

TABLE OF CONTENTS

ARTICLE		PAGE
	INTRODUCTORY NOTE .....	iii
	PREAMBLE .....	1
1	COVERAGE.....	2
2	PARTNERSHIP COUNCIL.....	3
3	EMPLOYEE RIGHTS.....	4
4	EMPLOYER RIGHTS.....	8
5	UNION RIGHTS .....	10
6	REPRESENTATION AND OFFICIAL TIME .....	13
7	OFFICIAL TIME FOR TRAINING OF UNION OFFICIALS AND STEWARDS .....	17
8	FACILITIES AND SERVICES PROVIDED TO THE UNION .....	19
9	PAYROLL WITHHOLDING OF LABOR ORGANIZATION DUES.....	21
10	POSITION CLASSIFICATION.....	23
11	MERIT PROMOTION .....	25
12	DETAILS AND TEMPORARY PROMOTIONS.....	27
13	REDUCTION IN FORCE .....	29
14	OUT-PLACEMENT .....	31
15	COMMERCIAL ACTIVITY/CONTRACTING OUT.....	32
16	TRAINING .....	35

17	HOURS OF WORK.....	36
18	OVERTIME.....	40
19	LEAVE .....	43
20	PERFORMANCE STANDARDS AND EVALUATIONS .....	49
21	ACTIONS BASED ON UNACCEPTABLE PERFORMANCE .....	51
22	DISCIPLINARY ACTIONS .....	53
23	ADVERSE ACTIONS .....	56
24	EMPLOYEE ASSISTANCE PROGRAM .....	58
25	EQUAL EMPLOYMENT OPPORTUNITY.....	61
26	SEXUAL HARASSMENT .....	62
27	SAFETY AND HEALTH.....	63
28	TOOL POLICY .....	69
29	GRIEVANCE PROCEDURE .....	71
30	ALTERNATE DISPUTE RESOLUTION PROCESS .....	76
31	ARBITRATION .....	79
32	NEGOTIATIONS.....	81
33	DURATION, REVIEW AND SUPPLEMENTATION OF AGREEMENT .....	84

APPENDIX

I	USE OF OFFICIAL TIME FOR REPRESENTATIONAL ACTIVITIES .....	A-1
II	GRIEVANCE FORM .....	A-2
III	ALTERNATE DISPUTE RESOLUTION FORM.....	A-5

## **INTRODUCTORY NOTE**

**Section 1.** Wherever a masculine pronoun is used in this agreement to denote an employee or a supervisor, it refers to persons of both sexes.

**Section 2.** Wherever the term "Employer" is used, it refers to each of the following individual organizations:

- a. Headquarters, U.S. Army Medical Command, Fort Sam Houston, Texas.
- b. U.S. Army Health Care Systems Support Activity, Fort Sam Houston, Texas.
- c. U.S. Army Medical Department Center and School, Fort Sam Houston, Texas.
- d. U.S. Army Garrison, Fort Sam Houston, Texas.

## **PREAMBLE**

Pursuant to the policy set forth by the Federal Service Labor Management Relations Statute (Chapter 71 of Title 5 of the United States Code (U.S.C.)), the following articles of this basic agreement, together with any and all supplemental agreements and/or amendments which may be agreed to at later dates, constitute a total agreement by and between the Headquarters, U.S. Army Medical Command; U.S. Army Health Care Systems Support Activity; U.S. Army Medical Department Center and School; and U.S. Army Garrison, Fort Sam Houston, Texas (Employer) and the National Federation of Federal Employees, Local 28 (Union), hereinafter called the Parties.

WHEREAS the well-being of employees and efficient administration of the government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between the Parties to this agreement; and

WHEREAS the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the government;

THEREFORE, the Parties thereto, do hereby make and enter into the following agreement:

**ARTICLE 1**  
**COVERAGE**

**Section 1.** The Employer recognizes the Union as the exclusive representative of all employees of the Employer in the following consolidated units:

- a. Non-professional employees of the Headquarters, U.S. Army Medical Command (MEDCOM), Fort Sam Houston, Texas.
- b. Professional and Non-Professional appropriated fund employees of the U.S. Army Garrison (USAG), Fort Sam Houston, Texas.
- c. Professional and Non-Professional employees of the U.S. Army Medical Department Center and School (AMEDDC&S), Fort Sam Houston, Texas.
- d. Non-Professional employees of the U.S. Army Health Care Systems Support Activity (HCSSA), Fort Sam Houston, Texas.

**Section 2.** Excluded from the recognized consolidated units are the following employees:

- a. Professional employees, management officials, supervisors, guards, and employees described in 5 U.S.C. 7112 (b) (2), (3), (4), (6), and (7), of the Headquarters, U.S. Army Medical Command, Fort Sam Houston, Texas.
- b. Management officials, supervisors, fire fighters and fire protection employees, guards, non-appropriated fund employees, temporary and part-time employees and employees described in 5 U.S.C. 7112 (b) (2), (3), (4), (6), and (7), of the U.S. Army Garrison, Fort Sam Houston, Texas.
- c. Management officials, supervisors, and employees described in 5 U.S.C. 7112 (b) (2), (3), (4), (6), and (7) of the U.S. Army Medical Department Center and School, Fort Sam Houston, Texas.
- d. Professional employees, management officials, supervisors, guards, and employees described in 5 U.S.C. 7112 (b) (2), (3), (4), (6), and (7) of the U.S. Army Health Care Systems Support Activity, Fort Sam Houston, Texas.

## ARTICLE 2

### PARTNERSHIP COUNCIL

**Section 1.** Both Parties agree that the involvement of Federal government employees and their Union representatives are essential to achieving the National Performance Review's government reform objectives. Each Employer will establish a partnership council. The partnership council will support the intent of the interests of each organization and the employees so that the highest quality services are given to the Army, beneficiaries and customers. An equal number of Party participants will be on the Council. Decisions of the Council will be by consensus agreement.

**Section 2.** The partners establish the following goals as a basis for operating within the parameters and intent of the National Performance Review and will enhance mission accomplishment and not deter from it.

- a. To further the mission of the Employer.
- b. To foster productive and cost effective service to the customers of the Employer.
- c. To enhance the quality of working conditions.
- d. To foster good working environments so that good moral among the employees is maintained.
- e. To seek positive cooperation, communication and understanding among the partners.
- f. To approach changes with concern and compassion for the individual and understanding for the organization.

## ARTICLE 3

### EMPLOYEE RIGHTS

**Section 1.** Each employee shall have the right to join, promote, assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such rights. Except as otherwise provided under Chapter 71 of Title 5 U.S.C., such right includes the right to:

a. Act for a labor organization in the capacity of a representative and the right in that capacity, to present the views of the labor organization to the heads of agencies and other officials of the Executive Branch of the government, the Congress or other appropriate authorities;

b. Engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under Chapter 71 of Title 5 U.S.C.; and

c. Petition Congress or a Member of Congress, individually or collectively, or to furnish information to either House of Congress, or to a committee or member thereof.

**Section 2.** The Employer shall take such action consistent with law, regulation and this contract as may be required to inform employees of their rights and obligations.

**Section 3.** Nothing in the agreement shall require an employee to become or remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

**Section 4.** Any employee has the right, regardless of labor organization membership, to bring matters of personal concern to the attention of appropriate Management officials in accordance with applicable laws, rules and regulations, and to choose his own representative in a grievance or appeal action, except for matters covered by the negotiated grievance procedure.

**Section 5.**

a. An employee is accountable only for the performance of official duties and compliance with standards of conduct for Federal employees. Within this context, the Employer affirms the right of an employee to conduct his private life as he deems fit provided that such conduct does not discredit the Federal Service.

b. The Employer will not coerce or in any manner require employees to invest their money, donate to charity, or participate in social activities, meetings or undertakings not related to their performance of official duties, or the mission of the agency.

**Section 6.** The Employer shall annually inform employees of their rights to be represented by the Union at:

a. Any formal discussion between one or more representatives of the Employer and one or more employees in the bargaining unit concerning any personnel policy or practices or other general condition of employment; or

b. Any examination of an employee in the bargaining unit by a representative of the Employer in connection with an investigation if:

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

(2) The employee requests representation.

**Section 7.** All new employees shall be informed by the Employer that National Federation of Federal Employees (NFFE) is the exclusive representative of employees in the bargaining unit. A list of the officers of the Union shall be given to each employee during inprocessing and this list will also contain the information that the Union is the exclusive representative of employees in the bargaining unit. A Union representative will be given a chance to speak at each New Employee Orientation session (up to 15 minutes) and to provide informational packets.

**Section 8.** Employees deserve to be treated non-disparately with common courtesy and consideration normal in an Employee-Employer relationship.

