personnel policy or procedure that affects conditions of employment and or working conditions not covered by this Agreement, regardless of the number of employees affected. In other words, even if the change affects a single employee, the Agency has a duty to comply with this Section.

2. The Union will be provided a written notice of proposed changes thirty (30) days prior to the desired date of implementation. The notice shall be the Agency's finalized plan-of-action, and shall include the following:

- a. Whether the proposal will be a new policy or practice, or if it is a change to an established policy or practice;
- b. Justification for the proposal (why is it necessary); and,
- c. What the immediate and long-term impact will be on employees and the Parties.

3. Upon receiving a notice in compliance with Paragraph 2, the Union will have ten (10) days from receipt of the Agency's notice to submit a request to negotiate (if the subject is negotiable), and/or bargaining on the impact and implementation thereof. The Union will submit a written counterproposal no later than thirty (30) days after notice was received IAW Paragraph 2. Once the Union submits a timely request under this Section, the proposed change cannot be implemented until negotiations and/or bargaining have been completed IAW Section 6.3. Notices that do not comply with the requirements of Paragraph 2 are not actionable and may be rejected outright by the Union.

4. When, due to a change required by federal law, the Agency is unable to provide timely notice IAW Paragraph 2 (above), the Parties will meet, prior to implementation of the changes, to determine how to modify the requirements of this Section, and to explore an alternate arrangement which will satisfy the Agency's need to implement the change(s) while at the same time honoring the Union's right to negotiate and/or bargain the proposed changes to conditions of employment, as applicable.

5. Agency representatives may not formally discuss with employees a change to conditions of employment until the Agency and the Union have completed the requirements of this Section. Any communication between Agency representatives and employees prior to completion of negotiations and/or impact/implementation bargaining, regardless of the medium used (i.e., whether it is communicated in person/verbally, in printed/written form, electronically, or by

using a voice-recorded or video message), about a pending action covered by this Section must be agreed to by the Union before release.

Section 6.3 – Negotiation/Bargaining Procedures

1. The following procedures shall serve as generic ground rules and shall be utilized when either Party requests to negotiate or bargain a matter affecting conditions of employment, regardless of whether the subject is covered by this Agreement, or not. The Parties can mutually agree to modify the requirements herein or may opt to utilize the process contained in Section 25.3.
2. To the extent that the matter being negotiated and/or bargained relates to an agreement, policy, or condition of employment currently in effect, each provision of the current agreement, policy, or condition of employment will remain in effect during the negotiation/bargaining period or until the new agreement is approved in accordance with Paragraph 27.
3. The Parties shall exchange their initial proposals no later than thirty (30) days before the start of negotiations. Negotiations shall normally begin no earlier than forty-five (45) days and no later than ninety (90) days after notice is provided IAW Section 6.1(8) or Section 6.2(3).
4. Each Party will determine the size and compositions of their respective team. The number of employees for whom official time is authorized shall be equal to the number of individuals designated as representing the Agency in any capacity during negotiations. This includes observers, runners, facilitators, and any other persons present in or during the negotiation sessions (in any capacity) on behalf of the Agency.
5. Names of the members on each negotiating team will be exchanged by the parties no later than seven (7) days prior to the beginning of negotiations. Any changes to team composition will be submitted to the other party prior to the start of the next negotiation session.
6. There is no particular order in which proposals must be considered. All proposals exchanged by the Parties in accordance with Paragraph 3 will be on the table at the beginning of the negotiation/bargaining session. Once convened, the Parties will determine the best approach to conducting negotiations.
7. When agreement is reached on a particular item or proposal the item will be off the table and finalized. The Parties will be responsible for determining how to keep track of which items are finalized and considered to be off the table. A finalized item cannot be reopened for negotiation/bargaining unless mutually agreed to by the Parties.
8. If agreement cannot be reached on a particular item or proposal the item may be tabled for later consideration. Either party may request to reopen a previously tabled item at any time during the negotiations/bargaining sessions.
9. Upon reaching agreement on all items being considered, the Parties will execute a signed agreement. Signing constitutes final negotiations/bargaining on the matter at hand. Finalized agreements cannot be reopened unless disapproved in whole or in part by DCPAS.

10. Negotiation Impasse. When the parties cannot agree on a negotiable matter the item shall initially be tabled for later consideration. After all negotiable items on which agreement can be reached have been finalized, the parties shall again attempt to resolve the previously tabled items. If at that point the parties are still unable to reach agreement, then an Impasse shall be declared. Either or both parties may seek the service of the Federal Mediation and Conciliation Service (FMCS). When the services of mediation do not resolve the Impasse, either party may seek the services of the Federal Services Impasses Panel (FSIP).

11. The Union team will be allowed a forty (40) hour block of official time for the purpose of researching, drafting, and finalizing preparations of the initial proposals and counter proposals that are to be exchanged.

12. Union team members shall be in business casual civilian attire while engaged in activities related to collective bargaining, including the research and preparation period authorized in Paragraph 11.

13. Either Party can serve as host for negotiation/bargaining sessions. Location, dates, and times will be determined by mutual agreement.

14. Hosts shall ensure that facilities being used to conduct negotiations are adequate. At least two conference rooms shall be secured for use during each negotiation session; one room shall serve as the primary negotiation room, and the second room shall serve as a caucus room. Each room must provide enough seating and table space to accommodate both bargaining teams simultaneously regardless of the original intended use.

15. The Union is authorized the use of Agency reproduction and printing equipment in preparation for and during this contract negotiation session. The Agency will also ensure that a printer is readily available for use to both parties during the actual negotiation session. Each party will be responsible for securing their own internet access (if needed).

16. During actual negotiations, each team shall only be allowed to have present those individuals identified in Paragraph 5. The Parties recognize that it may be beneficial to have observers present during the negotiation session; however, the presence of observers will be by mutual agreement.

17. Either side may caucus at any time it becomes necessary during the course of any negotiating/bargaining session; however, each caucus will normally not exceed ten (10) minutes. The party calling the caucus will normally remain in the primary negotiation room while the other party retreats to the designated caucus room.

18. Negotiation/bargaining sessions, other than term negotiations, shall be held on normal duty days. The times and duration of negotiation/bargaining sessions shall be determined by mutual agreement.

19. For term negotiations (i.e., negotiating a new Agreement), the Parties, at a minimum, shall meet no less than four (4) days during any five (5) consecutive-day period, and for no less than six (6) hours per day excluding lunch and breaks of any type (including caucus breaks). Recesses for lunch or breaks, other than caucus breaks, will be determined by mutual consent of the parties.

20. Each party will be responsible for maintaining their own notes. No complete transcript of proceedings of negotiations sessions will be maintained.

21. Electronic recording devices of any type will not be used in any form by either party.

22. Once negotiation/bargaining begins, new proposals by either party may only be considered by mutual consent.

23. A concerted effort will be made to keep interruptions to a minimum and to treat each other with dignity and respect in meeting their obligations under this Section.

24. No later than seven (7) days after the conclusion of negotiations/bargaining, the Parties will each designate a representative from their respective team to compose and exchange a “Final Draft” containing all provisions/proposals that were finalized during the negotiations/bargaining process.

25. Upon receiving copies of the “Final Draft” the individuals identified in Paragraph 24 will have seven (7) days to review the draft and identify any errors. As used in this paragraph, an “error” is defined as any difference between a provision/proposal as it appears in the draft and what was agreed to and signed by the Parties. This review period shall not be used to re-open negotiations/bargaining.

26. Upon completion of the review period, but no later than fourteen (14) days after negotiation/bargaining have concluded, the Parties will sign and date the agreement to indicate execution. The LIUNA Local Business Manager, or their designated representative, shall be the only individual authorized to execute agreement on behalf of the Union concerning any matter related to conditions of employment. The Agency will immediately submit the agreement to DCPAS in accordance with DoD regulations. This date will serve as the beginning of the thirty (30) day Agency Head Review period IAW 5 USC § 7114(c).

27. The effective date of the agreement shall be the thirty first (31st) calendar day after execution or the date the agreement is approved under 5 USC 7114(c), whichever occurs first.

28. Disapproval by DCPAS of one provision or a portion thereof shall not affect the effective date of any other provision, or any other portion of a provision, that was not disapproved. Negotiations/bargaining will be limited to provisions disapproved by DCPAS.

29. Specific provisions not approved by the DCPAS may later be incorporated when approved by DCPAS after the parties have discussed and made appropriate revisions, if required.

30. Referral of a proposal to the FSIP, or the Federal Labor Relations Authority (FLRA) in the event of a negotiability dispute, shall not affect the obligation of a party to execute an agreement to deliver the executed agreement to DCPAS for approval. Nor shall referral affect the effective date of the agreement or the effective date of any provision or portion thereof. Any proposals referred to the FSIP shall be deemed a provision of the executed agreement upon both Party's receipt of a FSIP decision ordering them to adopt the proposal.

31. When an item is declared non-negotiable, the Agency shall provide the Union with their position, justification, and/or rationale as to why the item is non-negotiable. The Union may then accept the Agency's declaration of non-negotiability or file an appeal with the FLRA. The rules and regulations of the FLRA will govern procedures for the filing of the appeal.

Section 6.4 – Past Practice (Established Practice)

1. A Past Practice is a longstanding frequent practice that is accepted and known by the Parties, that is not specifically included in this Agreement, and that does not contradict federal law.
2. Neither Party may unilaterally terminate an established Past Practice without providing notice and an opportunity to bargain IAW Section 6.2. It is the burden of the Party claiming the Past Practice to prove its elements.
3. When a Past Practice is determined to be contrary to federal law or this Agreement, the practice must be stopped immediately. The Parties shall meet to bargain over the impact and implementation of the change.

Section 6.5 – Unfair Labor Practices (ULPs) filed with the FLRA

1. The Parties agree that prior to submitting an Unfair Labor Practice (ULP) charge to the Federal Labor Relations Authority (FLRA), the charging Party will notify the other and request a meeting in an attempt to resolve a suspected ULP. The meeting will be an informal attempt to resolve the matter(s) in dispute. If the charged Party fails to respond to the meeting request within the timeline specified in Section 2.4(3), the charging Party may proceed with the ULP.
2. When the Parties do meet in an attempt to resolve the dispute, if after fifteen (15) days from the initial notice a solution agreeable to both Parties has not been reached, the charging Party will then be allowed to file a ULP charge.
3. ULPs filed using the negotiated grievance procedure (NGP) IAW Article 12 shall be bound by the timelines contained therein.

Section 6.6 – Steward Program

1. The appointment and management of Union Stewards is an internal Union matter.
2. Stewards shall be allowed a reasonable amount of Official Time to discharge their representational duties IAW Section 6.7.

3. It is agreed that Stewards will carry out their duties in a way that does not interfere with the Agency's ability to accomplish the mission.

4. Stewards will be available for call back if needed and shall report to their supervisor immediately upon return.

Section 6.7 – Official Time and Travel of Union Representatives

1. Union Representatives shall be permitted a reasonable amount of time during their normal working hours without loss of leave or pay, to include travel to/from the location where the activity is taking place (as needed), to conduct representational activities in accordance with this Agreement, to include the intake, investigation, and processing of grievances, up to and including arbitration.

2. Request for brief absences (less than 24 hours) shall be submitted by the employee directly to their immediate supervisor. Use of email is acceptable. Also, use of the form in Appendix C is recommended but not required. The requester should state their destination, estimated time of return, and the nature of their Union business. If the request cannot be accommodated due to mission requirements, the representative will be informed of the earliest possible date and/or time when they will be able to leave the work site. Union Representatives will be available for call back due to mission requirements.

3. Requests for prolonged absences (longer than 24 hours) will be coordinated by the Union through the Agency's designated representative. The Agency will validate whether the request complies with this Agreement. If the request is not validated, the Agency will notify the Union as to why its request was not validated. If the request is validated, the Agency will notify the respective supervisor(s) that a valid request for Official Time has been submitted on behalf of a particular employee(s). The validated request will serve as the employee's request for absence. Once a supervisor receives a validated request on behalf of an employee, they will notify the employee whether their absence request is approved, or not, based on mission requirements. If disapproved due to mission requirements, the representative will be informed of the earliest possible time when they will be able to leave the work site. Use of email is acceptable.

4. Travel costs for employees conducting internal Union business will be the responsibility of the Union. IAW the Department of Defense (DoD) Joint Travel Regulation (JTR), the Agency shall be responsible for travel costs of employees who are Union representatives in conjunction with representational duties or pursuant to an official Agency request.

5. Whenever an employee meets with the Union concerning a representational matter and that meeting takes place during duty hours, reasonable notification shall first be provided to the employee's immediate supervisor prior to the employee ceasing performance of assigned duties. If the employee cannot be released at that time due to mission requirements, the Union will be informed of the earliest possible time when the employee will be available. Supervisor may not inquire as to the subject of the meeting and cannot deem the employee's release contingent on subject-matter knowledge. No notice is required when representational activities take place

during non-work periods (i.e., before and after regular duty hours, during breaks, or during the lunch period).

6. The mere fact that two employees (one of whom is a designated Union Representative) are having a casual/informal conversation during the workday, and the topic of some or all of the conversation relates to conditions of employment or other general labor matters, does not create an implicit requirement that the Union Representative request approval for Official Time as a condition of such a conversation taking place.

7. The following conditions apply when a Union representative will be delayed in returning to their assigned work site after a period of approved Official Time IAW Section 6.7(1):

a. The employee is required to immediately notify the Agency of the circumstances surrounding the delay and the expected time/date that they will be available to return to work. The Union may provide initial notice to the Agency of a potential delay if, due to injury or other unforeseen circumstance, the employee is personally unable to provide the required notice.

b. If the delay is due to circumstances beyond the employee's control (e.g., commercial travel delays, sickness, or other unforeseen events), the employee shall secure supporting documentation for the delay from an appropriate authority (e.g., airline, car rental company, law enforcement, medical provider, etc.) and, upon return, shall submit an adjusted Official Time request to their supervisor so that their time card may be adjusted to reflect any additional time needed to cover their approved period of absence.

c. When an employee's delay is caused by a commercial travel provider (i.e., airline, rail, bus line), and the delay exceeds twelve (12) hours beyond the originally scheduled return date and time, the employee may be eligible, upon request, for an additional four (4) hours of rest, charged to personal leave, prior to returning to their assigned work site.

d. Delays and or absences from the worksite caused by the employee's neglect, negligence, or failure to observe regulations shall be charged to personal leave and may become the basis for disciplinary action.

8. Paragraphs 1 – 7 notwithstanding, the Union's designated State Representative shall be granted additional Official Time for the purposes of discharging his/her representational duties IAW 5 USC Chapter 71 and this Agreement.

Section 6.8 – Internal Union Business and Access to Agency Facilities

1. Internal Union business shall be conducted during non-duty hours.

2. There will be no restraint, coercion, or discrimination against any employee for serving as a representative of the Union.

3. A request by the Union to access Agency facilities shall not be unreasonably delayed or denied. Subject to normal security regulations and the requirements of Section 6.7(5), Union Representatives will be granted access to Agency facilities as requested.

4. The Union shall be allowed to conduct membership drives before and after duty hours, and during break and lunch periods. Access in conjunction with a membership drive shall be limited to non-work areas such as a lunch or break room or other non-work areas where employees usually gather during periods of rest. In facilities that do not have a lunch or break room, or where the lunch or break room is limited in size or capacity and unable to support employee attendance, the Union will be allowed temporary use of a conference room or other work area.

Article 7

Voluntary Allotment of Union Dues

Section 7.1 - Arrangements for Dues Deductions

1. Dues deduction will be accomplished IAW 5 USC §7115.
2. Employees eligible for bargaining unit membership may elect to have Union dues deducted from their regular paycheck by submitting an SF 1187 Request for Payroll Deduction for Labor Organization Dues form to the Agency either directly or through the Union.
3. Allotments will become effective on the first full pay period commencing after receipt of the applicable form by the Agency's Payroll Office.
4. An allotment shall terminate when the employee leaves the bargaining unit because of any type of separation, transfer, reassignment, promotion or other action which would exclude the employee from the bargaining unit; upon loss of exclusive recognition by the Union; when the Agreement providing for dues withholding is suspended or terminated by an appropriate authority outside DoD; or, when the employee has been suspended or expelled from the Union.
5. Upon receipt of a properly completed SF-1188 and following one calendar year after the employee's dues have been withheld, revocation will be processed as soon as administratively feasible once received in the Payroll Office.
6. Employees shall have the option of dues revocation on their first-year Union membership anniversary.
7. The Agency will make the Union whole for dues not collected resulting from a violation of the provisions herein.

Article 8

Hours of Work & Compensation

Section 8.1 – Work Schedule

1. The Agency shall observe the following work schedules:

a. Employees assigned to aircraft or surface maintenance facilities will observe a 4/10 compressed work schedule (CWS):

(1) Four consecutive ten (10) hour workdays with a thirty (30) minute lunch break.

(2) Hours of operation for the Army Aviation Support Facility (AASF) will be from 0700 to 1730, Tuesday through Friday.

(3) Hours of operation for Surface Maintenance (SM) facilities will be from 0630 to 1700, Tuesday through Friday.

(4) An employee's request to change their regular day off (RDO) to support SDARNG military mission requirements and inactive duty training (IDT) shall not be unreasonably denied.

b. Employees not covered by Paragraph 1(a) may select from one of the following options:

(1) Flexible Work Schedule (FWS):

i. A flexi-tour is a fixed schedule requiring the employee to select a specific start and end time each day. Those times cannot vary.

ii. Schedule must account for eight (8) hours per day, forty (40) hours per week, Monday through Friday, ten (10) days per pay period, with the workday divided into core hours and flexible hours. Employees will be authorized a thirty (30) minute lunch break.

ii. Core hours are from 0830 to 1530 and refers to the period during the workday that all employees must be working. Flexible hours are from 0700 to 0830 and from 1530 to 1700 and refers to the period during the workday when employees can schedule their departure and arrival time.

(2) Compressed Work Schedule (CWS):

i. Four consecutive ten (10) hour workdays with a thirty (30) minute lunch break. Hours of work are 0630 to 1700.

ii. Employees may choose to work either Tuesday through Friday or Monday through Thursday.

iii. The employee is granted one regular day off (RDO) during the work week (Monday or Friday).