**Section 9.** Consistent with law and regulation, to include 28 Code of Federal Regulations (C.F.R.) 50.15, the government will provide legal representation for employees against whom suit is brought in a civil court based upon activities alleged to be within the scope of their official duties and will assume financial liability for all monies awarded to claimants as a result of activities found to be within the scope of such official duties. Upon request, the Employer agrees to provide information, guidance, and assistance to employees who are considering or making a request for legal representation.

**Section 10.** Employees will be informed of rules, regulations and policies, and any changes under which they are obligated to operate, including their job duties.

**Section 11.** Formal counseling and warning sessions (i.e., entries on the Supervisor's Employee Brief) involving bargaining unit employees will be conducted privately and in such a manner so as to avoid public embarrassment of the employee. Further, other less formal guidance should be provided in a manner so as to avoid unnecessary embarrassment or ridicule.

**Section 12.** Employees use of official time for discussing, preparing, or filing complaints and when meeting with the Union representatives or Management representatives concerning any complaint or working condition of the employee, will be in accordance with Article 6, Representation and Official Time.

**Section 13.** Consistent with applicable laws and government-wide rules and regulations, employees will not be precluded from presenting their views to officials of the Executive Branch, the Congress, or other appropriate authority.

**Section 14.** Employees have the right, consistent with applicable laws, rules, regulations, and this agreement, to:

- a. Working conditions that are safe and healthful.
- b. Training normally considered necessary to insure satisfactory job performance.
- c. A method to express themselves concerning improvement of work methods and working conditions.
- d. Use duty hours that are reasonable and necessary to discuss their problems with the Civilian Personnel Advisory Center (CPAC), the Equal Employment Opportunity (EEO) Office, the Union, the Employee Assistance Office, and/or a person designated to provide guidance on questions of conflict of interest.
- e. Supervisors that will inform the employees of what is expected of them, to whom they are directly responsible and what is expected of them in their work relationships with their fellow employees.
- f. Protection of personal privacy.
- g. Review their Official Personnel Folders, with 30 days advance notice. Employees may receive, upon request, their personal data contained in the automated database.
- h. Protection from discrimination due to marital status or political affiliation.
- i. Exercise their rights without any reflection on their loyalty and desirability to the organization.

**Section 15.**

- a. Personnel who do dirty work or are required to wear uniforms will be allowed duty time, as needed each day, for changing out of work clothes, returning tools, cleaning up the work area, or washing up.
- b. The Employer will make reasonable effort to insure that adequate eating facilities are available to employees within a reasonable distance from the work area. If available, food and drink vending machines will be located in proximity of the eating facility.
- c. In case of a formal investigation involving a search of an employee's personal effects, the employee may request a Union representative be present at the search. Such request will be honored if the investigation/search is not unduly delayed or obstructed.

d. If deemed relevant, employees will be permitted to review and copy any regulation on official time.

e. Employees are entitled to proper and timely compensation for their services. All newly hired employees must be paid by Electronic Funds Transfer (EFT) to financial institutions chosen by the employees. Current employees may elect to be paid by EFT or retain mail delivery to an address provided by the employee. However, once an employee is competitively promoted or reassigned, separated or reemployed, mobilized or recalled to active duty, the employee must be paid by EFT. A current employee may request a waiver for reasons of financial difficulty, financial irresponsibility, or extenuating circumstances. In order to qualify for a waiver, newly hired employees must certify that they do not have an account at a financial institution or authorized payment agent. These waivers will be valid through December 31, 1998, unless superseded by a change in eligibility. Effective January 1, 1999, the Debt Collection Improvement Act of 1996 requires all employees to receive Federal payments electronically and, therefore, to have an account at a financial institution. If a paycheck is more than 3 days late, an employee may request and receive a re-issued (recertified) check.

**Section 16.** The finalization of this agreement will not affect established working conditions or past practices that are not covered by the agreement.

## ARTICLE 4

### EMPLOYER RIGHTS

**Section 1.** Management officials of the agency retain the right, subject to Section 3 below, and in accordance with applicable laws and regulations:

- a. To determine the mission, budget, organization, number of employees, and internal security practices of the agency;
- b. To hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
- c. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
- d. 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
- e. To take whatever actions may be necessary to carry out the agency mission during emergencies.

**Section 2.** It is a function of the Employer to make rules, regulations, and policies. In making rules, regulations, and policies relating to personnel policies, practices and procedures, and matters of working conditions, the Employer recognizes its obligation with the Union and the obligations imposed by this agreement.

**Section 3.** In the spirit of Partnership, and as long as Executive Order 12871 remains in effect, the Parties agree, when there is a change in working conditions, to negotiate upon request:

- a. The numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work. In the event, the Parties become engaged in a negotiability dispute or reach impasse, either Party may seek the services of the Federal Mediation and Conciliation Service (FMCS), the Federal Service Impasses Panel (FSIP), or the Federal Labor Relations Authority (FLRA), as appropriate;
- b. Procedures which Management officials will observe in exercising any authority under this Article; or
- c. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such Management officials.

**Section 4.** The provisions of this Article shall not nullify or abridge the rights of employees or the Union to grieve or appeal the exercise of the Management rights set forth in this Article through appropriate channels.

**Section 5.** In the administration of all matters covered by the Agreement, officials and employees are governed by existing or future laws and regulations of government-wide authorities; by published Employer policies and regulations in existence at the time the agreement was approved; and by subsequently published Employer policies and regulations required by law or the regulations of government-wide authorities.

## ARTICLE 5

### UNION RIGHTS

**Section 1.** The Employer recognizes the Union as the exclusive representative of all employees in the bargaining unit and, as such, is entitled to act for and to negotiate agreements covering all employees in the unit and to meet with the Employer with regard to all matters affecting the conditions of employment.

a. The Employer agrees to respect the rights of the Union and to meet jointly and negotiate with the Union on such matters, and further agrees to negotiate, as appropriate, with the Union regarding any new policy or change in existing policy affecting employees or their conditions of employment.

b. The Union, in consonance with its right to represent, has a right to propose new policy, changes in policy, or resolutions to problems. This right shall apply at all levels of Management within the agency and the Union starting with the Steward and first level supervisor.

c. The Employer will recognize the Officers and Officials/representatives designated, in writing, by the Union and will maintain on a current basis, a list of the Union Officers and Officials, including Stewards. The Union may post the list of their Officers and Officials and/or Stewards on official bulletin boards.

d. The Employer will recognize representatives of the NFFE National Office. The Union shall provide timely advance notice when possible to the Employer of visits to be made by representatives of the National Office.

e. The Employer agrees that there will be no coercion or discrimination against Officers and Stewards because of the performance of their protected Union activities.

f. The Employer will grant two (2) Union representatives up to forty (40) hours, as needed, to travel and attend yearly national lobbying activities in Washington, D.C., with thirty (30) days advance notice. All expenses will be borne by the Union.

### **Section 2.**

a. Union-Management meetings will occur as the need arises and will be conducted in an atmosphere that will foster mutual respect. Management will conduct Union-Management meetings, where appropriate, during the formulation of policy and procedure affecting employees' conditions of employment. These meetings will normally not address issues discussed or resolved through Partnership Councils.

b. Specific discussion items shall be exchanged in advance. The Union shall have a number of representatives equal to that of the Employer, but not less than two (2).

c. In the spirit of resolving disputes at the lowest possible level, the Union agrees to provide prior notice to the Employer of an intent to file an unfair labor practice charge. The Parties agree to make bona fide attempts to resolve any unfair labor practice issue(s) to alleviate the need to file the charge. Unfair labor practice charges on behalf of the Union may be filed only by the president or acting president of the Union.

**Section 3.** The Union has the right to be represented at all formal discussions between Management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting the general working conditions of employees in the bargaining unit. A meeting requested by either the Union or the Employer, or a meeting or bargaining session as set forth in this agreement, shall be considered a formal discussion and the Union shall be notified in advance of such a meeting.

a. Union initiated proposals for a new policy or changes in established Employer/agency policies or regulations, or resolution of a problem(s) will be presented to the designated Employer representative. Such proposals initiated by the Employer shall be presented to the designated Union representative.

b. New or changed policy proposals which are agreed to in bargaining shall be signed by the Union President and Employer or their designees.

c. The Parties recognize the right of the Union to submit comments or views directly to the agency head for consideration when changes in agency policy/procedures are proposed by the agency. The Union will furnish the Employer copies of all such comments or views submitted.

**Section 4.** The Union shall be given prior notification of, and the opportunity to be represented at:

a. Any formal discussion between one or more representatives of the agency and one or more employees in the bargaining unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment; or

b. Any examination of an employee in the bargaining unit by a representative of the agency in connection with an investigation if:

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

(2) The employee requests representation.