Section 8.2 – Reporting for Duty

1. Employees will report for duty on-time. An employee is on-time when they are physically present at their assigned office, cubicle, or maintenance shop ready, willing, able, and in proper uniform/attire. Sections 10.1(2), 11.3(5), and 11.13(1) notwithstanding, employees must wear their assigned duty uniform/attire at all times during the work shift. Clean-up time authorized IAW Section 11.12 may not be used to change into or out of civilian clothes. When adjacent parking is not available and employees are required to park at a remote location (see Sections 5.12(5) and 19.5(1)), time spent traveling on Agency-provided transportation to and from a remote parking lot is considered compensable work for time and attendance purposes.

2. Except during an emergency, employees will provide notice to the Agency no later than two (2) hours after the beginning of their work shift of the conditions that will prevent them from being on-time. A spouse or next of kin may provide the notice required herein when the employee is incapacitated or physically unable to do so. Providing notice within the two (2) hour window does not deem an employee's tardiness or absence as excused.

3. When an employee cannot establish positive contact with their first level supervisor, they should attempt to contact their next level of supervision, and continue to do so, until an Agency representative is reached. Alternate methods of communication such as voice mail, email, and/or text messaging may be used to provide notice when verbal contact efforts have been reasonably exhausted by the employee. Coworkers may not be used to relay information concerning tardiness or absence.

4. Tardiness of less than one (1) hour may be excused when the reasons are justified. Events beyond the employee's control such as abnormal traffic congestion, severe weather, or any other type of event that cannot be predicted are considered justifiable reasons. Unexcused tardiness must be charged to an appropriate leave status or may be coded as absent without leave (AWOL) and may become the basis for disciplinary action. An employee cannot be permitted or required to work during any period charged to leave or coded as AWOL.

6. All duties performed by an employee at the direction of the Agency, including those duties deemed "other" in nature, are considered part of an employee's job requirements or job duties within the established hours of work. An employee cannot volunteer or be required to perform job duties without appropriate compensation, to include overtime and/or duties of a higher pay grade.

7. Emergency duty or unscheduled overtime requirements shall not cause an employee or their family financial harm or disruption. Employees who are off duty shall be granted a reasonable

amount of time to make arrangements for themselves and their dependents (if applicable), to include for return travel when on vacation, prior to reporting for duty. If an order to report for duty requires an employee to forfeit monies already paid to vacation or travel providers or to expend personal funds to secure travel or other services that the employee would not have otherwise spent, the employee shall be reimbursed for expenses incurred IAW the DoD JTR.

Section 8.3 – Lunch Periods and Breaks

1. Lunch is a non-duty period during which an employee is entirely free from work requirements. An employee cannot be required to remain or consume their meal at the workplace during lunch. Lunch should normally be scheduled at the same time each day and can be no less than thirty (30) minutes.
2. When mission requirements prevent an uninterrupted lunch IAW Paragraph 1, an on-the-job lunch of twenty (20) minutes or less may be counted as work time. On-the-job lunch periods are not considered off duty. Employees will be compensated for missed lunch periods with an amount of Compensatory Time equal to the missed lunch period. Where such on-the-job lunch period is in effect, employees must remain at the worksite and be available for work. Employees may not voluntarily/deliberately skip their lunch period as a means of shortening their duty day.
3. Fifteen (15) minute rest/break periods will normally be scheduled at the same time each day during the first half and the second half of an employee's shift. Rest breaks will not be scheduled immediately prior to or after lunch (to extend the meal period), or at the beginning or end of the shift (to shorten the workday). The Agency shall have discretion to adjust paid rest periods, as needed, to accommodate mission requirements.
4. The Agency may authorize additional rest/break periods of a short duration when such periods are deemed beneficial and/or necessary.

Section 8.4 – Overtime Work

1. The Agency may occasionally require that employees work overtime to meet mission requirements. Compensation for overtime work will be IAW federal law and regulation.
2. Overtime is any work-related activity to include travel, whether scheduled or unscheduled, physical or electronic, that an employee accomplishes or participates in at the request of the Agency, including mandatory meetings or events scheduled and/or hosted by the Agency or its representatives, and which require employees to:
 - a. Be present at the worksite during what would otherwise be an off-duty period, to include any requirement to report to work early prior to the beginning of their regular duty day or to remain late at the worksite after their regular duty day ends, regardless of duration; or,
 - b. That an employee performs away from their assigned worksite and regardless of where the work activity takes place, to include at an employee's personal residence or

temporary lodging facility (e.g., in a hotel while on vacation), during what would otherwise be an off-duty period and regardless of whether the employee uses personal or government-issued equipment to accomplish the work.

3. Requiring employees to arrive at the worksite prior to the start of their shift to make ready for work or causing employees to remain at the worksite beyond the end of their shift for them to accomplish personal or shop clean-up, tool turn-in, or any other task is considered compensable overtime work. These types of activities are considered part of the work process and should normally be accomplished during regular duty hours.
4. Except during emergency situations IAW Section 4.2, overtime requirements will be announced as far enough in advance as possible to allow employees the opportunity to make suitable arrangements to perform the overtime work. The term “far enough in advanced” means as soon as the Agency became aware or should have known of the overtime work requirement.
5. The Agency will make every effort to direct or assign employees overtime on an equal basis and shall take into consideration the nature of the work, the need for special skills, the priority of productive or support effort, and the numbers of employees required. In no case will overtime work be directed or assigned to an employee as a reward or punishment.
6. The Agency should make every effort to seek qualified volunteers prior to mandating that an employee performs overtime work. In the event there are insufficient qualified employee-volunteers, the Agency has the authority to direct an employee to work overtime to meet the Agency’s mission requirements.
7. Except during periods of emergency IAW Section 4.2, or when the head of the agency determines that the agency would be seriously handicapped in carrying out its functions or that cost would be substantially increased, the Agency shall provide employees not less than ninety-six (96) hours’ notice to schedule involuntary overtime time.
8. The Agency will take into consideration any personal hardships that overtime work may cause the affected employee(s) and will make every effort to accommodate said hardships. These include issues such as childcare, school, transportation to and from the workplace (especially if an employee participates in car-pooling), previously scheduled leave (especially if the employee is on vacation), and distance from the employee’s home of record to the worksite.
9. Employees scheduled to work overtime will be notified of any cancellation of the overtime requirement by the end of the preceding workday, when possible. Employees scheduled to work overtime on any non-duty day will be notified of any cancellation as soon as it is known but not later than 1200 hours on the preceding duty day, if possible.
10. Upon request, when overtime follows a regular work shift, an employee may be granted a fifteen (15) minute paid break at the beginning of the overtime period and a thirty (30) minute non-paid meal break to begin no later than two (2) hours after the overtime period begins.

Section 8.5 – Call-Back

1. Call-back is the act of requesting that an off-duty employee report to work and perform his/her duties. The requirements of Section 8.4 apply to call-back situations.
2. Unscheduled call back work performed by an employee is deemed at least two (2) hours in duration for compensation purposes.

Section 8.6 – Stand-By and On-Call Duty

1. To deal rapidly with situations that are expected to occur after regular duty hours, employees may be placed on either a stand-by or on-call duty status.
2. Employees may only be placed on stand-by or on-call status pursuant to a formal written order (e.g., memorandum, text message, email, or any other acceptable means of communication) issued by an authorized Agency representative and specifying the start and end time(s), sleep and mealtime periods, the Agency point-of-contact, and restrictions in place for the duration of the stand-by or on-call period. The order shall be acknowledged by the employee. Absent an acknowledgement, the employee is under no obligation to respond during non-duty hours.
3. The Agency may establish limitations or prohibitions regarding alcohol consumption and the use of over-the-counter drugs during a stand-by or on-call period to ensure employees are ready to perform work.

Stand-By Duty

4. Stand-by duty does not allow employees to enjoy their non-duty hours effectively and for their own purpose and should only be used when an immediate response is required. Stand-by employees cannot make arrangements to have someone else cover their duty.
5. Employees are placed in stand-by for specific periods of time that may encompass both regular duty hours and non-duty hours. Employees placed on stand-by during non-duty hours will receive compensation for all hours excluding sleep and mealtime. The total amount of sleep and mealtime that may be excluded from compensation may not exceed eight (8) hours in any twenty-four (24) hour period. If sleep time is interrupted by a call to work, the time spent on duty is considered hours of work.
6. An employee will be ordered to remain at a designated stand-by location, either:
 - a. Restricted to their assigned duty station or to quarters other than their home of record;
 - b. Restricted to his/her own residence; or,
 - c. Restricted to another specifically designated duty location.

7. An employee in a stand-by status is on-duty and will remain in a state of constant readiness. An employee can order/prepare and consume a meal, watch television, sleep, or participate in any similar activity that will not interfere with the ability to perform work. An employee may not leave their designated stand-by location even if they provide a phone number for call-in. When an employee is confined to a location that does not allow access to meals, the Agency will be responsible for providing one (1) meal for each continuous eight (8) hour period of duty. Employees on stand-by may not consume alcohol or take medications that would render them incapable of safely performing their duties.

8. Assignment to a remote location is not enough to confer stand-by status; there must be a formal order issued by the Agency initiating stand-by duty and restricting the employee's location, movement, and activities.

On-Call Duty

9. On-call status is used when a need is anticipated but there is no immediate or specific work requirement present.

10. Employees are placed in on-call status only during non-duty hours, for specific periods of time, and receive compensation only for hours worked. Employees will not receive compensation for merely being on-call.

11. On-call duty does not restrict an employee to a specific physical location, and they may move about freely as long as they can be reached and are within commuting distance. While on-call status imposes fewer restrictions than stand-by, employees must still satisfy all three of the following requirements:

- a. Retain the ability to perform work;
- b. Remain within the commuting area of their designated duty station (i.e., within approximately a one (1) hour driving radius); and,
- c. Be able to be reached immediately either by telephone or other method of communication (e.g., text message).

12. On-call employees are not considered to be on-duty unless actually recalled to work and will observe restrictions on alcohol consumption.

13. On-call employees can make arrangements for another employee to report in their stead.

Section 8.7 – Other Requirements

1. The Agency shall process all pay and benefit entitlements in a timely manner to ensure compensation is received on a regular and recurring basis and to prevent employees from experiencing an unwarranted or unjustified personnel action. This includes compensation for regular and overtime work as well as performing duties of a higher pay grade.

2. Night Pay, Night Shift Differential, Sunday Premium Pay, Holiday Premium Pay, and all other special and/or irregular compensation categories will be computed and paid IAW applicable laws and regulations.

Section 8.8 – Adjustment of Work Schedules for Religious Observances

1. To the extent that it does not interfere with the Agency's mission, an employee will be permitted to modify their work hours to accommodate a religious obligation.
2. An employee will submit a written request to modify their work schedule, to include a request to earn compensatory time in advanced, specifically stating that the request is for religious purposes. The request should be accompanied by acceptable documentation of the need to abstain from work.
3. Requests should be approved or disapproved based strictly on the impact that the employee's absence may have on the Agency's mission and not on a personal judgment about the employee's religious beliefs or their affiliation with a religious organization. When an employee's request is approved, the Agency will coordinate with the employee to determine how the compensatory time will be scheduled and used before the religious observance begins.
4. Request for modification of work schedules should not be granted without simultaneously scheduling the compensatory time during which the employee will work to make up the time. An employee should be allowed to accumulate only the number of hours of compensatory time needed to make up for previous or anticipated absences from work for religious observances.
5. If an employee is absent when he or she is scheduled to perform compensatory time to cover a planned absence for a religious observance, the employee must take paid leave, request leave without pay, or be charged absent without leave, if appropriate. These are the same options that apply to any other absence from an employee's basic work schedule.

Article 9

Leave

Section 9.1 – General Provisions

1. An employee's request to take earned personal leave (i.e., annual leave, compensatory time, or time-off awards) may be granted upon request unless the employee's presence is required to meet mission requirements. An employee's request to take personal or sick leave to cover a period of absence due to personal illness or that of their dependent, or to take personal or military leave to cover a period of military duty, may be granted upon request regardless of mission requirements.
2. Employees are encouraged to apply for all leave as far in advance as possible; however, the Agency cannot require employees to forecast their leave as a condition of approval. There is no set requirement, and none may be placed, on how far in advance a request must be submitted for it to be approved.
3. Approval or denial of personal leave is based solely on the Agency's mission requirements at the time the request is submitted. If an employee has sufficient leave to cover the period of absence and their absence will not negatively impact the Agency's mission, then the supervisor may approve the request.
4. An employee may cancel previously requested leave at any time.
5. All leave requests (paid and unpaid) shall be submitted using OPM Form 71, or its equivalent.
6. Leave entitlements not specifically addressed in this Agreement will be utilized IAW applicable law and regulation.
7. An employee who participates in a car or vanpool may receive special consideration when their request for leave is submitted due to their car/vanpool leaving early. The request may be approved unless their absence will negatively impact the Agency's mission.
8. Once approved, annual leave, compensatory time, or time-off awards should not be cancelled unless the employee's presence is necessary to meet mission requirements IAW Section 4.2. Prior to cancellation, the Agency shall consider any personal or financial hardship to the employee to include the potential loss of deposits or payments made to vacation providers and retailers including hotels, airlines, cruise ships, etc. The Agency shall provide justification for any cancellation decision and will work with the employee to mitigate any personal or financial hardship caused, to include delaying the employee's return if such a delay will not have a significant impact on the Agency's ability to accomplish the mission. A cancellation of approved leave in violation of this Paragraph that results in financial harm to the employee shall be compensable IAW Section 8.2(7).

9. Advance leave (either annual or sick) is not an entitlement; however, the Agency may not arbitrarily deny an employee's request solely because there is no explicit entitlement in the law. The determination to approve or deny an advanced-leave request shall be based solely on the individual circumstances of the employee making the request. When submitting a request for advanced leave, the employee shall include:

- a. Justification for the request to include any/all supporting documentation; and
- b. Whether the employee will suffer serious financial harm if the requested advanced leave is not approved. To support a claim of serious financial harm the employee must be able to demonstrate that they are forecast or will be absent for a minimum of eighty (80) or more hours in a non-paid status, either consecutive or aggregate, during the ninety (90) day period immediately following the effective date of their advanced-leave request, and they have no other type of leave available for use. The reason for absence cannot be due to cause or personal misconduct.

Section 9.2 – Personal Leave (Annual Leave, Compensatory Time, and Time Off Awards)

1. Supervisors will approve or disapprove properly submitted requests for non-emergency personal leave as soon as possible. If a request is disapproved, the reason will be documented on the OPM Form 71, or its equivalent, and the employee will be notified immediately. The supervisor will work with the affected employee to reschedule the disapproved leave, as necessary.
2. Personal leave requests for emergency reasons will be considered on a case-by-case basis and may be granted even if the employee's absence will have a negative impact on the Agency's mission. Employees will notify their supervisor as soon as possible of the emergency stating the reason for the request and the time they desire to be absent from work.
3. When two or more employees from the same work section submit a leave request covering the same period of absence, and mission requirements prevent approval of all requests, the following procedures will apply:
 - a. If the request is submitted less than eight (8) weeks in advanced, approval will be granted on a first come first served basis.
 - b. If the request is submitted more than eight (8) weeks in advanced, the senior employee based on their service computation date (SCD) will have priority for approval:
 - (1) Service computation dates may be invoked only one time during a calendar year. However, supervisors shall consider the prior leave requests and approvals of the employees affected to ensure fair execution of the personal leave program.
 - (2) The Agency or designated representative (supervisor) will notify the employees concerned of the decision at least seven (7) weeks in advance of the leave requested.

4. Employees may exhaust all their personal leave balance during one continuous period of absence and for any reason, insofar as mission requirements permit. Supervisors cannot require that employees maintain a minimum personal leave balance. Supervisors also cannot require that employees provide a reason or justification for non-emergency personal leave as a condition of approval.

5. Supervisors or employees may request the carry-over of use/lose annual leave if the mission dictates that leave cannot be used before the first pay period of the new calendar year; however, approval is not an entitlement.

6. Employee requests for advanced annual leave shall be made in writing through their supervisor to the HRO. The request will include the number of hours applied for and justification IAW Section 9.1(10). The maximum amount of annual leave that can be advanced is limited to the amount of annual leave an employee would accrue for the remainder of the leave year. Advance annual leave is not an entitlement. Employees will be required to repay the amount of advance leave for which he or she is indebted in the event they separate from federal service prior to accruing the amount of leave previously advanced.

Section 9.3 – Sick Leave

1. Employees may request sick leave to cover a period of absence due to personal illness or medical condition, or to care for a dependent who is ill. When an employee has sufficient sick leave to cover a period of absence due to illness, the Agency shall approve the sick leave as requested. The Agency may not ask or require that the employee provide a specific medical reason or condition in support of a sick leave request made IAW this Section. When the request is in support of a medical appointment, the Agency may not inquire as to why the employee did not schedule the appointment on a non-duty day or compel an employee to reschedule a medical appointment to a non-duty day in lieu of sick leave approval.

2. The Agency may require a medical certificate to support use of sick leave lasting more than three (3) consecutive days. The certificate need only confirm that the employee or their dependent was under the care of a medical professional during the period of absence without any requirement to disclose a specific medical condition. When requested, an employee must provide administratively acceptable evidence or medical certification within fifteen (15) days of the Agency's request. If the employee is unable to provide evidence despite the employee's diligent good faith efforts, they must provide it within a reasonable period of time but no later than thirty (30) calendar days after the Agency makes the request. If the employee fails to provide the required evidence within the specified time period, he or she is not entitled to use sick leave.

3. An employee's signed statement certifying that the period of absence is chargeable to sick leave may be accepted when it is unreasonable to require a medical certificate. Circumstances under which an employee's signed statement is acceptable in lieu of a medical certificate are:

- a. Their inability to secure an appointment with a medical professional during the period of illness/incapacitation.

b. Remoteness of the medical facility.

c. Temporary illnesses if the nature of illness would not necessarily require the services of a medical professional (e.g., common cold or other instances of temporary non-emergency conditions).

d. If acquiring a medical certification would cause a financial hardship.

4. If there is a reasonable suspicion that sick leave is being abused, the Agency reserves the right to require a medical certificate for sick leave of any duration. However, prior to requiring a certificate under this Paragraph, the Agency shall counsel and advise the employee, in writing, of their suspicion that sick leave is being abused and that a medical certificate will be required to support any future approval of sick leave regardless of duration. This notice will contain the evidence the Agency is relying upon to require a medical certificate and shall notify the employee of their ability to grieve the allegation of sick leave abuse IAW Section 12.4. The Agency will review the sick leave record of an employee suspected of sick leave abuse every six (6) months to determine if this requirement should continue. The employee will be advised, in writing, of the Agency's determination.