**Section 5.** The Employer shall annually inform bargaining unit employees of their rights under Section 4 above.

**Section 6.**

a. The Union agrees to make reasonable efforts to be specific in identifying the areas of information desired, when requesting information under 5 U.S.C. 7114 (b) (4).

b. When necessary and consistent with the Union's right to information under law, employee data may be sanitized in the interest of protecting individual privacy. Union representatives are responsible for maintaining the confidentiality of personal data made available to them under this provision. In protecting personal/personnel data, the Union will comply with the requirements of the Privacy Act.

c. All informational requests by the Union under 5 U.S.C. 7114 (b) (4) will be submitted to the Director, CPAC and will be signed by the Union President or designee.

**Section 7.** The Union will be given the opportunity to be present and act as an observer at any formal meeting resulting from a bargaining unit employee filing a grievance under Department of Defense (DOD) administrative grievance procedures.

**Section 8.** The Union has the exclusive right to represent employees in presenting grievances under the negotiated grievance procedure in this agreement. An employee or group of employees may present a grievance without representation by the Union, provided the Union is a Party to all discussions and the grievance processing. Any adjustment must be consistent with the terms and conditions of this agreement.

## ARTICLE 6

### REPRESENTATION AND OFFICIAL TIME

#### **Section 1.**

a. The Union may designate Stewards and alternates in the various organizations having employees in the bargaining unit. The Union shall determine the number and location of Stewards. The Union agrees to act judiciously when appointing Stewards to ensure that any given work area is not unduly impacted. The number of Stewards, including Officers serving as Stewards, shall not exceed an overall ratio of one Steward for every thirty (30) employees in the bargaining unit. Normally, the Stewards will represent the employees of their designated work area(s) but may represent employees in any segment of the bargaining unit, if needed.

b. The President and Chief Steward are authorized to represent individuals in any part of the bargaining units of Local 28 who are handled through the Fort Sam Houston CPAC.

c. Upon request from either Party, Stewards and supervisors shall discuss informally items of concern in the application of this agreement to avoid misunderstanding and to deter complaints from either Party.

d. Union representatives will be permitted to wear identifying name plates to include their union capacity, except in those areas where the wearing of such items would be a safety hazard.

**Section 2.** The Union agrees to furnish the Employer a complete written list of its Officials and Stewards promptly upon approval of this agreement. A revised complete list will be furnished the Employer promptly upon election or appointment of Officials and upon appointment or change (including deletions) of the Stewards and alternates. No Official or Steward will be recognized or will be entitled to official time for Union representation whose name does not appear on the list. The Director, CPAC shall be the recipient of the list.

**Section 3.** Union Officials, including Stewards, shall be permitted reasonable times during working hours without loss of leave or pay to represent employees in accordance with this agreement. Use of official time when approved by the Employer will not be limited to the confines of the activity but will allow the representative to travel in accord with the needs of the individual case. Activities for which properly designated Union representatives may appropriately use a reasonable amount of official time during duty hours without charge to leave or loss of any pay includes, but is not limited to, the following:

a. For negotiations and preparations, in accordance with Article 32, Negotiations. This shall include time to prepare and present matters regarding negotiations to the FMCS, the FSIP, and/or the FLRA or other government agencies provided to make decisions for Federal employees, including court actions;

b. To be present at the time of settlement or decision of any complaint, grievance, or appeal where the complainant has not elected a Union representative;

c. For receiving, investigating, preparing, presenting, and responding to a complaint, grievance, or appeal. Such time must necessarily depend on the facts and circumstances of each case;

d. For preparation of information reports required under 5 U.S.C. Section 7120(c), including financial reports and trusteeship reports. The amount of time granted will be that necessary to gather data and complete reports;

e. To attend formal and investigatory meetings between Management officials and employees when such meetings are called by Management and meet the criteria of 5 U.S.C. 7114(a)(2);

f. To participate in an arbitration or other administrative hearing including EEO, Merit Systems Protection Board (MSPB), or Office of Workers Compensation Programs (OWCP) in either a representational capacity or as a witness.

g. To confer with Management officials concerning grievances, personnel policies or practices, or matters affecting working conditions of employees;

h. To attend committee meetings as a designated Union representative;

i. To present Union grievances to the Employer;

j. To respond to Employer grievances; and,

k. For Union representatives and affected employees, to prepare for meetings referenced above (except for Subsection a above which is covered in Article 32, Negotiations). The necessity for the amount of available preparation time shall be determined on a case by case basis, depending upon case complexity, time constraints, number of issues involved, etc.

**Section 4.** Union representatives on official time for representation duties will be afforded an area of privacy when meeting with employees. The Employer will assist in providing such privacy within or in close proximity to the employee's work area, whenever possible.

**Section 5.** The Employer will allow the Union President and Chief Steward to annually use up to a combined total of 3,120 hours of duty time for representation and partnership activities. If the Parties determine it is mutually beneficial, the Employer may decide to allow additional hours of duty time for partnership activities. The Union will allocate the hours between these positions and advise the CPAC of such allocation. The President and Chief Steward will advise his respective supervisor of the allocation and coordinate his use of official time in accordance with Section 7 of this Article. The allocation of hours between the President and Chief Steward may be changed annually on the anniversary of this agreement, upon election of officers, or upon mutual agreement by the Parties.

**Section 6.**

a. The Union agrees that its Officials and Stewards will use official time judiciously.

b. In the event the Employer believes that one or more representatives of the Union may be using more than reasonable amounts of official time, the Employer will discuss the matter with the Union President or designee.

### **Section 7.**

a. Each Official/Steward who is employed by the Employer will coordinate with his supervisor in advance regarding time to be spent on representational activities. Where circumstances permit, coordination will occur at least 24 hours in advance. The Official/Steward will also indicate the type of representational activity to be conducted and the length of time he anticipates being away from his work area. If additional time is required after departing the work area, the Official/Steward will call to coordinate additional needs with his supervisor. If a supervisor determines that the Official's/Steward's presence is necessary to meet mission needs of the Employer and denies the request for official time, the supervisor will indicate when it will be granted. If release is not possible within 24 hours, the Union may assign a different representative.

b. Prior to entering an employee's work area, the Official/Steward will coordinate with the employee's supervisor. If, due to mission needs, the meeting with the employee is not possible, the supervisor will advise the Official/Steward the time the employee will be available.

c. The Union representative will report to his supervisor when he returns to his assigned duty station and will annotate his time on the time usage form (see Appendix I).

d. Unless previously coordinated with their supervisors, Officials/Stewards shall report in person to their work site at the beginning and prior to the end of each day.

**Section 8.** Employees will also receive a reasonable amount of official time to participate in the activities necessary to process their individual complaints or grievances concerning conditions of work or those complaints or grievances initiated by the Union or the Employer. Employees who desire to leave their work sites during work hours for such reasons as seeking representation, or discussing or initiating a complaint/grievance, will also follow the procedures above with the exception of completing the official time form.

**Section 9.** Union representatives will follow the procedures in Section 7 above when placing/receiving telephone calls of over seven (7) minutes duration.

**Section 10.** There shall be no restraint, coercion, or discrimination against representatives of the Union because of the performance of duties in consonance with this agreement, or against any employee for filing a complaint or acting as a witness under this agreement, applicable regulations, or law.

**Section 11.** Where committees, task forces, or work groups are established for the purpose of ascertaining bargaining unit employee views concerning conditions of employment, the Union will be advised accordingly and be given an opportunity to designate a representative(s). Where such committees, task forces, or work groups are established to consider changes to working conditions within the bargaining unit, the Union will be notified and be given the opportunity to designate a representative, unless conversations of such group are considered to be internal management deliberations. In such case, the Union is not entitled to a representative until a proposal has been prepared by such group.

**Section 12.** Those activities concerned with the internal management of the Union should be conducted in nonwork areas and only during nonduty times of the Union representatives and employees involved. Upon thirty (30) calendar days advance written request by the Union, the Union shall be granted the authority to conduct two (2) membership drives, of not more than twenty (20) calendar days duration each, within a one year period. Employees may be solicited only before and after duty hours and during breaks and lunch periods. Upon request, the Employer shall provide the Union with furniture that may be available to support their effort. Use of desk drops will require prior approval of the Employer.

**Section 13.** The official time form may be modified upon mutual consent of the Parties without modifying or amending this agreement.

## ARTICLE 7

### OFFICIAL TIME FOR TRAINING OF UNION OFFICIALS AND STEWARDS

**Section 1.** The Employer agrees to grant official time to Union Officials and Stewards employed within the bargaining unit to attend Union-sponsored training when such training would be mutually beneficial to the Union and the Employer.

**Section 2.** The total time to be granted for all Union representatives during each year of the life of the agreement shall be a bank of 1,040 hours from which the Officials, Stewards, and any other designated representative of the Union may draw, which is non-cumulative. Officers will be limited to 40 hours each year. Stewards and other designated representatives will be limited to 32 hours each year. The effective date of this agreement will begin the training year cycle. The Employer agrees to grant 8 hours of official time for contract training for each Union Officer and Steward within 60 days of this agreement being implemented. Upon 10 days advance notice from the Union, the Employer will release nominated Union Officials for training unless emergency requirements prevent.

**Section 3.** The request for such time will be submitted in writing on behalf of the employees by the Union to the Director, CPAC. The request will normally be submitted 30 calendar days in advance, or as soon as possible, to allow adequate time for a decision. At a minimum, the request should contain:

- a. Names and work organizations of employees requesting training;
- b. Official Union titles of the employees;
- c. An agenda of the training session;
- d. Number of hours requested; and
- e. Dates for which each employee is to attend.

**Section 4.**

a. Concurrent with the above action, the employees involved should advise their supervisors of the request and of the period of time involved. The Employer will determine whether the employees may be released from their duties and approve or disapprove the use of official time.

b. The Employer will provide written explanation of disapprovals at least 14 calendar days prior to the training; thereby giving the Union ample time to seek adjustment and/or to nominate other participants. However, Management reserves the right to cancel release of the employee for training in the event of emergency mission essential requirements.

**Section 5.** The Union will furnish a list of attendees to the Director, CPAC within 15 calendar days after the completion of training.

## ARTICLE 8

### FACILITIES AND SERVICES PROVIDED TO THE UNION

**Section 1.** The Union may use the Employer's internal mail distribution system for official correspondence with the Employer and distribution of the Union newsletter.

**Section 2.**

a. The Employer will make a reasonable amount of space available on appropriate official bulletin boards where notices to employees are customarily posted for posting the Union's notices of meetings, recreational or social affairs, elections, results of elections or other appropriate literature. The Union, in posting material on designated official bulletin boards, agrees that it is fully and solely responsible for the content of the material in terms of accuracy and adherence to ethical standards, and that it does not violate any laws, or the security of the Employer. The Union further agrees that it is responsible for the neat and orderly maintenance of this allocated space, including removal of obsolete material.

b. The following statement will be posted by the Union on appropriate official bulletin boards:

"A portion of this official bulletin board is furnished for the convenience of the Union. Objections to posted material must be brought to the attention of the Director, CPAC or a NFFE Official."

c. Material may be removed from the Union portion of official bulletin boards only by the authority of the Union President or a representative from the CPAC if the material is obviously obscene, racial, "classified," or does not comply with Section 3 below.

**Section 3.** The use of the Employer's facilities by the Union will not be available for posting or distribution of material where managers' or supervisors' names are held up to public contempt or ridicule.

**Section 4.** Upon reasonable advance request, the Union and employees shall be granted access to all available Federal Personnel Manuals, Office of Personnel Management (OPM) and MSPB regulations, 5 U.S.C. and 5 C.F.R., agency and activity personnel regulations, and updates.

**Section 5.**

a. Upon request by the Union, the Employer agrees to furnish to the Union, for its internal use only, a list which will contain the names, grades and position titles of all employees in the bargaining unit. The list will be provided on a quarterly basis.

b. The Employer shall furnish the Union, on a monthly basis, the following information regarding all new employees who are members of the bargaining unit:

- (1) Full name,
- (2) Position title and grade,
- (3) Organizational assignment, and
- (4) Minority group designator.

**Section 6.** The Employer will allow Union Officers and Stewards to use the Employer's telephones in the performance of functions related to the administration of this contract. Employees will be allowed use of the phones upon reasonable request for the purpose of seeking Union representation in regards to the contract.

**Section 7.** The Employer, at its expense, will be responsible for providing 5 1/2" x 8" printed copies of this agreement to the Union for distribution to all bargaining unit employees. The Employer will also provide the Union a reasonable number of courtesy copies of this agreement. The Employer further agrees to post this agreement on the Fort Sam Houston Garrison Internet Home Page. The Union and the Employer agree to publicize the home page address. The Employer and the Union will review and approve proof copies of this agreement, to include the front cover, prior to printing. The front cover will contain the effective date of the agreement.

**Section 8.**

a. The Union will be provided with a heated and air conditioned office space of approximately 1,000 square feet. The Union will continue to be provided with the equipment it presently has. All equipment provided to the Union will be accounted for on Department of the Army Form 3161, Request for Issue or Turn-In. The Union will reimburse the Employer for all toll charges.

b. The Union agrees to conform to prevailing policy of building maintenance (e.g., grass cutting and minor repairs) and signage. The Employer will provide all necessary equipment and material.

## ARTICLE 9

### PAYROLL WITHHOLDING OF LABOR ORGANIZATION DUES

**Section 1.** The Union and the Employer agree that any eligible employee may authorize an allotment of pay for the payment of dues for membership provided;

- a. The employee continues his employment in the bargaining unit for which exclusive recognition has been granted.
- b. The employee has voluntarily submitted a request for such allotment of pay, and
- c. The employee received each pay period sufficient net salary to cover the allotment after other legal and required deductions have been made.

**Section 2.** The Union agrees that it will be responsible, during non-work time of employees concerned, for procuring the prescribed allotment form (Standard Form (SF) 1187); distributing the form to its members; certifying the amount of its dues; and informing and educating its members on the program for allotments for payments of dues, and the uses and availability of the required form.

**Section 3.** An Officer of the Union will receive the forms from members who request an allotment. He will complete Section A of the authorization form and submit them to the CPAC, Headquarters, U.S. Army Garrison, Fort Sam Houston, ATTN: Labor Relations, Fort Sam Houston, Texas 78234. The CPAC will forward the SF 1187 to the Chief, Customer Support Representatives Office (CSRO) as soon as possible.

**Section 4.** The amount to be deducted each biweekly pay period will be for dues only. No other deductions are authorized. The amount to be withheld shall be the same for all members of the Union. Changes in the amount of dues to be deducted will not be made more than twice every twelve (12) months. Written notification of the new amount and the effective date will be made through the Director, CPAC to the Chief, CSRO.

**Section 5.** The dues will be remitted to the banking facility of the Union after the completion of each biweekly pay period. Each remittance will be accompanied by a statement containing the following information:

- a. Identification of the installation, and bargaining unit;
- b. Pay period date;
- c. Identification of the Union;
- d. Names of members in alphabetical order for whom deductions were made and amount of each deduction;

e. Total amount withheld each pay period; and

f. Net amount remitted.

**Section 6.** An employee may at any time submit a revocation of his allotment. The revocation will be effective at the beginning of the first pay period following the anniversary date of the employee's signed dues withholding (SF 1187). The revocation should be made on an SF1188. It is the employee's responsibility to submit his written revocation directly to the CSRO on a timely basis. The employee's signed written request will be accepted, however, even though not submitted on the form. The written request should contain the employee's name, social security number, and activity or other work site designation.

**Section 7.** Upon revocation submitted by the employee direct to the CSRO, that office will submit a copy of each revocation to the Union with the remittance statement for the first payroll period prepared after receipt of the revocation.

**Section 8.** The Union will notify the Chief, CSRO within seven (7) calendar days when an employee with a current allotment ceases to be a member in good standing. The CSRO will terminate the allotment upon receipt of the information.

**Section 9.** An allotment shall be terminated when the employee leaves the bargaining unit as a result of any type of separation, transfer, or other personnel action; when this 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 labor organization.

**Section 10.** The allotments for all employees who are members of the Union will be terminated when the Union loses eligibility for exclusive recognition.

**Section 11.** A copy of the SF 1188 or written request from the employee will be provided to the Union by the Employer. The Employer will advise the Union when other employees have been dropped from payroll deductions, and the reason for dropping the employee.

**Section 12.** When a change in the agency or its technology results in substantive conflicts with the language of this Article, the Parties agree to meet and negotiate on any necessary changes.

## ARTICLE 10

### POSITION CLASSIFICATION

#### **Section 1.**

- a. A job description is a written record of the basic duties and responsibilities assigned to a position and which comprise the major duties assigned to an employee.
- b. Neither the inclusion nor omission of duties in a job description controls or in any manner affects the right of the Employer to assign duties to an employee or to assign, change, or eliminate part or all of the duties and responsibilities that have been grouped together to constitute a position.
- c. The term "performs other duties as assigned" means tasks that are incidental or temporary in nature and may reasonably be associated with the incumbent's occupation or functional assignment or are of an emergency nature. In assigning such duties, Management should consider the capacity and competence of the employee to be assigned, to avoid creating health or safety hazards.