5. Employee requests for advanced sick leave shall be made in writing through their supervisor to the HRO. The request will include the number of hours applied for and justification IAW Section 9.1(10). The maximum amount of leave that can be advanced will be IAW current federal regulations. Employees will be required to repay the amount of advance leave for which he or she is indebted in the event they separate from federal service prior to accruing the amount of leave advanced owed.

Section 9.4 – Compensatory Time

1. Compensatory Time (CT), including CT for travel, shall be granted IAW applicable law, rule, regulation, and this Agreement. CT should be used before annual leave unless the employee is in a use/lose leave status.

2. An employee must use accrued CT by the end of the twenty-sixth (26th) pay period (one year) after the pay period during which it was earned. Title 5 employees shall be compensated for all CT not used by the end of the twenty-sixth (26th) pay period (one year) after the pay period during which it was earned. Dual status technicians who fail to use their accrued CT within one (1) year will forfeit the benefit unless their failure to use it was due to mission requirements (civilian or military) beyond the employee's control.

3. When traveling on official business during non-duty hours, employees shall earn CT for all time spent traveling to include time spent at an airport, rail, or bus terminal awaiting departure of their next segment of travel.

Section 9.5 – Leave Without Pay (LWOP)

1. An employee's request for leave without pay may be granted as follows:

a. When serving as an officer, employee, or representative of the Union:

(1) An employee who has been duly elected or appointed as a Union Officer or Delegate, and whose official Union duties may require an extended absence from their regular position, may be granted personal leave and/or leave without pay upon request, not to exceed four (4) cumulative years, pursuant to a sixty (60) day written notice. LWOP shall not be granted for the purposes of political campaigning.

b. To deal with personal matters or emergencies.

2. Eligible employees are entitled to LWOP for the following purposes:

a. The Family and Medical Leave Act of 1993 (FMLA), provides covered employees with an entitlement to a total of up to twelve (12) weeks of unpaid leave (LWOP) during any twelve (12) month period for certain family and medical needs. Military caregiver leave allows an eligible employee who is the spouse, son, daughter, parent, or 'next of kin' of a covered veteran with a serious injury or illness to take up to a total of twenty-six (26) workweeks of LWOP during a single twelve (12) month period to provide care for the veteran.

b. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) provides employees with an entitlement to LWOP when employment is interrupted by a period of service in the uniformed service.

c. Executive Order (EO) 5396, July 17, 1930, provides that disabled veterans are entitled to LWOP for necessary medical treatment.

3. LWOP in conjunction with Federal Holidays:

Employees who are in LWOP status immediately before and immediately after a federal holiday are not eligible to be paid for the holiday. All employees are entitled to receive basic pay for the regular work hours that fall on a holiday when in a paid status the entire workday before or after the holiday. Workday means the entire period of regular work hours between the commencement of the principal activities that an employee is engaged to perform on a given day, and the cessation of the principal activities for that day. This paid leave must be in the same pay period as the holiday.

Section 9.6 - Excused Absences (Administrative Leave)

1. Excused absences may be granted IAW applicable laws and regulation. The intent of an excused absence is to provide for authorized brief absences from duty without loss of pay and without charge to other paid leave.
2. The Agency has the authority to grant or disapprove requests for excused absences.
3. Excused absence may be granted for the following non-exclusive reasons:
 - a. To comply with an examination (medical or academic) directed by the Agency to determine civilian and/or military medical qualification or disability of an employee, including but not limited to:
 - (1) Medical exams, including hearing and vision, and/or periodic physicals related to an employee's assigned duties.
 - (2) Dental exams required of dual-status technicians by their respective military service will be limited to two (2) doctor's visit per year. The amount of excused absence granted shall be the amount of time needed to cover the medical appointment, plus the amount of time needed to cover travel to and from the employee's assigned duty station and the medical facility.
 - b. To vote or register in civic elections or in civic referendums which directly affect the town, ward/precinct, district, county, or state in which the employee's home-of-record is located.
 - (1) An employee may be excused from duty up to three (3) hours after the polls open, or to leave work three (3) hours before the polls close, whichever results in the lesser amount of time off.
 - c. To volunteer as blood or apheresis (i.e., plasma) donor, without compensation, to the American Red Cross, to military hospitals, or other blood banks, or in response to emergency calls for needy individuals or national catastrophes.
 - (1) Employees may be authorized a maximum of four (4) hours excused absence for blood donations.
 - (2) This excused absence is authorized once every sixty (60) days and is for the express purpose of donating blood or blood products and recuperation.
 - (3) Any leave granted must be utilized at the time of the donation and may not be taken at a later date.
 - (4) A longer period may be authorized only when required for donor recuperation purposes.

d. To review their personnel records in order to fulfill administrative responsibilities in connection with transfers (civilian or military) within or separations from the Agency.

(1) Time authorized under this sub-paragraph is limited to six (6) hours per calendar year.

(2) Travel time in connection with activities under this sub-paragraph does not count against the six (6) hour annual limit.

e. For dual-status technicians, to secure a Department of Army (DA) photograph when such photograph is required due to the employee's membership in the SDARNG.

f. To allow an employee to return to their residence, change clothing, and return to the worksite within a reasonable amount of time, when an employee's duty uniform or attire becomes unserviceable while performing their duties.

Section 9.7 – Dismissals Related to Hazardous Weather and Other Emergency Conditions

1. When hazardous weather or other emergency conditions (i.e., loss of power, water, or heat) are affecting, or are forecasted to affect, an employee's home of record or worksite, the Agency may approve an employee's request for leave, regardless of mission requirements, so that they may take care of their personal affairs. A request under this Paragraph is considered an emergency-leave request IAW Section 9.2(2).

2. The Agency shall grant excused absence (administrative leave) to an employee that is prevented from reporting to duty or is dismissed by the Agency prior to the end of the duty day because hazardous weather or other emergency conditions make it unsafe or impractical for the employee to either travel from their home to the worksite, remain at the worksite, or travel from the worksite to their home.

a. If an employee requests leave under Paragraph 9.7(1) prior to an administrative dismissal being authorized under Paragraph 9.7(2) then they will be charged leave until the time set for dismissal.

b. If an employee is already scheduled to be absent for the entire work shift on a day when administrative leave is approved under this Section then the entire absence is charge to the appropriate leave status requested and they will not be eligible for administrative leave.

3. Unless notified otherwise, employees are to presume that their worksite will be operational each regular workday regardless of weather or other emergency conditions.

Section 9.8 – Funeral Leave

1. An employee is entitled up to three (3) consecutive or non-consecutive workdays to make arrangements for, or to attend, the funeral or memorial service for a qualifying family member, as defined by 5 CFR § 630.803, who died as a result of wounds, disease, or injury incurred while serving in a combat zone (IAW 26 USC § 112) as a member of the Armed Forces of the United States. The employee shall furnish justification for scheduling nonconsecutive days.

Section 9.9 – Leave in Conjunction with Military Duty

1. An employee who is also a member of the Reserve Component is authorized fifteen (15) days, or one-hundred and twenty (120) hours, of military leave each fiscal year to cover periods of absence from work to perform military duty. However, employees are entitled to use any combination of military leave, annual leave, compensatory time, time-off awards, or leave without pay (LWOP) in conjunction with military duty performed during their regular duty hours. The following guidance applies:

- a. Military duty includes training or duty such as active duty for operational support (ADOS), annual training (AT), and other federal duty statuses approved by law. Normally, these duty periods are equal to one twenty-four (24) hour period of duty, or one day.
- b. Employees performing military duty during their regular workweek will be charged an amount of leave necessary to cover the portion of their civilian work shift affected by the active-duty period.
- c. Military leave may not be used to cover periods of state active duty (SAD). However, employees may use any other leave status mentioned in Paragraph 1 (above) to cover the period of absence as a result of SAD, as well as law enforcement leave (LEL) as described in Paragraph 3 (below).

2. When using leave in conjunction with Inactive Duty Training (IDT) periods:

- a. IDT is training or duty other than active duty. This includes Unit Training Assemblies (UTA), and MUTA (Army) periods.
- b. IDT is scheduled in a minimum of 4-hour increments. Up to two (2) IDT periods may be scheduled in one day. For example, a normal UTA is scheduled over the course of two non-workdays (usually Saturday and Sunday), and is equal to four IDT periods. On occasion, employees may be required to perform IDT, such as a MUTA 5 or 6 during their regular workweek.
- c. Employees performing IDT during their regular workweek, and at their civilian duty station, will only be charged the amount of leave necessary to cover the period of training. The length of the duty period is calculated based on the time the employee was required to report for military duty until the time they were dismissed from said duty. If

an employee is dismissed from military duty prior to the end of their regular civilian work shift, the employee will be required to return to fulfill their civilian duties until normal dismissal time. Employees who choose to leave the worksite immediately after their military duty period, but prior to the end of their civilian duty day, will have to cover the period of absence with an appropriate amount and type of leave.

d. Employees whose IDT unit location is separate from their normal worksite will be allowed to use an amount of leave necessary to cover both the period of training and any necessary travel. The time allowed for travel is whatever amount of time is reasonably needed to arrive at the duty location.

3. An employee who is also member of the National Guard, and who has been called to duty in support of civil authorities in the protection of life and property or in support of a contingency operation is entitled to one-hundred seventy-six (176) hours, or twenty-two (22) days, of additional military leave each calendar year, otherwise known as law enforcement leave (LEL).

a. Employees are not authorized to retain both their military and civilian pay when using LEL.

b. The offset rule requires that an employee's civilian pay be reduced by an amount equal to the military pay (not including travel, transportation, or per diem allowance) received for military service while in an LEL status. In other words, full military pay is received, but the offset rules require a crediting of the military pay against civilian pay, thus, reducing the employee's civilian pay.

c. Civilian pay is not reduced for military pay received for service on non-workdays.

d. A copy of the employee's active-duty orders and a certificate of attendance must be furnished to their civilian payroll office in conjunction with their time and attendance record for each period during which LEL is used.

e. Carryover of all or a portion of the one-hundred seventy-six (176) hours is not permitted.

4. An employee who is also member of a Reserve Component is entitled to use forty-four (44) days of military leave, or three-hundred fifty-two (352) hours, without loss of, or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance efficiency rating for days in which serving on active duty without pay. The active duty must be performed under Title 10 U.S.C. 12301(b) or 12301(d) for participation in operations outside the United States, its territories and possessions.

a. The leave is charged in units of whole hours on the same basis as annual and sick leave. Holidays and non-workdays are not charged.

b. Employees may also use annual leave, compensatory time, or leave without pay in conjunction with the 44-day leave.

c. The entitlement is on a calendar year basis. There is no entitlement to carry over any unused military leave from one year to the next.

d. While on 44-day military leave, employees receive their civilian pay for time they would otherwise be in a paid civilian duty status.

e. Members are entitled to military retirement points and medical coverage while on military duty in a non-pay status.

f. Employees must elect prior to deployment the period during which they will use the 44-day military leave and other appropriate leave.

g. Employees must initiate/request the use of the 44 workdays of ML and/or other appropriate leave by submitting an OPM Form 71 (or its equivalent) and a copy of their military duty order prior to deployment. Requesting leave is the responsibility of the employee and must be requested in advance of use – not retroactively.

5. A military technician may not be placed in a leave status to perform duty in an RMP status. Additionally, a military technician may not perform duty in an RMP status to accomplish activities that are within the normal requirements and workload of the military technician's job description.

6. The Agency may implement policies and procedures that govern the justification, scheduling, and use of leave in conjunction with military duty under this Section. However, those procedures may not interfere with an employee's right to be absent from work in order to perform military duty.

Section 9.10 – Court Leave

1. Employees are authorized court leave with pay when summoned in connection to serve as a juror or as a witness in a nonofficial capacity on behalf of any party in connection with any judicial proceeding to which the federal, state, or local government is a party.

2. If an employee is on annual leave when called for jury duty or witness service, court leave shall be substituted. No charge shall be made to annual leave for the court service.

3. An employee who is under proper summons from a court to serve on a jury should be granted court leave for the entire period, regardless of the number of hours per day or days per week the employee serves on the jury during the period.

4. Jury service for which an employee is entitled to court leave does not include periods when the employee is excused or discharged by the court, either for an indefinite period, subject to call by the court or for a definite period in excess of one (1) day. Therefore, an employee may be required to return to duty or be charged annual leave if excused from jury service for one (1) day

or even a substantial part of a day. The employee may not, however, be required to return to duty if it would cause a hardship.

5. When an employee is called for court service (as a witness or juror), the court order, subpoena, or summons, if one was issued, must be presented to the supervisor as far in advance as possible.

6. The employee cannot retain fees received for jury duty and witness service performed. The employee must submit fees received for jury or witness service by money order or personal check to the Agency. A certificate of attendance from the clerk of the court must also be submitted. The certificate shows inclusive dates of jury duty or witness service and amount of fees the court paid to the employee. The certificate of attendance, separately, should identify fees and allowances.

7. Fees received by the employee are collected while allowances are not collected. If the certificate of attendance does not identify allowances separately, all moneys are considered fees and shall be collected.

8. The employee may keep reimbursements for expenses received from the court, authority, or party that caused the employee to be summoned, and may keep fees that exceed the employee's compensation for the days of service. An employee serving on a jury in a state or local court who waives or refuses to accept jury fees is still liable to the U.S. Government for the fees that would have been received.

Section 9.11 – Voluntary Leave Transfer Program

1. The Agency shall establish procedures to allow for the accrued annual leave of one or more employees to be transferred for use by another employee within the Agency who needs such leave due to a serious medical condition. Leave donated must be accrued and available at the time of donation. Employees may not donate leave to an immediate supervisor. Interagency leave transfer (i.e., between two employees working for different federal agencies) is permitted if both the recipient and donor are family members.

2. A serious medical condition as used herein pertains to either an employee or the care of a family member that will require an employee's absence from duty for a prolonged period of time resulting in serious financial harm to the employee due to the unavailability of paid leave. To support a claim of serious financial harm the employee must be able to demonstrate that they are forecast or will be absent for a minimum of eighty (80) or more hours in a non-paid status, either consecutive or aggregate, during the ninety (90) day period immediately following the effective date of their request to become a leave donor, even if they have personal leave available for use.

3. The maximum amount of annual leave that may be donated during the leave year shall be the lesser of:

- a. One-half of the amount of annual leave the donor would be entitled to accrue during the leave year in which the donation is made; or,

- b. The number of hours remaining in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.

Note: These limitations may be waived according to the Agency's established written criteria. The waivers shall be documented in writing.

4. Donated leave may only be used by the intended recipient and may not be used for any purpose other than prolonged absences caused by a verified serious medical condition.

5. Upon termination of the serious medical condition, the unused donated leave shall be transferred pro rata back to each donor who may then elect to:

- a. Credit the unused donated annual leave to their annual leave account in either the current leave year or as of the first day of the first leave year beginning after the date of election; or

- b. Donating unused donated leave in whole or part to another leave recipient.

Article 10

Military Aspects of Employment

Section 10.1 – Duty Uniform for Dual Status Technicians

1. Dual status technicians (DSTs) will wear the military uniform IAW federal law, US Army regulations, and this Agreement.
2. DSTs are not required to wear the military uniform under the following situations:
 - a. During non-duty hours
 - b. When on Official Time acting as a Union Representative.
 - c. While appearing as an aggrieved employee or Union witness before a third-party proceeding.
 - d. While wearing maintenance coveralls or any other type of approved overgarment while accomplishing their assigned duties. However, the wear of maintenance coveralls or other overgarments shall be confined to the grounds of the employee's assigned duty location, to include maintenance areas (i.e., maintenance bays, wash racks, motor pool and staging areas, the flight line, or anywhere else where an employee accomplishes maintenance tasks) and common areas (i.e., maintenance offices, break rooms, restrooms, smoking areas, and any other common areas not considered a public space). Employees must be in proper military attire at all other locations during duty hours.
3. Employees receive their normal issue of military apparel through their membership in the SDARNG. The Agency shall provide employees with a total of four (4) sets of their primary duty uniform and all accessories required for proper uniform wear IAW military regulations. The following process will be observed when requesting uniform items:
 - a. STEP 1: Employees will submit orders for required uniform items through their military unit of assignment's supply system. The request shall be submitted via email, with a courtesy copy furnished to the employee's immediate supervisor.
 - b. STEP 2: The military unit will review the order to ensure the employee is authorized to be issued the items requested and will place an order for the items which the employee is authorized to receive. The order shall be placed as soon as possible, but no later than seven (7) days after the uniform items were requested. The unit will provide the requesting employee and their supervisor confirmation of order placement and expected date of issue, no later than forty-five (45) days after initial order.
 - c. STEP 3: If the uniform items are not expected to be issued within forty-five (45) days after initial order, the Agency will secure the uniform items through alternate means, to include local purchase.

4. In addition to the items required in Paragraph 3, the Agency will provide DSTs with safety and protective clothing/equipment IAW Section 11.3.

Section 10.2 – Fitness for Duty Requirements

1. DSTs who are injured while on military duty, and whose injury prevents them from performing the duties of their civilian position:

- a. Shall immediately, upon notice to the Agency, be placed in an incapacitation (INCAP) pay status IAW applicable laws, rules, and regulations.
- b. Shall be entitled to all pay and benefits allowed per governing law and regulation to include any incurred or potential loss of income from their inability to perform the duties of their civilian position.
- c. To the extent that a technician who is injured on military duty is still fully or partially able to perform the duties of their civilian position, the Agency shall, as soon as circumstances permit, make every effort to allow them to return to said duty in either a full or light duty capacity to mitigate any adverse financial impact to the employee.
- d. When a technician is unable to perform the duties of their assigned position the Agency shall exhaust all efforts to temporarily reassign the employee to a position that can accommodate whatever limitations are present because of their injury.
- e. The Agency shall appoint a Technician Injury Advocate on behalf of the employee to serve as the employee's single point of contact for their injury and return-to-work efforts, and to serve as a liaison between the employee and Agency departments, whether civilian or military, with oversight of the employee's injury status and their pay and benefits.

Section 10.3 – Military Retention Boards and Technician Employment

1. The Agency shall notify a DST not selected for retention of the process for submitting a request to be retained in their current military assignment IAW applicable laws, rules, and regulations. The notice shall be accomplished via official memorandum and shall be separate from the notice required IAW applicable laws, rules, and regulations.

2. Upon submitting a request IAW Paragraph 1, a DST shall be retained in the military, shall not be considered for involuntary separation by their military branch retention board program, and shall be entitled to re-enlist if an enlisted member, so as to maintain eligibility for continued employment as a DST until they reach unreduced annuity eligibility if they meet the following criteria:

- a. Is fully qualified and properly performing the requirements of their military position;
- b. Is fully qualified and properly performing the requirements of their technician position;

- c. Is not eligible for an immediate unreduced retirement annuity;
 - d. Has at least fifteen (15) years of service creditable toward such an annuity on the date they would otherwise be removed from their unit; and,
 - e. Will become eligible for such unreduced annuity on or before the last day of the month in which they become sixty-four (64) years of age.
3. To be considered as properly performing technician duties the employee's previous three annual average appraisals ratings must be at a fully acceptable level of three (3) or above.
 4. To be considered as meeting military standards, the technician must be in compliance with the requirements of 32 USC § 709(b) and must be fulfilling all the requirements of their military position.

Section 10.4 – Uniformed Services Employment and Reemployment Act (USERRA)

1. The Agency will abide by all the requirements of 20 CFR Part 1002. The Agency also may not implement or enforce requirements or conditions on an employee's service in the uniformed services that are more restrictive than those contained in the USERRA statute.
2. An employee's request for advanced annual leave to cover a period of absence for the reason of performing military service shall not be arbitrarily or unreasonably denied particularly in cases where the reason for the advanced-leave request is to mitigate or reduce the accrual of debts associated with mandatory regular/recurring deductions from their federal civilian employment (e.g., Federal Employee Health Benefit insurance premiums) that result from extended periods of leave without pay (LWOP).

Section 10.5 – Other Military Considerations

1. Unless specifically identified in their position description, technicians may not be required to accomplish duties pertaining to military training, readiness, force protection and other military-related assignments including, but not limited to, training of traditional Guard members, military exercise participation, mobility exercise participation, weapons qualification training, participation in military formations, or medical mobility processing. These tasks have no impact on the classification of a technician's civilian position and may not be addressed in a technician's performance standards.
2. DSTs may not attend military technical training schools in civilian status. Attendance at these schools must be in a military active-duty status for the attendee to achieve successful completion of the training requirements.
3. Military grade/rank inversion is not allowed:

- a. A dual-status technician's military rank/grade must be equal to or lower than that of their immediate supervisor. Whenever two or more employees hold the same rank/grade, their date of rank (DOR) shall be used to determine seniority in regard to rank inversion.
 - b. IAW Section 5.12(4), an employee may not suffer an adverse administrative action due to rank inversion resulting from an Agency-initiated military personnel action.
 - c. Military grade/rank inversion does not apply to Wage or Work Leader (WL) positions because they do not meet the legal definition of "supervisor" regarding assigned duties and responsibilities. A technician occupying a WL position can possess a lower military rank/grade than their counterparts.
 - d. Military grade/rank inversion does not apply to Title 5 employees, even if the employee is a member of the National Guard or Reserves.
4. Military occupational specialties (i.e., MOSCs, CMFs, and WOMOSs), officer areas of concentration (AOCs), and rank/grade requirements for technician vacancies will be included as part of vacancy announcements, as follows:
- a. The Agency will consider applicants from all compatible occupational specialties and/or areas of concentration for each vacancy announced and may only limit the compatibility requirements in conjunction with the requirements below.
 - b. The Agency may not limit the minimum rank/grade that an applicant may pose for non-supervisory and non-managerial vacancies, and must accept applicants from the full range of ranks/grades compatible with the advertised position, meaning that if a vacancy is compatible with enlisted, warrant officers, and/or officers then the Agency will consider applicants from all compatible ranks/grades and may only limit the maximum rank/grade allowable across the three rank/grade categories IAW Paragraph 3(a) to ensure the rank/grade of the individual selected to fill the vacancy does not exceed that of the incumbent supervisor, up to and including a candidate that possesses the same rank/grade as the supervisor provided the applicant's DOR is one or more days after the incumbent supervisor's DOR.
 - c. The Agency may place restrictions on minimum and maximum rank/grade for supervisor and managerial positions to comply with grade/rank inversion. However, the Agency must accept applicants from the full range of ranks/grades compatible with the advertised position, meaning that if a vacancy is compatible with enlisted, warrant officers, and/or officers then the Agency may only limit the minimum and maximum rank/grade allowable across the three rank/grade categories IAW Paragraph 3(a) to ensure the rank/grade of the individual selected to fill the vacancy exceeds that of their most senior subordinate by at least one or more days based on the DOR, but does not exceed that of the incumbent supervisor, up to and including a candidate that possesses the same rank/grade as the supervisor provided the applicant's DOR is one or more days after the incumbent supervisor's DOR.

Article 11

Safety and Occupational Health

Section 11.1 – General Provisions

1. All Parties are required to comply with by applicable laws, rules, regulations, and policies pertaining to safety and occupational health.
2. The Agency will provide and maintain a work environment conducive to the safety and well-being of all employees, and to provide required safety and health training IAW applicable laws, rules, and regulations.
3. All rules, laws, and regulations pertaining to safety and health shall be on-hand at each Agency worksite.
4. Hazardous tasks shall be assigned and performed by employees who have received proper training and are qualified to perform said hazardous tasks. The performance of hazardous tasks shall incorporate all immediately available safety precautions and devices.
5. The Union shall be included at local and state level Safety Council meetings.
6. The cost and responsibility for cleaning and repair of protective clothing and equipment contaminated with or by controlled waste material shall be borne and provided by the Agency.
7. The Agency shall ensure that each work site meets the following minimum standards:
 - a. Serviced by permanent electrical, water, and gas (as applicable) utility providers:
 - (1) Reliance on temporary utilities (e.g., portable electrical generators or portable water containers) is acceptable when the Agency has secured certification by competent authority that the temporary utilities pose no risk to employee safety and health and meet the minimum requirements to operate all building systems needed for safe operations.
 - (2) When a facility experiences an outage of electrical, water, gas, or any other utility service the Agency will immediately ascertain if said outage has an impact on the availability or operation of all systems (i.e., fire suppression systems, fresh water supply to support personal hydration/hygiene and eye safety, proper lighting, etc.) necessary for employees to safely inhabit the affected facility and perform their duties. If an outage renders a facility uninhabitable and/or prevents employees from safely performing their duties, the Agency will suspend all operations that cannot be performed safely IAW Section 11.4(4).
 - b. Adequate cooling and heating is provided IAW Section 15.2(3)(b);

c. Facility complies with federal, state, and local law requirements (as applicable) for safe occupancy by humans. This includes having functioning safety and/or life-saving equipment and systems, if required, including but not limited to:

- (1) Fire detection, warning, and suppression;
- (2) Lightning detection and warning;
- (3) Carbon dioxide detection and warning;
- (4) Decontamination and spill containment (i.e., eye wash stations, spill kits, etc.);
- (5) Automated external defibrillator (AED) stations; and,
- (6) First aid kits.

d. Inspections and/or certificates for all items in sub-paragraph (b) on hand and current. The Agency shall also ensure that employees receive the training required to operate or use all the items or systems listed in c.

e. All buildings where employees work and/or congregate in have been certified free from materials and/or chemicals that are known health hazards (i.e., asbestos and other types of hazardous materials) by competent authority.

f. Safety signs, programs, equipment, documents, regulations, and postings (i.e., exit signs, lockout-tagout program, SDS, bulletin boards with OSHA posters, etc.) on site and up to date as required by federal, state, and local laws and regulations.

g. Permanent personal hygiene facilities at each worksite serviced IAW sub-paragraph (h) below. This includes access to latrine and shower facilities, segregated by gender, that are adequately cleaned/maintained, powered, and stocked with supplies, and which have ready access to potable drinking water.

- (1) When permanent facilities are not available, or when permanent facilities are rendered inoperable due to a utilities-outage, lack of service/maintenance, or lack of adequate supplies, the Agency will provide temporary/portable latrine and shower units, and a source of potable water, and shall provide for the regular cleaning/maintenance and replenishment of said temporary/portable facilities until permanent facilities are provided or restored. When neither permanent nor temporary/portable hygiene facilities nor potable water is available at a worksite, that site shall be deemed unsuitable to be occupied and employees shall either be relocated to a suitable facility or shall be excused from work IAW Section 9.7 until personal hygiene facilities and potable drinking water are made available.

h. Cleaned and maintained by a contractor that complies with OSHA industry standards for janitorial and groundskeeping services, as specified in the North American Industry Classification System (NAICS), codes 561720 561730, respectively.

8. No later than thirty (30) days after approval of this Agreement by DCPAS, the Agency will provide the Union with a list of all facilities where covered employees are assigned and will indicate whether each facility complies with the minimum requirements of Paragraph 7. For those facilities that do not conform with the minimum requirements, the Agency shall include in their report a detailed plan of how it will bring them into compliance within a reasonable time period, but no later than one-hundred and eighty (180) days (or sooner if required by law/regulation) after DCPAS approval of this Agreement. When the Agency cannot comply with the requirements of Paragraph 7 within the time specified herein, the Agency will indicate how it plans to temporarily address the situation.

9. An employee under the care of a physician shall promptly inform the Agency of any condition or prescribed medication that will impair their ability to safely perform assigned duties. Information provided by an employee shall include the limiting effects of the medication and expected duration of prescription. The Agency shall make every reasonable effort to find a safe, temporary assignment for the employee IAW 5.12(1)(a). In cases where impairment caused by medications cannot be accommodated, an employee will not be allowed to return to work until they are cleared by a medical professional. When the condition is permanent and cannot be accommodated, the provisions of Section 5.12(1)(b) shall apply.

Section 11.2 – Health Services

1. The Agency shall establish and maintain an Occupational Health Services and Preventive Medicine Program as provided for in 5 USC Chapter 79 and other applicable laws, rules, and regulations. A health service program is limited to:

- a. Treatment of on-the-job illness and dental conditions requiring emergency attention.
- b. Pre-employment and other examinations.
- c. Referral of employees to private physicians and dentists.
- d. Preventive programs relating to health.

2. An employee's medical record may be disclosed without their consent provided the individual requesting access has an official need for the record, articulates in detail why the records are required, the intended use of the record relates to the subject matter for which it is maintained, and only the minimal amount of information required is disclosed. The entire record is not released if only a part of the record will suffice. A requestor's rank, position, or title alone does not authorize access to personal information about others, including their medical record.

3. The Agency shall host an annual benefit open season period. During these seminars, representatives from major insurance providers will be made available to provide employees

information regarding their benefit plans. Information may be provided in person or electronically. Dates and locations will be determined by the Agency. Employees will be made aware of these seminars as far in advance as possible and will be allowed excused absence to attend or review materials related to open season benefits and programs.

Section 11.3 – Safety and Protective Clothing/Equipment

1. The Agency will provide all appropriate safety equipment and protective clothing to employees to enable the performance of their assigned duties.
2. No later than thirty (30) days after submitting a request, employees whose position requires protective eyewear to safely accomplish their duties, and who are required to wear prescription eyeglasses by an optometrist, shall be provided by the Agency with one pair of prescription safety glasses at no personal expense to the employee, but not to exceed an amount negotiated between the Agency and the Union. Eyeglasses provided IAW this Paragraph shall be replaced on a fair wear and tear basis. Employees will be responsible for paying any amount which exceeds the negotiated allowance. In lieu of prescription eyeglasses, and to the extent that the employee's assigned duties permit, the Agency may provide over-goggles that fit over an employee's personal prescription glasses.
3. Employees will be issued protective footwear that conforms to applicable safety standards and requirements for their position as follows:
 - a. New employees (appointed after the effective date of this Agreement) shall be issued one (1) pair of protective footwear no later than fourteen (14) days after their initial hire date.
 - b. All employees shall be entitled to replacement of previously issued protective footwear on a fair wear and tear basis no later than thirty (30) days after submitting a request.
4. The Agency shall provide employees an adequate supply of work coveralls to wear as protective clothing. The cost for maintenance and care of the coveralls shall be borne by the Agency. Specifically:
 - a. Upon request, a maintenance technician will be provided two (2) 100% cotton coveralls by the Agency. Cleaning of such coveralls will be provided through an ongoing third-party contract with a vendor dedicated to providing such services (e.g., Cintas, Aramark, or other similar company). Notwithstanding a lack of appropriations due to a government shutdown, if the contract lapses for any other reason, the Agency shall take immediate action to renew or secure a contract with a different service provider as soon as possible, but no later than fifteen (15) days from the date of contract expiration. If a new contract cannot be secured within the time specified herein, the Agency shall secure the services of a third-party vendor on a temporary basis using whatever lawful fiscal discretion is available and necessary to expend funds and prevent a situation where employees do not have access to the necessary protective clothing required by this Section.

b. The Agency shall ensure that its maintenance coverall program complies with the provisions of this Section no later than forty-five (45) days after approval of this Agreement by DCPAS. In lieu of a cleaning contract, the Agency may opt to install industrial washer and dryer facilities at individual worksite so that employees can clean their protective coveralls, as well as any other soiled or contaminated personal or uniform items, during duty hours.

5. Due to health hazards posed while working in extreme hot temperatures, employees may not be required to wear excess layers of clothing underneath maintenance coveralls issued under Paragraph 4, to include military uniforms (reference Section 10.1(2)(d)).

6. In addition to the protective clothing required in Paragraph 4, for employees whose duties require them to work outdoors in any capacity, the Agency will provide protective clothing items for inclement weather conditions. The items will be replaced on a fair wear and tear basis. Employees will be responsible for the maintenance and safekeeping of these items.

7. For employees who are required to test-drive motor vehicles, the Agency shall provide adequate head protection that meets Department of Transportation (DOT) safety standards. The Agency may not require employees to wear head protection devices that are not DOT approved.

Section 11.4 – Procedure for Unsafe/Hazardous Assignments and Conditions

1. The Agency will consider the need to adhere to established safety directives in the assignment of work, and shall consider the safety factors that address time, duration, frequency of exposure, and the wearing of additional personal protective equipment before directing any employee to perform function-specific tasks. Function-specific tasks must comply with applicable OSHA standards and may include, but are not limited to, welding, painting, and other tasks that could result in exposure to:

- a. Radio frequencies (RF) or other sources of radiation;
- b. Lead, asbestos, mold, and other surface and airborne hazards;
- c. Petroleum/oil/lubricants (POL);
- c. Hazardous chemicals; or,
- d. Biological hazards from blood or other body fluids, pathogens, insects, rodents, etc.

2. Should an employee observe or reasonably believe a work assignment is unsafe or involves a potential hazard to their health, the employee should immediately report the circumstances to the Agency. This includes work assignments inside or outside the scope of their position description for which they have yet to receive training for, and/or for which they lack the proper equipment. As used in this Paragraph, training refers to bona fide training curriculums or programs provided by entities recognized and/or certified in the area, subject matter, or industry concerned.

3. Any person may report an unsafe or hazardous condition, or one that presents an imminent danger to life and/or property.

4. Upon identification of an unsafe condition, or upon receiving such a report, the Agency will take immediate action to mitigate any situation that prevents work from being performed safely and IAW proper procedures and safety directives. When the Agency is unable to remedy an unsafe situation, they shall immediately cease any/all unsafe operations until the appropriate training, safety equipment, precautions, procedures, and directives are implemented to prevent injury or death of employees, or damage to property.

5. When an employee is assigned a task or duty for which they are not currently trained or qualified to perform, or which requires a specific license or registration which they either currently do not possess or is expired, the Agency must ensure that the employee receives the appropriate training, license, or registration prior to carrying out these duties. Any protective equipment normally required while accomplishing said duties must be provided at the time the employee is required to accomplish the task.

6. Employees may decline to perform an assigned task due to the risk of imminent death or serious bodily harm until those risks are mitigated through appropriate safety precautions. This includes situations where two persons are required to safely accomplish the task, when required personal protective equipment is not available, and/or when the employee is not qualified to accomplish the task.

Section 11.5 – Employees Free from Reprisals

1. Employees who file a safety complaint or who request that an entity responsible with oversight (e.g., OSHA) inspect a facility, and employees who decline to perform a task under the provisions of Section 11.4, shall be free from reprisals, harassment, or unwarranted disciplinary action.

Section 11.6 – Exposure to Hazardous Materials

1. When an employee is exposed to, and/or their clothing is contaminated by, hazardous materials, the Agency shall:

- a. Determine the type of material and the hazards posed by the exposure;
- b. Provide immediate aid to reduce or mitigate any potential for injury and transport employee to nearest emergency medical facility (as required); and
- c. Notify the appropriate response office/agency; and,
- d. Allow employee to change clothing IAW Section 9.6(3)(f).

Section 11.7 – Workers Compensation Entitlements

1. The Agency will inform employees on an annual basis regarding their entitlement to medical and loss-of-pay benefits under the Federal Employee's Compensation Act (FECA) for injuries or illnesses that are job related.
2. It is the employee's responsibility to report any injury or illness incurred at the workplace to the Agency immediately after occurrence or discovery. It is also the employee's responsibility to cooperate with required documents for payment, physical restrictions and follow up.
3. When an employee is incapacitated on the job and unable to notify the Agency of injury or illness, it shall be the Agency's responsibility to initiate the required procedures as soon as they become aware of the injury or illness.
4. The Agency reserves the right to obtain additional medical information or follow-up opinions, as needed, from an employee's physician or physicians selected by DOL. The Agency shall secure authorization from the employee to obtain medical records.
5. When a treating physician indicates that an employee is physically able to return to work, including light duty work, the employee is required to notify the Agency immediately. If such work is available, the employee will be notified to report for duty as early as the workday following the physician's determination. The Agency will determine evidenced-based work restrictions and/or accommodations that will be implemented when an employee is medically able to return to work in either a full or modified capacity. An employee that fails to notify the Agency of their ability to return to work, or who refuses to return to work when ordered, could receive overpayment of worker's compensation benefits and/or be considered AWOL.

Section 11.8 – Labor Representative to Accompany Inspection Team

1. The Agency shall notify the Union of any worksite safety inspection being conducted due to an accident or because of a reported unsafe condition.
2. Upon request and to the extent that it does not delay an inspection, a Union representative will be permitted to accompany any safety, occupational health, or other workplace inspection team during an evaluation of their unit/facility. Upon request, the Agency shall provide the Union a copy of any report generated as a result of such an inspection.

Section 11.9 – Hazardous Material Training Program

1. All personnel who handle, use, or are potentially exposed to hazardous materials in the course of their duties will receive training and information in accordance with applicable laws, rules, regulations.
2. Safety data sheets (SDSs), or their equivalent, will be on file and available to employees who work with, around, or are exposed to chemical hazards.