#### **Section 2.**

- a. The Employer will, upon request, meet with employees to discuss and review their job descriptions. The Employer will consider employee suggestions for changes to the job descriptions that may be needed.
- b. An employee may request that his supervisor review the employee's job description for accuracy in the event the employee feels that the job description does not cover the major duties of the position. Such a request will not be construed as a formal complaint and all input will be accepted.
- c. If the supervisor and the employee agree on the duties the employee is performing, the description of duties will be forwarded to the Civilian Personnel Operations Center (CPOC) for appropriate classification action.
- d. When differences concerning the accuracy of a job description cannot be resolved between the supervisor and the employee, the employee may elect to utilize the Alternate Dispute Resolution (ADR) process or file a grievance under the negotiated grievance procedure and have a right to Union representation.

#### **Section 3.** An employee has the right to appeal the classification of his position at any time:

- a. A General Schedule employee may appeal to the DOD Civilian Personnel Management Service using the established appeal procedure or directly to the OPM under their appellate procedures.

b. A Federal Wage System employee must first file a position classification appeal to the DOD Civilian Personnel Management Service. On receipt of a decision, the appeal may be continued to OPM under their appellate procedures.

**Section 4.** Employees have the right to be helped in preparing and presenting classification appeals by representatives of their own choosing.

**Section 5.** Retained grade and retained pay rights will be accorded to those employees whose positions are downgraded in accordance with law and government-wide regulations.

## ARTICLE 11

### MERIT PROMOTION

**Section 1.** Merit placement and promotion procedures will be governed by the Southwest Region Merit Placement and Promotion Plan, other applicable laws and regulations, and the following. Where there is a conflict with any rules or regulations, other than those of a government-wide authority, this agreement will prevail.

**Section 2.**

a. Merit promotion vacancy announcements will include, among other things, the title, series, and grade of the position, organization and duty station, and where applicable, whether the position is temporary, term, or otherwise non-permanent.

b. Normally, all vacancy announcements shall be posted on official bulletin boards for at least 15 calendar days and/or otherwise brought to the personal attention of employees.

c. The Union President will be placed on distribution for receipt of vacancy announcements.

d. The Employer may announce a bargaining unit position vacancy in whatever area they need to obtain a sufficient number of best qualified candidates. However, except for mandatory referrals and placements as required by statutes, government-wide regulations or this agreement, best qualified bargaining unit employees will be referred for bargaining unit positions prior to referral and consideration of non-bargaining unit best qualified candidates.

**Section 3.** Rating and ranking of candidates for positions in the bargaining unit which are filled through competitive promotion may be performed by staff personnel or by an evaluation and ranking panel, depending upon which is most appropriate in view of the characteristics of the position being filled and such factors as time and cost. The Employer will determine when panel rating is appropriate.

a. Raters must be capable of making informed decisions regarding criteria and qualifications in the occupational field of the position for which employees are being rated and ranked.

b. Raters shall treat all information obtained in the rating process as strictly confidential and shall not discuss the proceedings. Where the Employer has reasonable cause to believe that there has been a breach of confidence by a rater, that person will be disqualified.

**Section 4.** Non-selected candidates will be provided the following information about specific actions upon request:

a. Who was selected for the promotion;

b. Whether the employee was one of those in the group from which the selection was made and the number of candidates in the group;

c. If the employee is not referred, the basis for non-referral; and

d. The criteria used to select candidates for interview. In deciding how many candidates to interview, Management will consider the advantages of interviewing all candidates on the referral list.

**Section 5.**

a. A bargaining unit employee who has been demoted through reduction in force (RIF) or reclassification action shall be entitled to special consideration for promotion until repromoted to his former grade or he turns down an offer at his former or intervening grade level. If an intervening grade level offer is accepted, consideration for promotion to former grade will continue. Bargaining unit employees who apply in response to an announcement for a unit vacancy and who meet minimum qualification requirements will be referred in advance of the referral of the best qualified group.

b. The selecting official may select the individual or request a list of best qualified candidates. Bargaining unit employees who are referred on the best qualified list will be selected provided they are on grade and pay retention subject to the following criteria:

(1) The employee's service in the higher grade was satisfactory;

(2) The employee's conduct prior to demotion was satisfactory based on an overall review of the employee's personnel records; and

(3) The employee meets current qualification requirements for the position.

**Section 6.** Neither details nor the position classification process will be used to circumvent competitive in-service placement or promotion.

**Section 7.** Ranking factors or special requirements shall not be developed for the purpose of tailoring a position to meet the qualifications of a particular individual.

**Section 8.** Union requests for information will be consistent with Section 6, Article 5, Union Rights.

## ARTICLE 12

### DETAILS AND TEMPORARY PROMOTIONS

**Section 1.** A detail is the temporary assignment of an employee to duties not within his job description. A detail does not change the employee's official title, grade, or pay rate.

**Section 2.** Details should be on a fair and equitable basis, consistent with employee qualifications, and without discrimination or personal favoritism. Details should not be used as forms of reward or punishment.

**Section 3.** Details in excess of 30 continuous days will be requested on SF 52 by the Employer and submitted through the CPAC to be recorded in the employee's Official Personnel Folder. Details between 14 and 30 days to a higher graded position will be recorded on the employee's Supervisor's Employee Brief.

**Section 4.** Employees should be considered and selected for details on a fair and equitable basis consistent with employee skill requirements. It is recognized that certain factors (i.e., security clearance, continuity of jobs of short duration, peculiar environmental or skill requirement) may cause imbalances in the equitable distribution of details. If either Party determines, on a case by case basis, an unacceptable imbalance or concerns exist, rosters should be maintained. Such rosters will be established by the Employer with employees listed by seniority, based on Service Computation Date.

**Section 5.**

a. A temporary promotion instead of a detail will be made when:

- (1) The employee is fully qualified for promotion, and
- (2) The assignment to a higher graded position is expected to last for more than 90 days.

b. Temporary promotions will normally last no longer than one year. Extensions and longer term temporary promotions deemed necessary by the Employer will be coordinated with the Union. Union concerns will be considered prior to the effective dates of those actions.

**Section 6.** In assigning details, the Employer will be considerate of the employee's personal circumstances.

**Section 7.** Attempts to resolve employees' dissatisfactions concerning details will include informal discussions between the appropriate supervisor, employees, and Union representatives, upon request.

**Section 8.** Repeated renewals of details, an excessive number of details, and prolonged period of details are discouraged.

## ARTICLE 13

### REDUCTION IN FORCE

**Section 1.** The Employer shall inform the Union of proposed action to implement a reduction in force (RIF) as soon as practical after the Employer becomes aware that a RIF is imminent. The Employer will inform the Union as to the approximate number of positions involved, types of positions, and proposed effective date. The Employer agrees not to implement this action until it has been negotiated in accordance with the Article 32, Negotiations.

**Section 2.**

a. The Employer agrees to make every reasonable effort to minimize the effects of a RIF in the bargaining unit through the reassignment, under applicable regulations, of the employees to available vacancies for which they are qualified and providing maximum assistance in placement. The Employer will institute a freeze on hiring from the outside if at least 50 employees are scheduled to be separated. Exceptions to the freeze would be filling of vacancies for mandatory mission needs, temporary fills, or if it is determined that a vacancy cannot be used for RIF placement.

b. The Employer agrees that, when an employee is reassigned due to the position previously held having been eliminated, sufficient training as determined by the Employer will be given the employee to enable him to perform the duties of the new position.

**Section 3.** Where practical, the Employer shall attempt to accomplish necessary RIF by attrition.

**Section 4.** The Union and any employee affected by RIF action and his representative shall be permitted to inspect the retention register on which his name appears.

**Section 5.** The Employer shall request, when appropriate, that DOD determine that the agency is undergoing a major RIF for the purpose of authorizing voluntary early retirement under 5 U.S.C. 8336 (d) (2).

**Section 6.** RIF will be conducted in accordance with Federal-wide, and agency regulations, and this agreement.

**Section 7.** The Union will receive at least two (2) weeks' notice prior to an informational notice of a RIF being released to the employees. Upon request and prior to employees receiving notice, the Union will be provided a list of affected bargaining unit employees to include their offers, if applicable, and a copy of the retention register.

**Section 8.** Employees will receive not less than 60 days notice of a specific RIF action. OPM may approve a shorter notice period in accordance with 5 C.F.R. 351.801 (b). Where DOD regulations provide for a 120-day notice when the RIF would involve separation of a significant number of employees (e.g., 50), such guidance will be implemented.

## ARTICLE 14

### OUT-PLACEMENT

**Section 1.** The Employer agrees that in the event of a RIF or a reorganization, an active placement program will be implemented. The primary aim of this program will be to find a position in the Federal Service for each affected employee commensurate with that employee's skills, experience, and career goals. Finding a non-Federal sector position meeting these requirements will be a secondary aim of the program.

**Section 2.** The Union and Management will jointly encourage each employee to see that his personnel file and resume/application are up-to-date as soon as the RIF or reorganization is announced. The Employer will add to the personnel file any changes or amendments the employee desires in accordance with regulations. Both the personnel file and resume/application will be used to match employees with vacancies. Employees possessing skills in more than one area will designate those area(s) in which they wish to be matched for consideration for vacancies, if permitted by the respective placement program.

**Section 3.**

a. The CPAC in conjunction with the CPOC will review records of employees being separated to identify the specific grades and series of positions for which the employees qualify. This includes contacting appropriate sources; e.g., OPM, other Federal agencies, etc., in an attempt to find appropriate positions.

b. Employees will be informed of and provided opportunity to register in the DOD Priority Placement Program, the Defense Outreach Referral System, the Army Career and Alumni Program, and the Economic Displaced Worker's Adjustment Act, as appropriate. Employees will be afforded all placement opportunities in consonance with the individual program criteria.

c. Union officials will be briefed on the various systems available upon request.

**Section 4.** A program participant will remain eligible for placement assistance until he:

a. Voluntarily separates;

b. Accepts a valid offer; or

c. Declines a valid offer or an intervening grade level offer.

A valid offer is a position that is considered valid under the provisions of the appropriate program. This generally means a position at the same pay and/or grade as the position of record. A valid offer must be within the commuting area or in another geographical location in which the employee has expressed a written interest.

## ARTICLE 15

## COMMERCIAL ACTIVITY/CONTRACTING OUT

### **Section 1.**

a. The Employer retains the right to make determinations with respect to contracting out as provided in 5 U.S.C. 7106.

b. The Employer agrees to provide timely notification to the Union concerning any proposal to contract out work performed by bargaining unit employees, or a proposal to review such a functional area for possible conversion to contract.

c. The Union may request, in writing, copies of any relevant and pertinent data in connection with the implementation of Office of Management and Budget (OMB) Circular A-76, Performance of Commercial Activities, including any training materials. After a review of such request the Employer will provide the Union, to the extent not prohibited by law or applicable regulation, data which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of mandatory bargaining.

**Section 2.** The Employer agrees to comply with commercial activities statutes and regulations, to the extent not prohibited by law, to include Title 10, U.S.C. 2461, et. seq.; Federal Acquisition Regulations, 48 C.F.R. Section 7.3; DOD Commercial Activity Program, 32 C.F.R. Section 169; and Army Regulation 5-20.

**Section 3.** The Union shall be allowed a representative on the Commercial Activities Working Group and may attend meetings that relate to the development of the Performance Work Statement (PWS) or the Most Efficient Organization (MEO). However, some of the work of the Group may be considered internal management deliberations. In such instances, it would not be appropriate for a Union representative to be present.

**Section 4.** The Union representative may receive such training as is provided to the Group regarding the contracting-out process.

**Section 5.** The Employer agrees to consult with the Union on at least a monthly basis during the development and preparation of the PWS and the MEO study and other matters relating to that determination, to the extent not prohibited by law. The Employer agrees to consider the views of the employees performing the tasks subject to the commercial activity review. This information will not be provided to the Union if the Union is to be a bidder in the process.

## **Section 6.**

a. The Employer will notify and consult with the Union concerning any proposal to convert in-house functions currently performed by bargaining unit employees to outside contract. Proper subjects for consultation may include:

(1) The reason for the possible conversion to contract.

(2) Status of affected employees.

(3) Actions to minimize adverse impact on bargaining unit employees (e.g., reassignment, retraining, hiring limitations).

(4) Contract specifications consistent with procurement regulations.

b. The Union may file written comment regarding consultation subjects. The Employer will respond to any written submission by agreeing to meet and discuss the Union's comments and related concerns. The Employer shall duly consider the Union's input and, upon request, furnish a written reply to the points raised by the Union.

c. The Union will be furnished information on contract specification at the same time the invitations for bids are mailed to bidders. Also, the Union shall be furnished dates and times of pre-bid and bid-opening conferences, as appropriate. The Union shall have a right to have a representative at such conferences.

**Section 7.** Consistent with applicable regulations, the data that may be provided to the Union, in accordance with Section 1c above, may include but is not limited to: pertinent information on cost studies, Invitation for Bid, Request for Proposal, abstract bids, correspondence from higher authority directing the cost study, correspondence for the Department of Labor regarding wage rates, the PWS, and any changes, the "milestone" chart or similar document setting forth the estimated dates for the contracting-out process, bidder questions and Employer answers related to the PWS. The Union will have a reasonable time to review and respond to each of the above. Written responses from the Union will be addressed by the Employer. All data will be corrected where the Union demonstrates that it is not valid or prepared in accordance with existing directives.

**Section 8.** The Employer will permit a Union representative in the "walk through" by bidders of the function under review.

**Section 9.** Any additional negotiations as appropriate will be conducted in accordance with Article 32, Negotiations and/or Article 33, Duration, Review, and Supplementation of Agreement.

**Section 10.** The Employer agrees to make reasonable efforts to minimize the impact on employees when a function is contracted out. Employer efforts will normally include limiting permanent new hires and consideration of attrition patterns. Placement consideration will be in

accordance with Article 13, Reduction in Force, and Article 14, Out Placement, in this agreement.

**Section 11.** Disputes concerning provisions of OMB Circular A-76 will be resolved through A-76 appeals procedures. Issues arising from the collective bargaining agreement, law, rule or regulations other than those exclusively reserved under OMB Circular A-76 may be resolved through the grievance/arbitration procedure to the extent not prohibited by law.

**Section 12.** In the event any agency decision to contract out is based upon information provided by the contractor or an individual in violation of the False Claims Act, 31 U.S.C. 3729 (1986), employees will be compensated for filing successful court actions in accordance with 31 U.S.C. 3730 (1988).

**Section 13.** Management recognizes the "right of first refusal" required by the supplement to OMB Circular A-76, Part 1, Chapter 1, Section h. 2. (March 1996 edition) which provides that the contractor will grant those federal employees displaced by conversion to contract with the right of first refusal of employment openings created by the contractor. Refusing the right of first refusal because of displacement due to contracting out shall not deny a unit employee of any assignment rights he might otherwise have under applicable RIF procedures.

## ARTICLE 16

### TRAINING

**Section 1.** Subject to the availability of funds, the Employer will plan and provide for training and development of employees as required to accomplish the mission. The choice of subject matter, areas for training, selection and assignment of training priorities, and the selection of employees to be trained is a function of the Employer.

**Section 2.** The Employer is responsible for:

- a. Assessing the training needs of employees;
- b. In conjunction with employees, identifying and documenting training and developmental needs of employees during performance evaluation; and
- c. Counseling employees regarding self-developmental activities that would contribute to their performance or career development.

**Section 3.** Documentation of training activity required to be maintained by Chapter 41 of Title 5 C.F.R., Part 40 and Army Regulations will be accomplished in accordance with AR 25-400-2, The Modern Army Record Keeping System (MARKS).

**Section 4.** The Employer agrees to extend consideration to the reimbursement of expenses incurred by an employee in attendance at job-related courses on his own time. Such consideration will be subject to the availability of funds and the priorities of training needs. Partial or full reimbursement, if approved, will be in accordance with existing policies and regulations.

**Section 5.** The Employer agrees that when an employee is adversely affected by a RIF, reorganization, or transfer of function, sufficient training will be provided as determined by the Employer to enable the affected employee to perform duties of a new position and/or assisting in the placement of employee.

**Section 6.** The Employer will establish training points of contact in each activity as deemed appropriate. Employees, as well as the Union, may contact training points of contact to review available job-related training catalogs and information. The Union may review these materials and make reasonable requests for copies of these training documents.

## ARTICLE 17

### HOURS OF WORK

**Section 1.** The regular tour of duty will consist of five consecutive 8-hour work days, Monday through Friday, from 7:15 a.m. to 4:00 p.m. except for the AMEDDC&S where the tour of duty is 7:30 a.m. to 4:15 p.m. The occurrence of Holidays will not alter the regular weekly tour of duty. The lunch period defined by a fixed schedule, will normally be 45 minutes, and will normally be taken between 11:00 a.m. and 1:00 p.m.