Section 11.10 – Occupational Health and Safety Training

1. If management determines that these training are needed, employees will be furnished Basic First-Aid Instruction, Cardio-Pulmonary Resuscitation (CPR) instruction, and Automated External Defibrillator (AED) training. Each person who successfully completes a recognized course will receive a certification card.
2. If management determines to offer occupational safety and health training in accordance with 29 CFR 1960.59, union representatives who are employees will be given an opportunity to attend and will be in duty status and will receive per diem and travel expenses in accordance with appropriate regulation.

Section 11.11 – Office Environment

1. IAW 41 CFR § 102-79, the Agency will provide a quality workplace environment that supports program operations.
2. Upon request, an employee will be provided office accommodations and equipment which reduce or eliminate the risk of prolonged sitting and staring at computer video monitors. These items include, but are not limited to, eye and posture protective devices such as screen covers, ergonomic keyboards/mice, chairs, and desks to those employees who do a substantial amount of computer terminal work.
3. The Agency will ensure that employees performing essentially the same tasks or duties (i.e., employees occupying the same or similar occupational series and/or position description) are afforded equitable accommodations, equipment, and furnishings, including but not limited to the following:
 - a. Office and/or cubicle space shall be of similar size/dimension;
 - b. Equipment (i.e., telephonic, computer/printer/fax, etc.) shall be of similar quality and performance capability; and,
 - c. Furnishings (i.e., office chairs, desks, file cabinets, etc.) shall be of similar quality and condition.

Section 11.12 – Make Ready, Tool Turn-In, and Clean-Up Time

1. As needed, a reasonable amount of time, not to exceed fifteen (15) minutes, will be allowed for personal clean-up and personal work area clean-up (not to include common use areas), and tool or equipment turn-in.
2. This will not prevent management from assigning work, as necessary.

Section 11.13 – Other Programs

1. The Agency agrees to implement and administer an ongoing Physical Fitness Incentive Program that allows employees the opportunity to achieve and maintain certain fitness requirements during duty hours. The following conditions will apply:

- a. An employee's participation in the program is strictly voluntary and activities are unsupervised.
- b. Participation may not interfere with the Agency's ability to accomplish the mission. Scheduling of time under this program will be coordinated between the employee and their immediate supervisor.
- c. Employees will be allowed a minimum of thirty (30) minutes per workday to participate in an individual fitness program to include travel time (if applicable) and personal hygiene. This time is considered use-or-lose. It may not be carried over week-to-week.
- d. Time authorized is in addition to lunch and break periods.
- e. Fitness will normally be accomplished on the premises of the employee's assigned duty location. Employees working in a location that does not provide adequate resources or space for accomplishing personal fitness may request to leave the worksite to accomplish their fitness regime at an approved off-site facility such as a gym or other approved commercial establishment that offers individual physical fitness programs and memberships. Employees wishing to accomplish fitness off-site must submit a request to their immediate supervisor for approval. Supervisors will monitor off-site fitness activities to ensure employees are complying with the requirements of this program and will review off-site exercise approvals every six (6) months to ensure they are still valid. Employees going off-site will still be required to observe the time limits contained in subparagraph (c) of this Section.
- f. Authorized activities include aerobic exercises (including walking, running, bicycling, and swimming) and strength training. Sports which require or include physical contact (e.g., football, soccer, martial arts) are not permitted. Team sports are also not permitted. On a case-by-case basis, supervisors may approve individual competitive activities such as tennis, racquetball, and other similar sports.
- g. Employees may wear exercise apparel while participating in fitness activities.

2. Accommodations for nursing mothers will be provided IAW federal law and regulation.

Section 11.14 – Safety Committees

1. The Union may appoint two (2) representatives, one primary and one alternate representative to serve on the Agency Safety Committee. The purpose of this Committee is to assist and advise

the Agency, in accordance with applicable safety directives, on matters affecting Occupational Health and Safety.

2. Local Safety Committees may be established at lower organizational levels, such as individual worksites. When Local Safety Committees are formed, the Union may appoint at least one representative from within the covered area to serve as a committee member. The names of individuals serving on Local Safety Committees will be published and posted on bulletin boards located within the committee's area of responsibility.

Section 11.15 – Maintenance, Remodeling, or Construction at Agency Facilities

1. Whenever the Agency plans to conduct any type of maintenance, remodeling, or construction activity at a facility where employees are assigned, they shall provide the Union and each employee affected with a minimum thirty (30) day notice of the pending activity to include the type and duration of the work to be performed, the potential hazards that will be present to employees, and the steps the Agency will take to mitigate any harm or exposure to employees from being exposed to the planned work. The Agency may not conduct any work or activity of the type listed below unless it complies with the notice requirements of this Section.

2. This includes, but is not limited to:

- a. Minor remodeling work such as painting, scrapping, or minor demolition that has the potential to create hazardous dust, especially asbestos and mold, or danger areas from exposure to utilities such as water, gas, and electrical service lines or materials such as sheetrock or rebar, etc.; and,
- b. Major construction that may have the potential for serious bodily injury.

Article 12

Grievance and Arbitration

Section 12.1 – General

1. This Article provides the procedures the Parties will observe concerning the settlement of grievances, including questions of arbitrability. The Parties will also be subject to binding arbitration under this Article for any unresolved grievances.
2. The Parties agree that a genuine effort will be made to settle grievances expeditiously and at the lowest level possible. The Parties further agree, when appropriate and mutually agreed upon, to utilize alternative dispute resolution processes (e.g., mediation) in attempting to resolve grievances.
3. Employees retain the right to request Union representation in the grievance procedure, or to decline such representation.
4. Regardless of an employee's representation option, the Union will be given the opportunity to be present during all grievance proceedings to observe that grievance procedures are being complied with IAW this Article, and to ensure that any relief granted is not inconsistent with the terms of this Agreement.
5. Parties, as used in this Article, refers to the Agency, the Union, and/or an employee or group of employees regardless of whether they are represented by the Union.
6. The Agency shall inform employees whenever a Union grievance is filed that concerns a personnel policy or practice or other matter relating to or affecting conditions of employment. Notification shall be accomplished electronically to each employee's official email address, and by posting of a conspicuous notice on informational bulletin boards maintained by the Agency at each work facility in areas where employees normally congregate. The requirements in this Paragraph do not apply to matters relating to conduct, discipline, workplace violence, or claims of discrimination. See Appendix F for a sample email and Appendix G for a poster format to be used when notifying employees.
7. Grievances will be terminated for the following reasons:
 - a. At the request of the charging Party.
 - b. If the grievant is an employee, upon termination or death of the employee, unless the personal relief sought may be granted regardless of employment status.

Section 12.2 – Procedure and Exclusions

1. The Agency and Union agree that this procedure will be the exclusive method of grievance resolution within the bargaining unit.

2. Grievances related to matters that are covered in this Agreement shall be filed IAW Section 12.4(4)(b), Adjutant General Review, for all employee or Union-initiated grievances, or IAW Section 12.5(3)(b), LIUNA Local 1776 Business Manager Review, for all Agency-initiated grievances.

3. Matters expressly excluded under 5 USC §7121(c) may not be grieved under this procedure, to include:

- a. Any claimed violation relating to prohibited political activities (Hatch Act Violations).
- b. Retirement, life insurance, or health insurance.
- c. A suspension or removal for national security reasons.
- d. Any examination, certification, or appointment.
- e. The classification of any position which does not result in the reduction in grade or pay of an employee.

Section 12.3 – Employee Rights

1. Employees will be free from restraint, coercion, discrimination, or reprisal because they have filed a grievance, are a party to an arbitration, or are providing testimony or evidence in support of a complaint brought forth IAW this Article.

2. An employee affected by a prohibited personnel practice under 5 USC § 2302(b)(1) which also falls under coverage of this procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board (MSPB) to review the final decision pursuant to 5 USC Chapter 77 in the 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.

3. An employee who is facing financial hardship because of a grievable matter shall be entitled to expedited processing of their complaint by filing their grievance IAW Section 12.4(4)(b), the Adjutant General Review. An employee is experiencing financial hardship when their ability to earn income has, is, or will be reduced or eliminated for a period of fourteen (14) days or more.

Section 12.4 – Union or Employee Grievance Procedures

1. Notwithstanding Section 12.3(3), a grievance must be submitted to the lowest level of the Agency with the ability to resolve the matter.

2. All timelines in this Article are calculated in calendar days, unless otherwise stated.

3. Except for claims of a continuing violation, to be considered timely, a grievance must be submitted to the Agency no later than thirty (30) days after the occurrence of a grievable matter or incident, or no later than thirty (30) days after the aggrieved party became aware of a grievable matter or incident. The Agency's failure to observe the time limits for any step in the grievance procedure shall entitle the grievant to advance to the next step unless a different timeline is specified in other sections of this Agreement. Failure of the grievant to observe the time limits at any step of the procedure will have the effect of canceling the grievance as untimely; however, when an employee pursues a grievance absent Union representation, they cannot be penalized for timeliness if the Agency fails to abide by Section 12.1(4). The Parties can extend the timelines herein by mutual agreement.

4. The following procedures shall be used for resolving grievances filed by or on behalf of employees, or by the Union against the Agency, except that for complaints covered by Sections 12.2(2) and 12.3(3), an employee or their representative may proceed directly to Step 2:

a. Step 1

(1) The aggrieved party shall advise the Agency of their intent to initiate the grievance process. The timeline for resolution begins upon notice being served.

(2) The Agency will forward the grievance to the appropriate Agency representative with the ability to provide relief.

(3) The Agency will have fifteen (15) days to attempt resolution of the grievance. When a grievance has been filed by an employee absent Union representation, the Agency representative must ensure the Union has the opportunity to be present IAW Section 12.1(4) before any discussions with the grievant(s) take place.

(4) Failure to reach resolution within fifteen (15) days after notice is served will allow the grievant to proceed to Step 2. Notice at Step 2 must be served not later than thirty (30) days after conclusion of Step 1.

b. Step 2 – Adjutant General Review

(1) If the aggrieved party is dissatisfied with the decision reached in Step 1, or if the grievance is covered by Sections 12.2(2) or 12.3(3), then the grievant may petition the Adjutant General for relief. The timeline for resolution begins upon notice being served to the Agency.

(2) The Adjutant General, or their designated representative, shall take appropriate action to review the complaint file, to include meeting with the aggrieved party if necessary, and render a final Agency decision no later than thirty (30) days after receipt of the grievance.

(3) Failure to reach resolution within thirty (30) days after notice is served will allow the grievant to proceed to arbitration. However, only the Union may invoke arbitration.

Section 12.5 – Agency Grievance Procedures

1. A grievance by the Agency against the Union must be submitted to the LIUNA State Representative. If no State Representative is currently assigned, then the grievance is submitted directly to the LIUNA Local 1776 Business Manager at Step 2.

2. To be considered timely, a grievance must be submitted no later than thirty (30) days after the occurrence of a grievable matter or incident, or no later than thirty (30) days after the Agency became aware of a grievable matter or incident.

3. The following procedures shall be used for resolving grievances filed under this Section:

a. Step 1

(1) The Agency shall advise the State Representative of their intent to initiate the grievance process. The timeline for resolution begins upon notice being served.

(2) The State Representative will have fifteen (15) days to attempt resolution of the grievance.

(3) Failure to reach resolution within fifteen (15) days after notice is served will allow the Agency to proceed to Step 2.

b. Step 2 – LIUNA Local 1776 Business Manager Review

(1) If the Agency is dissatisfied with the decision reached in Step 1 the grievance may be submitted to the LIUNA Local 1776 Business Manager not later than thirty (30) days after conclusion of Step 1. The timeline for resolution begins upon notice being served.

(2) The Business Manager, or his/her designated representative, shall take appropriate action to review the complaint file, to include meeting with the Agency, and render a final Union decision no later than thirty (30) days after receipt of the grievance.

(3) Failure to reach resolution within thirty (30) days after notice is served will allow the Agency to proceed to arbitration.

Section 12.6 – Arbitrator Selection

1. The aggrieved party will have thirty (30) days from conclusion of the Adjutant General's Review or the LIUNA NGC Local 1776 Business Manager Review Period to invoke arbitration.

2. The Party invoking arbitration will request a list of seven (7) potential arbitrators from the Federal Mediation and Conciliation Service (FMCS). The Party invoking arbitration must furnish the responding Party with a copy of the request submitted to FMCS and the list of seven (7) arbitrators generated by the FMCS no later than thirty (30) days after conclusion of the Adjutant General's Review or the LIUNA NGC Local 1776 Business Manager Review Period for an arbitration request to be deemed timely.

3. The Parties will strike names via email, telephone, or in person no later than ten (10) days after the responding Party receives the list of FMCS arbitrators required by Paragraph 2. The Parties will alternately strike a name from the list until only one (1) name remains. The Party requesting arbitration will strike first. The individual's name remaining will be selected to hear the grievance. Failure of the requesting Party to initiate or participate in the selection process within the ten (10) days required herein will result in the arbitration being cancelled. If the responding Party fails or refuses to participate in the selection process, the arbitration action will proceed with the requesting Party accomplishing the selection.

4. No later than ten (10) days after an individual is selected IAW Paragraph 3, the Parties will confer with the Arbitrator via email, telephone, or in person to identify a hearing date(s) that is/are mutually acceptable to all concerned. Once an Arbitrator is selected, if either Party deliberately fails or refuses to participate in the scheduling of the hearing and/or deliberately fails or refuses to appear before the Arbitrator after a hearing date has been agreed to, then the Arbitrator shall deem the absent Party as the losing Party and issue a default judgement in favor of the other, to include granting the remedy requested (including attorney fees IAW Section 12.9(2)) if said remedy is not contrary to federal law or regulations, or this Agreement.

Section 12.7 – Arbitration Procedures

1. The authority of the Arbitrator will extend to the interpretation of federal law, Government-wide regulations in effect at the time this agreement was executed, this Agreement, and applicable Agency regulations or policies in effect at the time this Agreement was approved that are not in conflict with this agreement (see Appendix E). The Arbitrator shall have no authority to add to or modify any terms to this Agreement or Agency policy. The Arbitrator will also resolve questions of whether the matter is subject to arbitration.

2. Arbitration hearings will normally be conducted during duty hours. Employees required to attend the hearing as Union representatives, complainants, witnesses, etc., will attend without loss of pay or leave, and will be provided travel and per diem IAW the Joint Travel Regulation (JTR) if their participation requires compensable travel.

3. Aggrieved employees, Union representatives, and employee witnesses shall be excused from duty for a reasonable period to prepare for arbitration.

4. When the Parties agree to some or all of the facts at issue and mutually agree that a hearing would be unnecessary, they can submit a joint stipulation of facts and argument briefs to the Arbitrator with a request that a decision be rendered based upon the stipulations and respective briefs.

5. Only the Party that requests arbitration may cancel or terminate said request for arbitration.
6. The Arbitrator's decision shall be binding on the Parties. However, either Party may file exceptions to the arbitrator's award as provided for in federal law or regulations. If either Party files an exception, a copy will be submitted to the other Party.

Section 12.8 – Right to Information

1. When arbitration is invoked, the Agency shall:
 - a. Provide the Union all relevant documents, reports, and/or any evidence related to a specific grievance or complaint a minimum of thirty (30) days prior to the date of the arbitration hearing, or, when the Parties agree to stipulations IAW Section 12.7(4), thirty (30) days prior to the date argument briefs are due to be submitted to the arbitrator. This includes complete copies of investigative files (i.e., AR 15-6 and other types of investigations conducted by or on behalf of the Agency, to include reports of investigation provided by civilian law enforcement), witness statements, memorandums, emails, or any other type of record or document, whether physical or electronic, related to the topic being arbitrated.
 - b. Make its employees or personnel (regardless of duty status) available to furnish statements or to appear at a deposition at the request of the Union, and/or to appear before the Arbitrator when identified as a witness by either Party.
2. The Arbitrator shall rule on any disputes arising from this Section.

Section 12.9 – Arbitration Expenses and Attorney Fees

1. The cost of an Arbitrator, to include fees and travel, shall be borne by the non-prevailing Party. Any dispute as to who the non-prevailing Party is shall be decided by the Arbitrator. In the event there is no clear winner, the Arbitrator shall decide the percentage paid by each Party.
2. The Union, when deemed a prevailing Party, shall be entitled to reasonable attorney's fees in addition to any other relief awardable by the Arbitrator.
3. The Agency shall initially bear the cost charged by the Arbitrator to hear a case, to include the Arbitrator's travel expenses. Should the Agency prevail, a detailed invoice shall be submitted to the Union within (30) days of the Arbitrator's decision detailing costs paid directly to the Arbitrator for services and travel expenses. The Union shall reimburse the Agency for charges billed within thirty (30) days of being served with an invoice unless the Union files an exception IAW Section 12.10(1).
4. The Party requesting arbitration (charging Party) may withdraw their request at any time prior to the actual hearing. However, they will be responsible for any/all costs incurred to the

Arbitrator, including cancellation fees, as a result of requesting and subsequently cancelling the arbitration.

5. If a court reporter is requested by the Arbitrator, the cost shall be borne equally by the Parties regardless of which Party prevails, and the transcripts shall be available to both Parties. However, if a court reporter is secured for the exclusive use of one Party, the cost shall be borne by the requesting Party alone, unless the other Party subsequently desires to receive a copy of the transcript; in that case, they will be required to pay 50% of all costs incurred in the preparation of such transcript.

6. Once a hearing date is agreed to by the Parties and accepted by the Arbitrator, and unless other arrangements are made and agreed to by the Parties, all non-refundable travel costs and/or penalties charged by travel providers that are incurred by one Party due to a rescheduling, postponement, or cancellation of an arbitration by the other, for whatever reason, will be borne by the Party requesting the rescheduling, postponement, or cancellation. This includes any penalties resulting from the cancellation of non-refundable airline/train/bus fares, hotel/conference room deposits, or other financial penalties imposed by travel and/or lodging providers. Claims under this Paragraph must be supported by officially documented expenses, invoices, and/or receipts.

7. Should the Arbitrator's decision be overturned, in whole or in part, on exception, the procedures for determining a prevailing party, as contained in Paragraph 1, shall apply.

Section 12.10 – Arbitration Decision

1. An exception to the Arbitrator's decision must be filed within thirty (30) days from the date the award is served on the Parties. If the Union is the non-prevailing Party, then any requirement to reimburse the Agency for fees IAW Section 12.9(3) shall be delayed pending a decision on its exception filing.

2. It is understood that if no exception to an award is filed during this thirty (30) day period, the award shall be final and binding, effective on the thirty-first (31st) day.