**Section 2. Definition For Civilian Alternate Work Schedule Program (CAWSP).**

**a. Compressed Work Schedule:**

(1) **5-4/9 Plan.** The 5-4/9 Plan consists of a total of 80 hours in 9 working days, limited to 9 hours per day during 8 days of the biweekly pay period and 8 hours on the 9th day to complete the basic requirement for the two week period. The employee has one day off in each biweekly pay period. Subject to supervisory approval, the regularly scheduled day off may be any day within the pay period. The tour of duty is defined by a fixed schedule; however, within the work unit, employees' arrival and departure times may be staggered, subject to supervisory approval.

(2) **4-10 Plan.** The four day workweek consists of a work schedule of 10 hours per day for four days a week. The employee has one day off during each workweek. Subject to supervisory approval, the regularly scheduled day off may be any day within the workweek. The tour of duty is defined by a fixed schedule; however, within the work unit, employees' arrival and departure times may be staggered, subject to supervisory approval.

**b. Flexitour Plan.** The Flexitour Plan consists of 5 consecutive work days of 8 hours each. Employees may preselect their arrival time at preestablished set times, consistent with supervisory approval and mission requirements, resulting in a fixed schedule until the next selection period.

**Section 3.** Participation in the CAWSP is open to all employees and supervisors are encouraged to support the program. Employees who work in direct support of AMEDDC&S resident training are restricted to participation in the Flexitour Plan. Upon written request and subject to supervisory approval an employee may voluntarily:

- a. Select any one plan the employee desires.
- b. Select a regular day off (if applicable).

c. Select a starting time between 6:30 a.m. and 8:30 a.m. in one-quarter hour increments (i.e., 6:30, 6:45, 7:00, 7:15, 7:30, 7:45, 8:00, 8:15, 8:30) as long as the workday terminates no later than 6:00 p.m.

d. Request a change in plans, hours, or regular day off (if applicable).

e. Request changes to his work schedule no more than two times within each calendar year. Such requests must be submitted 4 weeks prior to the requested effective date.

**Section 4.** Supervisors should be as liberal as possible in support of the CAWSP and participation in the program should only be restricted to the following:

a. Due to "one deep" positions. Secretaries will not be denied the Compressed Work Schedule solely because their supervisors do not personally elect the Compressed Work Schedule.

b. To effectively accomplish the mission and to maintain crew/team unity. All employees of a work unit may be required to participate on the same work schedule, except that personal hardship exceptions will be considered on a case by case basis by the Employer.

c. If, in unusual circumstances, Management determines a temporary change to an employee's schedule is necessary, the Union will be notified in advance of the schedule change and given the opportunity to negotiate as appropriate. An employee and his supervisor may mutually agree to make temporary changes up to five (5) calendar days without Union notification. In cases of emergency, Management will contact the Union within 24 hours of the emergency action to negotiate any adverse impact of the change.

d. The Parties will negotiate when Management desires not to implement or to terminate an alternate work schedule based on adverse impact. If the issue cannot be resolved, it will be submitted to the FSIP for resolution. When individual employee requests are disapproved, the employee may use the negotiated grievance procedure or the ADR process to challenge the disapproval.

**Section 5.** Details of employees may be necessary to accomplish mission essential duties due to alternate work schedules. Procedures for details are in Article 12, Details and Temporary Promotions.

**Section 6.** When employees are involved in training for 5 days or more or are on TDY travel, the work scheduled may be temporarily changed for the pay periods involved. For periods of training less than 5 days, the employee may have his work hours for that week temporarily changed to accommodate the mission. This does not preclude employees from mutually working out alternate arrangements with their supervisors.

**Section 7.** During the life of Executive Order 12871, the Employer recognizes its obligation to notify and provide the Union an opportunity to bargain, as appropriate, on the number, types and

grades of employees or positions assigned to any tour of duty established under the Flexitour or Compressed Work Schedule program.

**Section 8. Shift And Non-Standard Tours of Duty.**

a. The Parties agree that the nature of some operations require the establishment and the continuation or discontinuance of tours of duty that include night work and weekend work. The Employer shall determine when night work, weekend work or multiple shifts are necessary to accomplish the mission. In staffing such non-standard tours of duty the following principles apply:

(1) Employees deserve as much advance notice of changes as is practical. Normally, employees will be given at least two weeks advance notice prior to assignment involving night shifts and weekend work.

(2) In some cases the particular experiences and/or skills of individual employees are considered in making assignments to provide for the proper balance of employee abilities.

(3) Upon formal request of either Party the employees on multiple shifts will be considered for periodic shift rotations. The majority view of the affected employees will be solicited, regarding the decision to stabilize or rotate shifts and at what intervals. The Parties will decide when shifts are to be stabilized or rotated. Rotating shifts will be for periods of not less than 80 hours.

(4) In staffing such shifts, personal hardships of employees should be considered.

(5) In staffing shifts, employees' preferences should be accommodated. Consistent with mission requirements, volunteers will be utilized.

(6) If there are more qualified volunteers than needed, the most senior qualified volunteers will be utilized (e.g. in filling vacancy on the day shift).

(7) If insufficient qualified volunteers are available and involuntary assignments are necessary, such assignments will be made in inverse seniority order using Service Computation Dates.

(8) Normally, employees will have two consecutive days off. Employees will normally receive at least 36 hours off between shifts and/or tour changes.

(9) Subject to supervisory approval, employees may swap shifts on a permanent or temporary basis if both agree to the exchange, they are both qualified to perform the duties, and Management receives a one-week notice of their intentions for permanent changes and a 24-hour notice for temporary changes.

(10) When employees on shift work are not permitted to leave the work area for lunch due to mission needs, they will be granted a 20-minute paid lunch break, and must remain in a ready status.

(11) The Parties agree that characteristics inherent in shift operations may preclude some employees from participating in some alternate work schedules. However, requests from employees directly or indirectly involved in shift work will be considered on a case-by-case basis.

b. The Employer agrees to establish, staff, and continue or discontinue night shifts and weekend assignments in accordance with the above principles, and, as appropriate, in negotiation with the Union.

**Section 9.** An employee whose personal religious beliefs require that he be absent from work during scheduled work periods may elect, with the approval of his supervisor, to engage in overtime work for time lost as the result of meeting those religious requirements. Any employee who elects such overtime work with the approval of the Employer shall be granted equal time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons or requirements.

**Section 10.**

a. Employees in the bargaining unit are authorized one 15-minute break during each half of their scheduled work day.

b. Scheduling of breaks will be based on operational needs. Where practical, all employees in a work area will be required to take breaks at a standard time. With prior approval, employees may use independent discretion and take their rest periods at appropriate intervals of work.

c. Normally, the employee will take the break within the work area, but may leave the area if he tells his supervisor where he can be located if mission needs arise. Employees who elect to take equivalent intermittent breaks to smoke during the conduct of their work shall not have other scheduled breaks.

**Section 11.** When a Federal holiday falls on a regularly scheduled day off, the employees' day off and holiday will be determined in accordance with regulations.

## ARTICLE 18

### OVERTIME

**Section 1.** The assignment of overtime work is a function of Management, and Management officials are required to keep overtime work to a minimum consistent with the accomplishment of the Employer's mission. Therefore, supervisors are expected to assign overtime work in such a way as to accomplish it as efficiently and expeditiously as practicable. Overtime will not be used by the supervisor as a reward or punishment.

**Section 2.**

a. Employees shall be required to perform overtime work unless the supervisor determines that overtime for any employee would be inappropriate due to such reasons as impairment of health, efficiency, or undue personal hardship such as a scheduled vacation or other justifiable reasons.

b. An employee will be released from an overtime assignment provided his reasons, as determined by the supervisor, are valid and another qualified employee familiar with the work is available for overtime. A written denial is required when the employee provides a written request for release with justification.

**Section 3.** First consideration for overtime shall be given to those employees who are currently assigned to the job. Second consideration will be given to those qualified employees normally performing the job in the area or functions where the overtime work is required. Employees should be selected for overtime work on a fair and equitable basis consistent with job and skill requirements. It is recognized that certain factors (i.e., security clearance, continuity of jobs of short duration, peculiar environmental or skill requirement) may cause temporary imbalances in the equitable distribution of overtime. If either Party determines, on a case by case basis, an imbalance or concerns exist, rosters should be maintained. Such rosters will be established by the Employer with employees listed by seniority, based on Service Computation Date.

**Section 4.** On the basis of Section 3 above the Employer will utilize volunteers to work overtime, prior to assigning overtime. Overtime rosters will be maintained and be accessible for a period of one year. If an employee does not want to work overtime, the next employee on the list will be asked. If no one wants to work, the employee next up from the bottom on the roster will be assigned the overtime.

**Section 5.** Employees needed for overtime work will be given advance notice but the Parties agree employees should be willing to accept overtime on short notice. The Employer agrees to make reasonable efforts to notify employees of the possibility of overtime work or the requirement to work overtime far enough in advance to allow employees to adjust to the requirement. The Employer will provide 72 hours advance notice of approved overtime requirements or notice will be provided as soon as overtime is planned, when 72 hours advance notice cannot be provided.