Article 13

Administrative and Other Actions

Section 13.1 – General

1. The Agency shall determine when the need for administrative action occurs, to include discipline. Such actions will be administered IAW federal law, this Agreement, Government-wide regulations in effect at the time this Agreement is executed, and Agency regulations in effect at the time this Agreement was executed and that do not conflict with this Agreement.
2. Employees are expected to follow all applicable laws, rules, and regulations.
3. The initiation of administrative action against an employee should not be unreasonably delayed.
4. When the processing of an administrative action will be delayed beyond six (6) months from the day the Agency became aware or should have been aware of the necessity to take such action, the employee and/or their representative will be notified stating the reason for the delay and the anticipated disposition of the case.
5. Employees facing administrative actions under this Article shall be entitled to all pay, benefits, and protections afforded to them under federal law, rule, regulation, and this Agreement.

Section 13.2 – Investigation, Examination and Representation

1. An employee may invoke their right to Union representation at any time during questioning even if they initially declined. When an employee requests representation, further questioning is prohibited and shall be delayed for a reasonable period of time until a representative is secured. Employees are compelled to provide truthful responses and they cannot refuse to answer questions pursuant to an administrative investigation.
2. When an employee is questioned pursuant to a criminal investigation, the Agency will inform the employee of their right to remain silent and to avail themselves of legal counsel. If the Agency is willing to provide the employee immunity in exchange for their cooperation, the employee will be provided with a Garrity or Kalkines Warning (Appendix H) prior to continuing their line of questioning.
3. Consistent with its rights under 5 USC § 7106(a)(1), the Agency has the right to record (i.e., voice, video, or both) employee interviews conducted by its representatives during a bona fide investigation. However, the Agency must notify the employee that their interview is being recorded prior to activating the recording device.
4. Agency representatives assigned to conduct an investigation IAW this Section shall be appointed by official memorandum. A copy of such appointment memorandum shall be provided, upon request, to an employee or their representative.

Section 13.3 – Non-disciplinary and Disciplinary Actions

1. Counseling and warning sessions are informal meetings that supervisors can use to make employees aware of possible misconduct. The informal meetings should be documented (date, subject, and employee's acknowledgement) in the employee's work folder (or equivalent as maintained by their immediate supervisor) and will remain for no longer than twelve (12) months as long as there are no continuing or reoccurring conduct problems. Entries made without the employee's knowledge or acknowledgement are not considered valid and may not be referenced as a prior offense in conjunction with a disciplinary action. When a supervisor documents misconduct in the employee's work folder:

- a. The employee shall be notified by the supervisor that an entry was made by the end of the following duty day.
- b. The employee shall be given the opportunity to discuss the matter with the supervisor, and will initial and date the entry, either on paper or electronically. The employee's initials will signify knowledge of the entry, but not necessarily concurrence. The employee will also be given the opportunity to attach a written rebuttal to the entry within five (5) days.

2. Letters of Reprimand (LORs) are a more formal means of making an employee aware that their conduct is unacceptable. When conduct warrants the use of LORs, and the violation relates to a continuing problem, a summary of past violations and attempts to correct those violations will be included. The employee will be informed they may review the material relied upon to support the reprimand. Depending on the severity of the infraction, LORs may remain in an employee's record for a period not to exceed twenty-four (24) months.

3. A suspension of fourteen (14) days or less is considered a non-adverse administrative action which denies the employee compensation on a temporary basis. However, the procedures in Section 13.4 will be followed to process an action under this Paragraph.

Section 13.4 – Adverse Action

1. An Adverse Action (i.e., suspension of fifteen (15) days or more, removal, or change to a lower grade) is an administrative action which denies the employee compensation on a temporary or permanent basis. An employee will be allowed a minimum of fifteen (15) days following receipt of the proposed adverse action notice to provide a reply. This timeline may be extended upon request by the employee and/or their representative if there's justification that more time is needed to furnish an adequate response. When a request for extension is denied, the Agency shall provide a written explanation.

2. During a proposed adverse action the employee will remain in a duty status pending the Agency's final decision IAW Paragraph 3(c). The Agency may determine that an employee awaiting discipline should not be present at the worksite because it may adversely impact the mission, cause a safety concern, or unduly disrupt the work area. In that case, the Agency may

detail the employee to an alternate worksite within their commuting area or place the employee in a non-duty pay status for all or part of the time it takes to process the final decision.

3. Employees are entitled to due process. At a minimum, the Agency will observe the following when processing an adverse action:

a. Notice of Proposed Adverse Action. An adverse action is initiated when the employee is issued a proposal by their immediate supervisor or other Agency representative within the employee's civilian supervisory chain (i.e., the Proposing Official).

b. Employee Reply. The employee will be afforded a minimum of fifteen (15) days to reply IAW Paragraph 1 and the opportunity to review all evidence relied upon by the proposing official IAW Section 13.6(1).

c. Final Agency Decision. A final decision is issued by an Agency representative within the employee's supervisory chain that is at least one rank/grade higher than the proposing official (i.e., the Deciding Official). The employee will also be informed of their appeal rights IAW Section 13.5(1)(c).

Section 13.5 – Right of Appeal

1. Employees will have the right to appeal disciplinary and adverse actions IAW federal law, this Agreement, Government-wide regulations in effect at the time this Agreement is executed, and Agency regulations in effect at the time this Agreement was executed and that do not conflict with this Agreement. The Agency will inform employees, in writing, of their appeal options at the time a decision is issued concerning a matter covered by this Article. The Agency will also inform employees that, to the extent they have more than one appeal option available below, they may only select one, and that once an appeal option has been initiated, they will forfeit their ability to invoke the other. The notice required herein shall be accomplished in writing, and the Agency shall record the fact that an employee has been notified as required by this Section. Specifically, employees shall be notified that:

a. For actions covered by Section 13.3(1) and (2), they have a right to file a grievance IAW Section 12.4.

b. For actions covered by Section 13.3(3), they have the right to:

(1) File a grievance IAW Section 12.4;

(2) Request a hearing through the NGB Hearing Examiner program; or

(3) Request an Appellate Review by the Adjutant General.

c. For actions covered by Section 13.4, they have the right to:

(1) File a grievance IAW Section 12.4;

(2) File an appeal with the Merit Systems Protection Board (MSPB), to include mixed case appeals when the employee alleges that the adverse action was effected, in whole or in part, because of discrimination, to include race, color, national origin, sex, age, or disability (see Paragraph 4);

(3) Request a hearing through the NGB Hearing Examiner program; or

(4) Request an Appellate Review by the Adjutant General.

2. The notice required under Paragraphs 1(b) and (c) will also include notification to the employee that an appeal using either the NGB Hearing Examiner program or Appellate Review process will result in the Adjutant General having final decision authority over their appeal, that neither process affords them an actual third-party adjudication of the action taken against them, and that the decision rendered is final and may not be appealed further, to include before a court of law.

3. When an employee requests a Hearing Examiner (HE) IAW Paragraphs 1(b)(2) or 1(c)(3):

a. The Agency shall request a list of seven (7) qualified examiners from NGB to be sent to both the Agency and the employee (or their representative).

b. No later than ten (10) days after the list is received from NGB, the Agency and employee (or their representative) will alternately strike names via email, telephone, or in person until only one (1) name remains. The employee will strike first.

4. In addition to the appeal rights listed in Paragraph 1, the Agency's notice shall also inform employees that IAW Article 19 they may have a right to file an Equal Employment Opportunity (EEO) or whistleblower complaint if they believe the action taken against was due to one or more of the reasons listed below:

a. Retaliation for opposing or disclosing discrimination or illegal activity;

b. For their participation in a discrimination or appeals proceeding; or,

c. For requesting an accommodation based on disability or religion.

5. The notice required under Paragraphs 1(b) and (c) will also include notification to the employee that they are entitled to be represented by an attorney or other representative, to include the Union, and will include the Union's contact information in the notice as follows:

LIUNA Local 1776

Phone: 1 (800) 569-5861
Email: contact_us@local1776.org
Website: www.local1776.org

Section 13.6 – Release of Supporting Documents, Evidence, Historical Data, and Witnesses

1. All evidence relied upon in support of a non-disciplinary, disciplinary, or adverse action shall be provided to the employee at the time of the action. The employee's reply/rebuttal timeline will not begin unless each item relied upon as supporting evidence, as referenced in the entry, notice, memorandum, or proposal letter is provided to the employee or their representative.
2. When the action being proposed is due to an employee's local access to classified information being suspended pending DoD Combined Adjudications Facility (CAF) review, the Agency shall provide the employee or their representative with:
 - a. Written notice that their local access has been suspended pending CAF review, and the rationale for the suspension;
 - b. Information about due process and incident report procedures;
 - c. Proof that their case has been submitted to the CAF for adjudication, to include a written copy of the Agency's recommendation to the CAF as to whether they believe the employee should or should not retain their national security eligibility pending investigation; and,
 - d. Information on the process for appealing a negative security determination.
3. Upon issuing a final decision IAW Section 13.5(1), the Agency shall make its employees or personnel (regardless of duty status) available to furnish statements or to appear at a deposition at the request of an appellant (or their representative), and/or to appear before a respective appeal forum when identified as a witness by either the Agency or an appellant.

Section 13.7 – Last Chance Agreements (LCAs)

1. LCAs shall be negotiated with the Union IAW Section 6.2 and 6.3 prior to their being presented to employees.

Article 14

Furlough and Other Work Force Management

Section 14.1 – General Guidelines

1. The Agency will notify the Union as soon as it becomes aware of any potential furlough or reduction in force (RIF) IAW Section 6.2. The Agency's notice will include a current list of all personnel (IAW Sections 1.3(1) and (2)) and will identify those bargaining and non-bargaining unit employees that will be furloughed or RIF'd.
2. All employee notices issued IAW this Article will be submitted to the Union for review and concurrence prior to being distributed/issued.

Section 14.2 – Furloughs of 30 Days or Less (22 Workdays)

1. Employees will be notified as far as possible in advance of such furlough. If employees are on leave or TDY, they will be notified, when possible, prior to the beginning of their shift of the day of the required action.
2. Whenever possible, employees will be notified prior to the beginning of their shift on the day they are required to return to work unless a specific number of days is included in the furlough notice.
3. The notice required herein shall be accomplished in writing and the Agency shall record the fact that an employee has been notified and that the employee has acknowledged said notice, as required by this Section. However, the Agency may not require that an employee travel to the worksite for the sole purpose of receiving and acknowledging a furlough notice if delivery and acknowledgement may be accomplished electronically.
4. At a minimum, the Agency's notice to affected employees will include:
 - a. The reason for the furlough and the intent to return employees to work as soon as possible;
 - b. Whether the employee is deemed essential or non-essential;
 - c. The estimated length of the furlough (a furlough period can be for 30 consecutive calendar days or 22 nonconsecutive workdays (e.g., 1 day per week for 22 weeks); and
 - d. Information on benefits that may be affected (i.e., insurance, unemployment, etc.).

Section 14.3 – Reorganization, Realignment, and Reduction in Force (RIF)

1. Any changes to the Agency's civilian work force because of a reorganization, realignment, or a reduction in force (RIF) shall be accomplished IAW 5 CFR Part 351, and 32 USC § 709, and

Sections 6.2 and 6.3 of this Agreement. This includes any action, regardless of whether voluntary or involuntary, that seeks to eliminate an employee's incumbent position permanently or in favor of a different duty status (e.g., from civilian to active duty under either Title 10 or Title 32).

2. The Agency will provide as much notice as possible, but not less than sixty (60) days, in a pay status to employees who will be separated under this Section. The 60 days advance notice period may be shortened in the event the RIF occurs as a result of unforeseen circumstances.

3. An employee who is separated or reduced in grade under this Section will be placed on the reemployment priority list and will be offered a temporary, indefinite, or permanent position if available and for which the employee is qualified.

Article 15

Environmental Differential and Hazardous Duty Pay (EDP & HDP)

Section 15.1 – Reduction of Hazardous Working Conditions

1. The Agency will reduce, mitigate, curtail, or eliminate all workplace hazards.
2. When the Agency is unable to practically eliminate workplace hazards, Environmental Differential Pay (EDP) or Hazardous Duty Pay (HDP) may be authorized IAW 5 CFR § 532 or § 550, respectively.
3. When a work situation may warrant coverage under appropriate categories of EDP or HDP, an EDP/HDP Situation Request shall be submitted to the Agency.
4. The Agency will establish an EDP/HDP Committee to oversee new or current EDP/HDP situations/determinations, and to review the annual expenditures for EDP/HDP. The Union may have up to five (5) representatives on the committee:
 - a. State Representative;
 - b. Army Surface Maintenance Representative;
 - c. Army Aviation Representative;
 - d. SME (as needed); and,
 - e. One (1) Observer.
5. When a new EDP/HDP situation is approved, an employee who has been required to work under the newly approved conditions may be eligible for retroactive pay. Retroactive payment will be accomplished IAW 5 USC § 5596.

Section 15.2 – Hazardous Conditions

1. Hazardous weather conditions (e.g., lightning, flooding, extreme heat, extreme cold, etc.) can create or contribute to unsafe work conditions. The Agency will monitor conditions and provide specific training to prevent injury or death from exposure to hazardous weather.
2. IAW Section 11.3(6), the Agency agrees to provide employees required to work in inclement weather conditions the appropriate clothing for the conditions present at their worksite, or for conditions that they might be exposed to because of their assigned duties.
3. In recognition of the adverse effects of extreme temperatures and weather conditions upon employees, the Agency agrees to the following:

a. Work/rest cycles will be established to ensure the safety of employees required to perform duties outside, in sheltered (e.g., open garage/maintenance bays) or unsheltered conditions during periods of extreme heat and/or cold weather. The Agency will ensure that, in addition to breaks required IAW Section 8.3(3), employees have adequate breaks away from extreme temperature conditions to reduce the chances of injury. The Agency will also ensure that employees working in extreme cold have adequate cold-weather gear and adequate heated shelter, and that those working in extreme heat have proper access to water and shade. The Agency shall observe all applicable operational risk management practices to include monitoring of Wet Bulb Globe Temperature (or equivalent) and wind chill factor. Sample charts are included below.

b. Employees working indoors will be provided a climate-controlled environment, and will not be exposed to temperatures below 60° F or above 85° F. When heating or air conditioning equipment malfunctions or is inoperable due to a power failure, and the failure has/is expected to last more than sixty (60) minutes, employees will be temporarily moved to an alternate location that provides adequate cooling or heating, or they shall be administratively dismissed IAW Section 9.7 until the Agency makes the necessary repairs to its facilities.

c. When lightning is within five (5) miles of a work facility, employees will be allowed to take shelter indoors and will not be required to continue outdoor operations for a minimum of ten (10) minutes after lightning last struck within the stated five (5) mile radius.

Work/Rest Times and Fluid Replacement Guide

Heat Category	WBGT Index (°F)	Easy Work Walking on hard surface, 2.5 mph, <30 lb. load; weapon maintenance, marksmanship training.		Moderate Work Patrolling, walking in sand, 2.5 mph, no load; calisthenics.		Hard Work Walking in sand, 2.5 mph, with load; field assaults.	
		Work/Rest (minutes)	Fluid Intake (quarts/hour)	Work/Rest (minutes)	Fluid Intake (quarts/hour)	Work/Rest (minutes)	Fluid Intake (quarts/hour)
1	78° - 81.9°	NL	½	NL	¾	40/20 (70)*	¾ (1)*
2 (GREEN)	82° - 84.9°	NL	½	50/10 (150)*	¾ (1)*	30/30 (65)*	1 (1¼)*
3 (YELLOW)	85° - 87.9°	NL	¾	40/20 (100)*	¾ (1)*	30/30 (55)*	1 (1¼)*
4 (RED)	88° - 89.9°	NL	¾	30/30 (80)*	¾ (1¼)*	20/40 (50)*	1 (1¼)*
5 (BLACK)	> 90°	50/10 (180)*	1	20/40 (70)*	1 (1¼)*	10/50 (45)*	1 (1¼)*

NL = No limit to work time per hour.

*Use the amounts in parentheses for continuous work when rest breaks are not possible. Leaders should ensure several hours of rest and rehydration time after continuous work.

This guidance will sustain performance and hydration for at least 4 hours of work in the specified heat category. Fluid needs can vary based on individual differences (± ¼ qt/hr) and exposure to full sun or full shade (± ¼ qt/hr).

Rest means minimal physical activity (sitting or standing) in the shade if possible.

Body Armor - Add 5°F to WBGT index in humid climates.

NBC (MOPP 4) - Add 10°F (Easy Work) or 20°F (Moderate or Hard Work) to WBGT index.

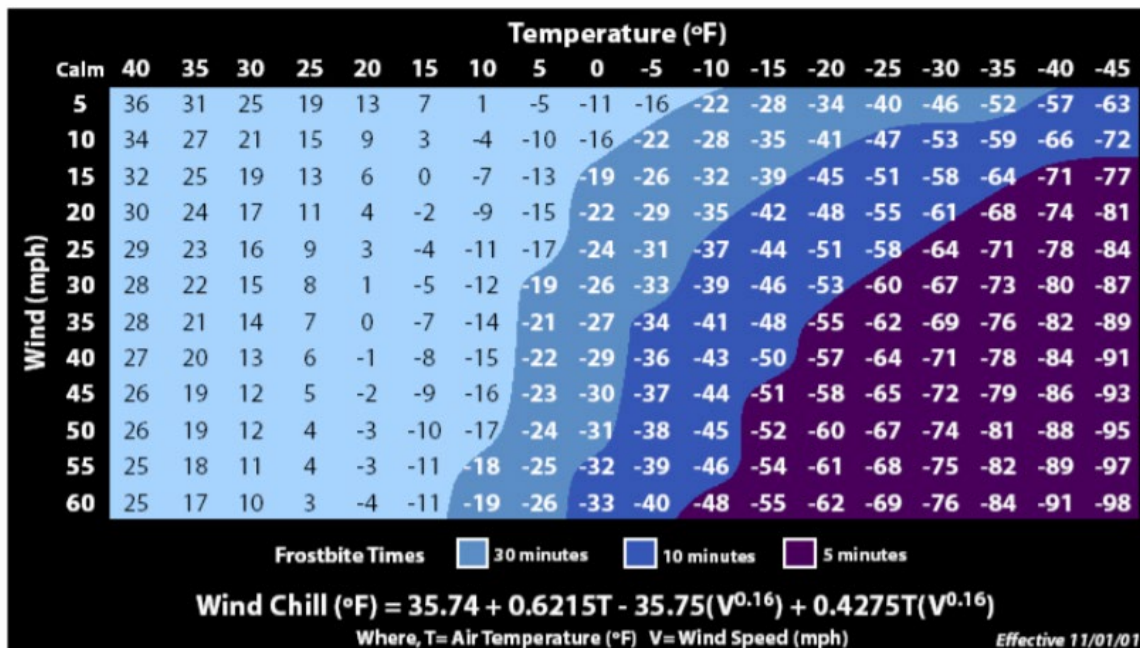
CAUTION: Hourly fluid intake should not exceed 1½ qts. Daily fluid intake should not exceed 12 qts.



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CP-033-0615



Wind Chill Chart



Wind Chill Temperature Table

Wind Chill Category			
Work Intensity	Little Danger	Increased Danger	Great Danger
High Digging foxhole, running, marching with rucksack, making or breaking bivouac	Increased surveillance by small unit leaders; Black gloves optional - mandatory below 0°F (-18°C);	ECWCS or equivalent; Mittens with liners; No facial camouflage; Exposed skin covered and kept dry; Rest in warm, sheltered area; Vapor barrier boots below 0°F (-18°C) Provide warming facilities	Postpone non-essential training; Essential tasks only with <15 minute exposure; Work groups of no less than 2; Cover all exposed skin, Provide warming facilities
Low Walking, marching without rucksack, drill and ceremony	Increased surveillance; Cover exposed flesh when possible; Mittens with liner and no facial camouflage below 10°F (-12°C); Full head cover below 0°F (-18°C). Keep skin dry - especially around nose and mouth.	Restrict Non-essential training; 30-40 minute work cycles with frequent supervisory surveillance for essential tasks. See above.	Cancel Outdoor Training
Sedentary Sentry duty, eating, resting, sleeping, clerical work	See above; Full head cover and no facial camouflage below 10°F (-12°C); Cold-weather boots (VB) below 0°F (-18°C); Shorten duty cycles; Provide warming facilities	Postpone non-essential training; 15-20 minute work cycles for essential tasks; Work groups of no less than 2 personnel; No exposed skin	Cancel Outdoor Training
These guidelines are generalized for worldwide use. Commanders of units with extensive extreme cold-weather training and specialized equipment may opt to use less conservative guidelines.			

Article 16

Position Descriptions and Assigned Duties

Section 16.1 – Employee Awareness of Assigned Duties

1. A position description (PD) identifies, for purposes of pay and classification, the major duties, responsibilities, and supervisory relationships for a given position as established by OPM and NGB. PDs do not list every duty or task an employee may be assigned, and an employee is also not required to perform any portion of the duties listed for any specific amount of time to receive compensation. Rather, a PD reflects those duties which are pay plan, series, and grade-controlling.
2. The Agency will ensure employees are aware of their assigned duties and will ensure that PDs accurately reflect the work being performed. A current copy of an employee's PD will be kept in their work folder (or equivalent record normally maintained by their supervisor). Newly hired employees will review and sign a copy of their official PD during their initial orientation/briefing. Signing their PD serves as record and acknowledgement that they have reviewed and understand their assigned duties. Employees will also receive a copy of their PD for their personal record and reference.
3. Employees will review their PD on an annual basis at the beginning of their yearly appraisal period. The review required herein shall be acknowledged by the employee and recorded in their work folder (or equivalent record normally maintained by their supervisor).
4. Employees concerned that their assigned duties do not reflect their PD (either higher or lower graded duties) may request that the Agency perform a desk audit. Employees not satisfied with the results of a desk audit may file a classification appeal with OPM. GS employees can opt to forgo an audit and file a classification appeal directly with OPM. FWS employees must first request a desk audit before filing an appeal with OPM.
5. A supervisor will immediately notify an employee of any changes to their PD. They will also provide a copy of the changes to the employee and will review the changes with the employee.
6. The Agency will continually monitor NGB Position Description Release (PDR) notices (or their equivalent) for updates and/or abolishment of PDs to ensure that employees have the most current version of their assigned duties, especially as it relates to pay and classification. Upon request, the Agency will provide the Union with copies of NGB PDRs.
7. Whenever NGB issues notice of a modification or change to an employee's PD and/or pay, series, and grade, the Agency will notify the Union and provide a copy of the notice and all documents that accompany the release within thirty (30) days after the effective/release date. The Agency will follow the procedures in Section 6.2 to ensure that the changes outlined in the notice are implemented within the validation window specified, usually one-hundred and twenty (120) days. When the Agency fails to implement changes or modifications within the specified window, especially one that provides a pay increase to the employee's affected on or before the

implementation-window specified, the Agency will be responsible for retroactive implementation to a date not earlier than the one-hundred and twenty-first (121) day after the effective release date of the notice in question.

8. Upon request, and to the extent practicable, the Agency will provide the Union with the most current version of NGB's master compatibility table for dual-status positions as well as NGB's dual-status position description index.

Section 16.2 – Details and Other Duties as Assigned

1. A detail is the temporary assignment of an employee to a different position or to duties that are outside of their incumbent position description for a specified period, with the employee returning to their regular duties at the end of the detail. This includes temporarily detailing an employee to supervisory duties as 'second-in-charge' or 'temporarily-in-charge' of other employees to cover for brief periods of absence of a supervisor or other Agency representatives.

2. Prior to placing an employee on a temporary detail the Agency should ensure the assignment complies with applicable law and/or regulations and this Agreement, especially if the detail requires additional/specific training and/or qualifications or may provide the employee with higher pay. Employees shall be informed of the start and end date of the detail as well as their duties and responsibilities.

3. When an employee is detailed in a "second-in-charge" or in a "temporarily-in-charge" capacity, the employee will be informed of the expected duties they will be authorized to carry out (i.e., assign work, approve leave, take disciplinary action, etc.). Subordinate employees will be notified of the coworker's temporary detail to supervisory duties, to include what supervisory functions the temporary supervisor can and cannot fulfill, and who else in their supervisory chain has the authority to exercise the other managerial functions normally performed by their regular supervisor.

4. The Agency may require an employee to perform "other duties as assigned" IAW this Section. The phrase or term "other duties as assigned" as used in a PD simply establishes the principle that assignment of duties to employees is not limited to the duties specifically described in the PD; however, other duties as assigned shall not be used as the basis for the assignment of duties unrelated to the principal duties of an employee's position, except on a temporary and infrequent basis, and only under circumstances in which such assignments can be justified as reasonable. Except in limited circumstances, "other duties as assigned" should be closely related to the employee's position and will not be grade-determining.

5. "Other duties as assigned" do not apply to tasks which would otherwise be considered a detail, temporary promotion, or a reassignment.

6. Neither the Agency nor employees shall abuse the use of "details" or "other duties as assigned." Except for changes to lower grade resulting from an adverse action IAW Article 13, when an employee is assigned duties of a lower grade for any period, that assignment shall not adversely affect an employee's compensation, classification, or position of record. If an

employee is assigned duties of a higher pay grade, the employee should be temporarily promoted to the higher paying position and compensated accordingly. Promotions exceeding one hundred and twenty days (120) days shall be competitively announced.

7. Details, temporary promotions, and the assignment of “other duties” of a higher pay grade will be recorded in the employee’s official personnel folder using an SF50 form (or equivalent). However, the Agency’s failure to document a detail or the performance of higher graded duties will not relieve any requirement to pay an employee for performing duties of a higher pay grade IAW Section 16.3.

8. When the duty station for a temporary assignment is outside the limits of the employee’s official duty station, an employee’s travel between their home and the temporary duty station is compensable IAW applicable regulations.

Section 16.3 – Pay for Higher Graded Duties

1. An employee who is assigned duties of a higher pay grade shall be entitled to pay at the higher rate for the entire period during which the higher graded duties were assigned.

2. Employees who perform higher-graded duties without compensation in violation of Section 16.2(6) shall be considered to have suffered an unjustified or unwarranted personnel action and shall be entitled to retroactive compensation IAW 5 USC § 5596 – Back Pay for a period of up to six (6) years prior to the day that they file a claim under the negotiated grievance procedure contained in Article 12. Back pay claims are considered continuing violations for the purposes of the time limits contained in Section 12.4(3) and may only be barred if the claim exceeds the statutory limitations of 5 USC § 5596(b)(4).

Section 16.4 – Relocation Expenses

1. An employee whose duty station changes because of an administrative personnel action may be entitled to the payment of relocation expenses IAW the DoD JTR. The Agency shall ensure that employees eligible for relocation payments are aware of their entitlement. The Agency cannot require or suggest that an employee refuse or decline relocation entitlements as a condition of accepting the relocation or as a way for the Agency to save funds.

Section 16.5 – Maintenance Allocation Chart (MAC)

1. The Maintenance Allocation Chart (MAC) designates overall authority and responsibility of the performance of maintenance functions for equipment. MACs specify what tasks can be performed at each level of maintenance and provide an allotted manual labor time value for the completion of each task. Employees are expected to perform maintenance tasks within the time constraints established per the MAC. The implementation of the MAC shall be standardized across all Agency worksites (i.e., allotted labor times for task completion should be based on the type of equipment being service, not based on the location where the service is taking place or the level of competency of the employee performing the work) with minor deviations allowed to

account for specific circumstances present at individual work locations (i.e., size of maintenance yard, and the tools and equipment available, etc.).

Article 17

Employee Development and Training

Section 17.1 – Job Related Training and Qualifications

1. The Agency will provide job related training and development for employees, as necessary, to accomplish the mission of the SDARNG in an efficient manner. The Agency may require a Continued Service Agreement (CSA) as a condition of training attendance when the cost of said training requires a significant financial expenditure on the part of the Agency. CSAs shall be negotiated with the Union IAW Section 6.2 and 6.3 prior to their being presented to employees.
2. The Agency shall train employees on all new equipment, technology changes, and procedures needed to perform the duties of their job at a fully successful level. For employees who are subject to production and timeliness standards, time spent in a training status will not be counted against the employee.
3. The Agency will ensure employees attend job related courses especially in situations where an employee's position and/or duties are modified or impacted by the introduction and/or use of new equipment and/or procedures. Employees required to use new procedures or equipment may not be evaluated or appraised on said new procedures or equipment until they have completed training.
4. Employees shall be given priority consideration for participating in or attending training schools and events over other Agency personnel (e.g., drill-status guardsmen or active guard and reserve personnel). This extends to the use of Additional Flight Training Periods (AFTPs) by employees in aviation career fields.
5. All employees shall have an equal opportunity to receive training IAW Section 18.1.

Section 17.2 – Personal Development

1. The Agency encourages employees to take advantage of the educational benefits that are available to them by virtue of their membership in the SDARNG.
2. To the greatest extent possible and barring any disruption to the mission, the Agency agrees to consider a request from an employee pursuing a higher-level education or certification in a nationally recognized and accredited institution such as a community college or university by adjusting their shift rotation and/or work schedule to facilitate their education goals.
3. Upon request, an employee must provide evidence of active/continued enrollment in an accredited institution, satisfactory attendance, and progress to justify adjustments to work shifts or schedules.

4. A request to for work-schedule adjustment under this Section must be submitted a minimum of thirty (30) days prior to the beginning of the applicable school period or semester for which the schedule will apply.

Article 18

Workplace Protections and Reasonable Accommodations

Section 18.1 – Policy

1. The Agency will ensure employees are free from workplace discrimination and/or violence and will notify employees about their EEO rights and whistleblower protections, the process for filing either a complaint or grievance concerning a discriminatory or workplace violence matter, the process for requesting a reasonable accommodation, and their right to be free from reprisal when filing a complaint or grievance or a reasonable accommodation request.
2. Reasonable Accommodations (RAs) will be managed IAW applicable law, rules, and regulations.

Section 18.2 – EEO Complaint Procedures

1. Any employee who believes they have been discriminated against may file a complaint in accordance with Equal Employment Opportunity Commission (EEOC) regulations, or may pursue a grievance IAW Article 12, but not both. Employment discrimination includes, but may not be limited to:
 - a. Unfair treatment because of gender, race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, sexual orientation, or genetic information.
 - b. Harassment by managers, co-workers, or others in the workplace because of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, sexual orientation, or genetic information.
 - c. Denial of a reasonable workplace accommodation for religious beliefs or a medically documented disability.
 - d. Retaliation due to filing a complaint of discrimination or assisting with a discrimination investigation or lawsuit.
 - e. Discrimination on another basis including sexual orientation, status as a parent, marital status, political affiliation, and conduct that does not adversely affect the performance of the employee.

Section 18.3 – Protective Measures

1. In cases where an employee alleges that they are a victim of sexual assault or sexual harassment committed by other Agency employees or representatives, or that they may be subject to threats, intimidation, and/or workplace violence for any substantiated reason to include from their raising a claim or complaint under this Section, to include allegations against an immediate supervisor, a co-worker assigned to the same work section, or any other individual

within close proximity to the accuser (i.e., where the accuser and accused do not work in the same area but are likely to interact on a daily basis), the Agency may issue no-contact orders to all parties involved and may also unilaterally consider temporarily reassigning some or all of the individual(s) involved in order to reduce the potential for further conflict pending investigation of the matter. Any preemptive no-contact order or reassignment issued under this Paragraph shall be temporary and shall not have an adverse impact on any of the individuals involved.

2. Paragraph 1 notwithstanding, an employee who makes a credible and/or substantiated claim of fear of reprisal and or fear of physical violence because of their filing a complaint or an allegation of discrimination, sexual harassment, sexual assault, or workplace violence may request that the Agency reassign them immediately to a different position and or work location either temporarily or on a permanent basis. The request shall be submitted in writing and must include an explanation of the reasons for their concerns, how the reassignment would alleviate their fear, and whether the reassignment would be temporary or permanent. Request for transfers under this Section shall be expedited and shall not be unreasonably denied. In lieu of or while awaiting a decision on a transfer request, the employee may be temporarily placed on administrative leave as a way to ensure their safety.

3. The Agency shall provide a written response no later than forty-eight (48) hours after receipt of a request under this Section. If the request is denied the Agency shall state the reason(s) for their decision, to include justification of any claims of undue hardship or negative impacts on its ability to accomplish the mission.

4. The Agency may be required to report any allegations or instances of violence, to include sexual assault, to a local law enforcement agency having jurisdiction over the location where an incident occurs.

Article 19

Use Of/Access to Facilities & Services

Section 19.1 – Office & Meeting Space

1. The Agency shall provide the Union with adequate space to conduct Union meetings during non-work hours (before and after normal duty hours, and during lunch). As such, the Agency agrees to grant access to available space, upon request, for the Union to conduct internal business.
2. The Union shall comply with all security rules applicable to the SDARNG. Requests for a meeting facility will be coordinated by the Union with the Agency prior to use.

Section 19.2 – Mail Service

1. The Union shall be authorized to use the Agency's internal mail distribution system, including electronic mail (e-mail), to conduct Union business which is necessary for the effective representation of bargaining unit employees, to include announcing membership drives and other benefits provided by the Union.
2. Union representatives shall observe DoD and US Army rules and regulations governing the use of the mail distribution system (electronic or otherwise). Failure to do so may result in denial of access of use.

Section 19.3 – Publications and Other Services

1. Upon request by the Union or an employee, and to the extent that they are not available for public review on the internet, the Agency agrees to make available current publications (i.e., policy directives, regulations, etc.) relating to matters which affect pay and benefits, personnel policies, practices, and conditions of employment or working condition.
2. When a current publication is available on the internet for public access, the Agency's response shall be limited to providing the requester an active internet link.

Section 19.4 – Bulletin Boards

1. The Agency will provide space for bulletin boards for the exclusive use of the Union in each work site where bargaining unit employees are assigned. The bulletin boards can be of the cork-type or may be electronic (i.e., SharePoint or FTE e-mail). The bulletin board shall be purchased and installed by the Union and shall be in an area where employees normally congregate or regularly pass so that Union bulletins or notices can receive the widest possible dissemination.
2. The Union will be responsible for the content of literature posted on its bulletin board. Any such bulletin notices or literature posted or distributed must not violate any law, security, directive, or contain libelous material.

3. The Union agrees to maintain the bulletin board space provided in a neat and current manner.

Section 19.5 – Common Areas

1. The Agency will provide adequate and safe vehicle parking adjacent to each worksite where bargaining unit employees are assigned. Each parking lot shall comply with applicable laws and regulations, including the Americans with Disabilities Act (ADA). Parking will be offered on a first come first served basis. In addition to required handicap spots, reserved parking will be limited to one (1) spot for each worksite serviced by the parking lot.

2. The Agency agrees to provide adequate common areas (i.e., break areas and/or eating areas) within each facility that are separate from maintenance areas and that are not used to store petroleum, oil, and lubricants (POL) or any other type of liquid or substance that is considered a health hazard.

3. Areas identified for the safe consumption and storage of food and beverages (i.e., break and/or lunch rooms) by employees shall be furnished with a sufficient number of tables and chairs, cold food storage appliances (i.e., refrigerator and/or deep freezer), dry storage areas (i.e., cabinets, pantries, and drawers), appliances for the heating of food and beverages (i.e., microwave and coffee machine), and sanitation equipment and products (i.e., sink/dishwasher and cleaning detergents) commensurate with the number of employees assigned to the facility. These areas shall be generally maintained in a clean and orderly fashion by the employees who use said facilities. However, the Agency shall be responsible for performing routine maintenance such as pest control and other general and recurring maintenance beyond daily cleaning IAW Section 11.1(8)(h).

4. Where authorized, the Agency shall designate smoking areas at each work site that are reasonably accessible to employees, provide a means to safely dispose of used tobacco products, and provide a measure of protection from the elements.

Section 19.6 – Access to Union Public Internet Sites

1. The Agency will ensure that the Union website is continuously accessible to employees on Agency-owned computers and devices.

Article 20

Civilian Temporary Duty (TDY), Travel, and Assignments

Section 20.1 – General

1. Travel and per diem will be paid IAW applicable law and regulation.
2. Employees will use the Defense Travel System (DTS) and Government Travel Card (GTC) for all official travel arrangements and related expenses.

Section 20.2 – Travel Entitlements

1. Travel will be conducted by the most advantageous, prudent, and economic means available. The Agency will not require an employee to use their privately-owned vehicle (POV) for travel nor will an employee be entitled to reimbursement for POV travel not previously approved as the most cost-effective mode of transportation IAW the JTR and Agency policies.
2. An employee's objection to traveling by commercial airline, which is supported by a valid medical certificate stating he or she should not travel by aircraft, may be accepted as sufficient authority to utilize other methods of transportation. The Agency will determine what the most cost-effective alternate mode of transportation is IAW the DoD JTR and Agency policies.

Section 20.3 – Temporary Duty (TDY) Assignments

1. The Agency may require employees to temporarily travel away from their assigned duty station in order to meet mission requirements. This is commonly known as TDY. When an employee is assigned TDY work, the provisions of this Agreement shall be observed regardless of whether the assignment is performed on a voluntary basis, or as directed (involuntary) by the Agency in order to support the Agency's mission.
2. Employees may only be placed in a TDY status pursuant to a formal written order issued by an authorized Agency representative specifying the parameters of and any restrictions placed on the employee for the duration of the TDY period, to include the hours of work to be observed while on TDY. An employee cannot be compelled to perform TDY absent a formal written order by an authorized Agency representative issued IAW this Paragraph prior to their departure.
3. The Agency will make every effort to direct or assign employees TDY on an equal basis and shall take into consideration the nature of the work, the need for special skills, the priority of productive or support effort, and the numbers of employees required. In no case will TDY work be directed or assigned to an employee as a reward or punishment.
4. The Agency should make every effort to seek qualified volunteers prior to mandating that an employee performs TDY work. In the event there are insufficient qualified employee volunteers willing to perform TDY work, the Agency has the authority to direct an employee to participate in a TDY in order to meet the Agency's mission requirements.

5. Except in emergency situations, or when the head of an agency determines that the agency would be seriously handicapped in carrying out its functions, or that costs would be substantially increased, TDY requirements will be carried out IAW Section 4.2, and will be announced as far enough in advance as possible, but not less than two (2) weeks prior to the first day of travel, to allow employees the opportunity to make suitable arrangements to perform the TDY work. The term 'far enough in advanced' means as soon as the Agency became aware or should have known of the TDY work requirement. The Agency will be required to reimburse an employee who suffers financial harm due their curtailment or cancellation of personal activities resulting from the Agency's failure to provide required notice of TDY work IAW this Paragraph if it can be demonstrated that the Agency was/should have been aware of the TDY requirement sooner but failed to inform the employee, even when the Agency provided the minimum two (2) weeks' notice. An employee may request to be excused from TDY under justifiable circumstances. If an employee's request is denied, the Agency shall provide the employee a written explanation, if requested.

6. Supervisors will take into consideration any personal hardships that TDY work may cause the affected employee(s) and will make every effort to accommodate said hardships. These include issues such as childcare, school, and other bona fide hardships that may affect the employee and/or their family due to the TDY work.

Section 20.4 – Conditions of Employment

1. The provisions of this Agreement shall apply during TDY to include the scheduling of work, overtime requirements, compensation, discipline, and other conditions of employment. Except in situations covered by Section 8.6, the Agency may not restrict employee off-duty activities during TDY. This includes any restrictions concerning off-duty conduct to include confinement to base/quarters, consumption of alcohol, local area travel, commercial establishments, and any other activity that an employee can normally and voluntarily choose to participate in.

2. The Agency may request that the Union designate one or more representatives, depending on the number of employees taking part in the TDY, to serve as Union Stewards.

Article 21

Performance Standards and Evaluations

Section 21.1 – Employee Performance

1. Employee performance and incentive awards will be administered IAW this Agreement and applicable SDARNG regulations.
2. An employee's performance rating may not be reduced because of serving in a representation capacity on behalf of the Union.
3. When an employee's performance evaluation includes the awarding of a certain job-objective score based on a comparison or measurement of their individual ability to meet certain labor and/or man-hour goals or metrics, and those goals or metrics are subject to modification at the local level by the Agency, then the Agency must negotiate with the Union such labor and/or man-hour criteria prior to using it as a determining factor concerning an employee's annual performance evaluation.
4. A reduction in grade or a removal pursuant this Section will be processed IAW Section 13.4.

Section 21.2 – Official Appraisal

1. An employee and their supervisor shall meet a minimum of three (3) times during the rating cycle to accomplish their appraisal.
2. When the Agency fails to abide by the requirements of Paragraph 1 (above) and/or fails to provide an employee with a finalized performance appraisal rating within sixty (60) days after the end of a specific rating period, the employee shall receive a default rating of three (3) for all critical elements evaluated during said rating period. If the supervisor and employee are unable to complete an appraisal within the sixty (60) days due to unforeseen circumstances (i.e., sickness, TDY, etc.), an extension may be requested through HRO and the Union will be notified.
3. Employee seeking reconsideration of a performance appraisal score received as a result of Paragraph 2 (above) must carry out the process IAW applicable laws, rules, and regulations. Employees may utilize the grievance process in Section 12.4 to compel the Agency to provide them a final rating for the time period in question or to address errors in process.

Section 21.3 – Within-Grade Increases (WGI's) & Upward Mobility Promotions (UMP's)

1. The Agency shall process Within-Grade Increases (WGI's) as soon as an employee becomes eligible, as long as they are performing at a fully successful level or higher. The Agency may not delay a WGI, except for unacceptable performance.

2. Employees who are hired into an Upward Mobility Promotion (UMP) position (i.e., entry or developmental, or split-grade hiring), usually one or more grades below the fully qualified level of their position, shall be promoted to the fully qualified grade as soon as the employee meets the minimum experience requirements. The Agency may not delay a promotion to the fully qualified grade level, except for unacceptable performance.
3. When an employee's unacceptable performance will prevent the award of a WGI or a UMP, the Agency will notify the employee of their ineligibility for a WGI or promotion at least thirty (30) days prior to the date the action was due to become effective. If the Agency fails to follow the procedures established herein, the WGI or promotion cannot be held in abeyance, and the previous rating will serve as the basis for the increase or promotion.
4. When a WGI or promotion is withheld due to sub-standard performance, the WGI or promotion shall be granted as soon as the employee's performance reaches a satisfactory level.
5. Employees who are denied a WGI or UMP in violation of this Section shall be considered to have suffered an unjustified or unwarranted personnel action and shall be entitled to retroactive compensation IAW the Back Pay Act for a period of up to six (6) years prior to the day that they file a claim under the negotiated grievance procedure contained in Article 12. Back pay claims are considered continuing violations for the purposes of the time limits contained in Section 12.4.

Section 21.4 – Incentive Awards Program

1. The Agency recognizes the importance of rewarding those employees that consistently excel in the performance of their duties. Therefore, the Agency will implement and maintain an Incentive Awards Program to recognize employee efforts, setting aside an annual budget to fund monetary and/or time-off awards for bargaining unit employees.
2. The Agency will also include the Union as a member of the Incentive Awards Committee. In order to have a quorum and conduct business, the Incentive Awards Board must have a Union representative present as a full voting member, unless the Union declines to participate.

Article 22

Employee Assistance Program (EAP)

Section 22.1 – General

1. The Agency shall maintain a program to assist employees who may be experiencing personal difficulties or hardships such as substance dependency or abuse, relationship challenges, stress, and other situations which can affect an employee's ability to accomplish their assigned duties. The Agency will not reveal names of persons voluntarily seeking assistance without the employee's written consent. Employees may request the services available through the Agency-sponsored EAP any time. The Agency will advise employees of other programs offered (i.e., Military One Source, Military Family Life Consultants, VA, etc.).
2. The Agency may refer employees to EAP, however, participation in the program is strictly voluntary. Excused absence will be granted for an initial EAP counseling session.
3. A fundamental purpose of EAP is to assist employees with problems that may result in conduct or performance deficiencies. However, the program is not intended to shield employees from corrective action(s). While participation in EAP is strictly voluntary, the Agency may recommend that the employee seek EAP assistance as an alternative to disciplinary action. In these cases, the Agency agrees to hold in abeyance a proposed disciplinary action so long as the employee participates in EAP, does not engage in new instances of misconduct or performance deficiency, and successfully completes the treatment to which he/she is referred. If the employee meets these requirements, the proposed disciplinary action will be rescinded. This provision only applies to first-time offenses or instances where an EAP referral may serve as an alternative to disciplinary action. EAP should not be considered, and may not be invoked, in cases of severe, egregious, or criminal misconduct.
4. EAP does not limit the Agency's right to take administrative and/or adverse action.
5. No disciplinary or adverse action will be taken, specifically, because of an employee either using or refusing EAP. This extends to an employee who self-discloses a personal medical/behavioral condition to the supervisor. Participation in rehabilitative programs may be taken in consideration when disciplinary action is pending against an employee.

Article 23

Outsourcing and Contracting Out

Section 23.1 – General

1. The Parties agree that it is in their interest to preserve manpower positions within the SDARNG. The Agency will notify the Union as soon as it decides that it is necessary to contract out work which could cause an immediate or eventual RIF or downgrade of employees.

Article 24

Wage Survey

Section 24.1 – Employee Participation

1. When requested to do so by the Local Wage Survey Committee (LWSC), the Agency and the Union will select employees as data collectors based on their qualifications, to assist in the collection of wage data. The Agency shall select GS employees, and the Union will select WG employees.
2. If selected by the LWSC to host the collection of wage data, the Agency will furnish temporary office space and communication equipment (computer terminals, telephone, and fax machine) as necessary to support the DoD Wage and Salary Survey Team.
3. The Agency will provide employees serving as data collectors with access to GSA vehicles to facilitate their collection of local wage data. If GSA vehicles are not available, the Agency shall reimburse employees for their use of personally owned vehicles to support data collection efforts.

Article 25

Labor/Management Cooperation

Section 25.1 – Labor/Management Relations (LMR) Training

1. Employees serving as Union Representatives will be granted official time in conjunction with attendance at training sessions sponsored by the Union, to include time for travel to and from the training event, provided that the subject matter of such training is in the public interest and will benefit the U.S. Government, the Labor Organization, and the SDARNG.
2. Requests to be excused to attend Union sponsored training will be submitted to the Agency as soon as possible but no later than fourteen (14) days prior to the training session.
3. Approval/Disapproval notice will be provided no later than seven (7) days after the request is received IAW Paragraph 1.
4. Information needed for approval of LMR Training is as follows:
 - a. The name and title of the Union Representative(s).
 - b. The name or title of the Union sponsored training session.
 - c. The agenda of the Union sponsored training session, to include total number of hours.
 - d. The specific dates of training.
 - e. The total number of hours requested.
 - f. Location of Training.
5. The Agency may request that, upon return, the employee provide a certificate or letter confirming their attendance to certify Official Time.
6. When LMR training constitutes official business (i.e., training is in the public interest) and is considered beneficial IAW 5 USC §7131(d)(2), travel and per diem will be paid IAW the JTR.

Section 25.2 – Orientation of New Employees

1. All new employees shall be informed by the Agency that the Union is their exclusive representative. The Union will be allowed to distribute informational packets concerning the Union, its role in the workplace, and the benefits of Union membership. The Union will be responsible for any costs associated with the creation and delivery of informational packets for distribution at new employee briefings.

2. The Union will be allowed at least fifteen (15) minutes to brief employees on their rights and the Union's role in the workplace. These briefings are consistent with the Union's representational duties under the Labor Statute, are not considered internal Union business, and shall be accomplished during duty hours.

Section 25.3 – Labor Management Partnership Council

1. The Parties agree to maintain a Labor Management Partnership Council (LMPC) to collaborate on the review, modification, and proposal of personnel policies and practices related to working conditions.

2. The meeting format shall be informal to allow a free and open discussion. The Council's primary goal is to find common-sense and mutually beneficial solutions that ensure the SDARNG will accomplish the mission in the most effective and economic way.

Section 25.4 – Pre-Decisional Involvement

1. The Parties agree to fully engage in pre-decisional involvement on negotiable subjects of bargaining under 5 USC § 7106.

2. When the Parties meet in a pre-decisional capacity, the Agency agrees to release information about the subject matter with the Union to allow substantive and intelligent discussion. The release of information must be in accordance with law, but without the need for the Union to state a particularized need.

3. Agreements reached during pre-decisional discussions and meetings held IAW this Section may, upon mutual agreement, satisfy the requirements of Section 6.2. However, any modification to this Agreement must comply with Section 3.2.

Appendix A

Notice of Right to Union Representation During Administrative Investigations

DATE: _____

MEMORANDUM FOR: _____

1. You are being questioned pursuant to an administrative investigation. In accordance with (IAW) Article 5, Section 5.4, and IAW 5 USC §7114(a)(2)(B), you have the legal right to request Union representation during any examination or questioning by a representative of the SDARNG.

2. Should you exercise your right for Union representation, the investigation or questioning cannot continue until:

a. The Union representative is present (either in person or via teleconference);

b. You are advised of the subject and purpose of the interview; and,

c. You have had an opportunity to consult in private with the Union designated representative.

3. Please indicate your selection below:

a. _____ I wish to exercise my right to Union representation.

b. _____ I do not want Union representation at this time. However, I reserve the right to invoke my right to Union representation anytime during the course of this investigation.

EMPLOYEE SIGNATURE

DATE

4. Point of contact is the undersigned.

AGENCY REPRESENTATIVE NAME

Telephone:

E-mail:

Appendix B

Notice of Right to Union Representation During Criminal Investigations

DATE: _____

MEMORANDUM FOR: _____

1. You are being questioned pursuant to a criminal investigation. In accordance with (IAW) Article 5, Section 5.4, and IAW 5 USC §7114(a)(2)(B), you have the legal right to request Union representation during any examination or questioning by a representative of the SDARNG. You also have the right to remain silent and to have an attorney (legal counsel) present.

2. Should you exercise your right for Union representation, legal counsel, or both, the investigation or questioning cannot continue until:

- a. Your representative(s) is/are present (either in person or via teleconference);
- b. You are advised of the subject and purpose of the interview; and,
- c. You have had an opportunity to consult in private with your representative(s).

3. Please indicate your selection below:

a. Do you wish to have Union representation: ☐ YES ☐ NO

b. Do you wish to have an attorney present: ☐ YES ☐ NO

EMPLOYEE SIGNATURE

DATE

4. Point of contact is the undersigned.

AGENCY REPRESENTATIVE NAME

Telephone:

E-mail:

Appendix C

SD NATIONAL GUARD OFFICIAL TIME REQUEST 24 HOURS OR LESS – PLEASE PRINT CLEARLY		
Union Representative Name		Union Representative Telephone
Supervisor Name		Duty Location and Work Section
Reason for Request		
Departure Date	Departure Time	Destination
Return Date	Return Time	Management POC at Destination
Reason for Request		
Union Representative Signature		Date
Supervisor Action		
Recommended/Approved <input type="checkbox"/> YES <input type="checkbox"/> NO		Total Time Approved (including travel to and from if applicable)
Comments (if request is not approved provide reason and an alternate date/time when request can be fulfilled)		
Supervisor Signature		Date
HRO Action		
Recommended/Approved <input type="checkbox"/> YES <input type="checkbox"/> NO		Total Time Approved (including travel to and from if applicable)
Comments (if request is not approved provide reason and an alternate date/time when request can be fulfilled)		
Supervisor Signature		Date

Appendix D

SD NATIONAL GUARD GRIEVANCE FORM PLEASE PRINT CLEARLY		
Employee Name		Employee Telephone
Duty Location		Work Section
Grievance Narrative (please include Article and Section of CBA that applies)		
Proposed Resolution		
Union Representation <input type="checkbox"/> Employee Request Union Representation <input type="checkbox"/> Employee Waives Union Representation		
Employee Signature		Date
Step 1		
Date Submitted	Response Date	Management Representative Name/Position
Resolved (attach justification) <input type="checkbox"/> YES <input type="checkbox"/> NO		Management Representative Signature
Step 2		
Date Submitted	Response Date	Management Representative Name/Position
Resolved (attach justification) <input type="checkbox"/> YES <input type="checkbox"/> NO		Management Representative Signature
Step 3		
Date Submitted	Response Date	Management Representative Name/Position
Resolved (attach justification) <input type="checkbox"/> YES <input type="checkbox"/> NO		Management Representative Signature

- If the grievance is not resolved at Step 3 the Parties may invoke arbitration.
- Only the Union or the Agency may invoke arbitration.

Appendix E

Regulations, State and Local Policies Affected by this Agreement

[illegible]

Appendix F

Sample Email Notice of Grievance Filing

Email Template

Dear (Employee Name):

In accordance with Section 12.1(6) of the Collective Bargaining Agreement (CBA) we are required to inform you that a grievance has been filed by the Union as follows:

Date: (Insert Date Grievance Filed)

Subject: (Insert Grievance Title)

Summary: (Insert Background Summary)

A copy of the grievance is attached below. If you have any questions regarding this grievance or have information that you believe is relevant to this grievance filing, please contact:

*LIUNA Local 1776
contact_us@local1776.org
1 (800) 569-5861.*

(A copy of the grievance shall be attached to the email notice)

Appendix G

Sample Poster Notice of Grievance Filing

Poster Template

NOTICE TO EMPLOYEES

POSTED AS REQUIRED BY SECTION 12.1(6) OF THE
COLLECTIVE BARGAINING AGREEMENT (CBA)
BETWEEN THE ADJUTANT GENERAL OF SOUTH DAKOTA AND
THE LABORERS INTERNATIONAL UNION OF NORTH AMERICA

In accordance with Section 12.1(6) of the Collective Bargaining Agreement (CBA) we are required to inform you that a grievance has been filed by the Union as follows:

Date: (Insert Date Grievance Filed)

Subject: (Insert Grievance Title)

Summary: (Insert Background Summary)

A copy of the grievance is attached. If you have any questions regarding this grievance or have information that you believe is relevant to this filing, contact:

LIUNA Local 1776
contact_us@local1776.org
1 (800) 569-5861

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS
FROM THE DATE OF POSTING, AND MUST NOT BE ALTERED, DEFACED
OR COVERED BY ANY OTHER MATERIAL

POSTED (INSERT DATE)

Appendix H

Kalkines Warning

Investigator Name: _____

Employee Name: _____

1. You are being questioned as part of an internal and/or administrative investigation.
2. You will be asked one or more specific questions concerning your official duties, and you must answer these questions to the best of your ability.
3. Failure to answer completely and truthfully may result in disciplinary action, including dismissal.
4. Your answers and any information derived from them may be used against you in administrative proceedings.
5. However, neither your answers nor any information derived from them may be used against you in criminal proceedings, except if you knowingly and willfully make false statements.

Investigator Signature: _____ Date: _____

Employee Signature: _____ Date: _____

Signature Page

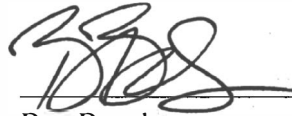
This Agreement was executed by the Parties on September 10, 2021:

For the Agency



Jeffrey R. Marlette
Major General, SDNG
The Adjutant General

For the Union



Ben Banchs
Chief Negotiator
LIUNA Local 1776