**Section 6.** Employees required to perform authorized overtime work shall be compensated in accordance with applicable Federal laws.

**Section 7.** Employees who are classified non-exempt under the Fair Labor Standards Act may not perform work outside normal working hours unless specifically ordered or authorized by the Employer to do so. If the Employer suffers and permits these employees to work, they should be paid overtime.

**Section 8.**

a. To the maximum extent practicable, the Employer shall schedule the time to be spent by an employee in travel status away from his duty station within the regularly scheduled workweek of the employee.

b. When it is required that travel be performed during non-duty hours, an employee will be compensated for overtime as provided for by applicable Federal law.

**Section 9.** Any employee who works with the approval and knowledge of the Employer, more than eighty (80) hours in a pay period, shall be compensated for such work by receiving overtime pay or time off for those hours in excess of eighty (80) hours. Such compensation shall be awarded under controlling regulations and/or laws.

**Section 10.** Overtime will be compensated in fifteen (15) minute increments. If an employee works eight (8) or more minutes in a quarter hour, that employee will be compensated for fifteen (15) minutes of overtime. If an employee works seven (7) minutes or less the employee will not be compensated. This is not to be interpreted that the Employer may work employees on a regular basis for seven (7) minutes or less without compensation.

**Section 11.** Employees called in to work irregular or occasional overtime outside of and unconnected to their basic workweek, shall be paid a minimum of two (2) hours pay, regardless of whether the employee is required to work the entire two (2) hours. In addition, thereto, any employee called in to work on shifts outside his basic workweek will normally be excused upon completion of the job which he was called in to perform.

**Section 12.** Employees required to use a beeper or other electronic devise will be in a duty and pay status subject to restrictions in accordance with 5 C.F.R. 551.431 (a). However, if the employee is allowed to choose between leaving a telephone number or carrying an electronic devise for the purpose of being contacted, the employee may not be in a pay status, but in an "on-call" status until contacted. When the employee is contacted and begins performing hours of work, in accordance with applicable regulations, he is in a duty and pay status. Restrictions to the employee must be reasonable and will be rotated among qualified employees in accordance with Section 3 above.

**Section 13.**

a. Employees will not be coerced or required to accept compensatory time in lieu of overtime payment except under government-wide regulations.

b. Compensatory time should be used as soon as possible. It will be converted to overtime pay in accordance with regulations or past practice, whichever results in the earliest payment.

## ARTICLE 19

### LEAVE

**Section 1.** Leave will be administered in accordance with Fort Sam Houston Regulation 690-14, other applicable laws and regulations, and the following. Whenever there is a conflict with rules and regulations other than those of a government-wide authority, this agreement will prevail.

#### **PART I - Annual Leave**

**Section 2.** The Employer retains the right to approve/disapprove or reschedule annual leave based on workload requirements. Consistent with the Employer's need of the individual, annual leave which is requested in advance will normally be approved.

#### **Section 3.**

a. Employees are encouraged to take two weeks annual leave for vacation purposes each year, providing the employee's accrual leave rate and workload within the organization permits. Normally, the employee will submit his scheduled leave request (to his immediate supervisor) during the first thirty (30) days of the calendar year. The Employer will approve/disapprove the leave within the next thirty (30) calendar days. Once an employee's vacation time has been scheduled, he will normally be permitted to change his selection only if workload permits and no other employee's choice is disturbed or if another employee agrees to trade.

b. Employees will not normally be required to forego their previously scheduled leave except when emergency conditions or completion of mission important workload dictates. When such situations arise the employee will be allowed to continue his scheduled leave as soon as the necessary mission work has been completed. If the situation is such that the entire leave must be canceled, upon request, the employee will be given a written statement as to why his leave was canceled and be given priority consideration for available dates.

c. Management will make a maximum effort to avoid canceling leave where financial loss to the employee is involved. When the Employer knows of a need for maximum attendance, employees will be notified promptly.

d. If there is a conflict in scheduling leave or when there is a mission need to cancel already approved leave which cannot be resolved by the individuals involved, the following priority list will be used:

#### **Priority 1 - Two (2) weeks annual leave as stated in a above:**

(a) Employees who were employed in their individual organizations as defined in the Introductory Note of this agreement;

(b) Employees who did not have that time scheduled during the previous year;

(c) Service Computation Date.

**Priority 2 - Other scheduled leave:**

(a) Employees who have already incurred a substantial financial expenditure for use of that time period (after the time has already been scheduled);

(b) Hardship;

(c) Date of request;

(d) Employees who have use or lose leave; and

(e) Service Computation Date.

e. In areas where 24 hour, 7 day per week staffing is necessary, Management agrees to make a good faith effort to honor an employee's request for two scheduled days off before and after a vacation period.

**Section 4.** Where unforeseen emergencies arise requiring the use of annual leave not previously approved, approval of the use of annual leave may not be presumed by the employee, but will normally be granted. Except where circumstances beyond the control of the employee do not permit, the employee must contact his supervisor or designated alternate, either personally or by phone, as soon as possible, but not later than two hours after the beginning of the regular work shift. When another person contacts the supervisor on the employee's behalf, it remains the responsibility of the employee to be aware of the supervisor's approval/disapproval of the requested absence.

**Section 5.**

a. It is the responsibility of the employee to assure that he does not forfeit leave due to use or lose provisions. Management will work with employees in scheduling and rescheduling leave to avoid its loss.

b. If the Employer prevents the employee from using scheduled leave at the end of the year, that leave will be restored in accordance with applicable regulations.

**Section 6.** The Employer will make every reasonable effort not to require employees to take leave that would create undue hardships.

**Section 7.** The employee will not be required to take annual leave for attendance at official functions.

**Section 8.** An employee injured in the performance of his duties will be considered in a duty status and will receive pay without charge to leave for the time required to obtain emergency treatment to the extent that the time falls within his prescribed hours of work for that day.

## **PART II - Sick Leave**

**Section 9.** Sick leave, if available, shall be granted to employees when they are incapacitated from the performance of their duties by physical or mental illness, injury, pregnancy or childbirth or when a member of the immediate family of the employee is afflicted with a contagious disease and requires attendance of the employee, or when, through exposure to contagious disease, the presence of the employee at his post of duty would jeopardize the health of others. During the life of the Federal Employees Family Friendly Leave Act, employees may be authorized:

a. Family care sick leave to provide care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental or optical examination or treatment.

b. Bereavement sick leave to make arrangements necessitated by the death of a family member or to attend the funeral of a family member.

**Section 10.** Sick leave, as necessary, shall be granted to the extent due and accrued for medical, dental or optical appointments, examinations or treatment. Requests for sick leave under this Article shall normally be made in advance and time granted normally shall not exceed that required for travel, examination, and treatment. Employees will be expected to return to work upon the completion of such appointment, provided that they are physically able and can report for as much as two hours; or annual leave may be granted at the discretion of the supervisor upon request from an employee for the remainder of the day, when it is not appropriate for charge to sick leave.

**Section 11.** An employee who is prevented from reporting to his scheduled tour of duty because of an incapacitating illness or injury shall furnish notice to an appropriate official designated by the Employer, by telephone or other means, within two hours after the beginning of the employee's normal work shift. The employee is responsible for making every reasonable effort to insure that notification is made to his supervisor. The Employer shall inform employees of the names and telephone numbers of the appropriate officials to whom to report. When reporting, the employee shall furnish the reason for absence, and the estimated duration of absence. When the employee knows in advance that he will be absent beyond the original estimated time, he will report this to the appropriate Management official not later than the last day of the originally reported absence, indicating the reasons for the continuing absence and when he expects to return to work. Notification for each day of absence due to illness will be made to the appropriate official unless medical documentation has been presented in advance to cover the entire absence. Such notification will not in itself be justification for approval or disapproval of sick leave. Upon return to duty, the employee's request for sick leave will be considered on an individual basis. If the absence exceeds three (3) days, employees must, upon returning to duty furnish a signed statement from a physician or licensed medical practitioner that they were

incapacitated for duty during the entire period of absence. This requirement for a physician's statement may be waived where a chronic condition had been previously documented. Additionally, for absences of up to five (5) consecutive work days, those employees who have used 36 hours of sick leave or less during the preceding leave year may be permitted to provide a personally signed statement explaining the nature of the illness and the reasons why a physician's services were not utilized. Medically documented long term sick leave of 10 consecutive work days or more will not be counted as part of the 36 hours.

**Section 12.** It is agreed and understood that the Employer has the right to require that an employee furnish a medical certificate for each absence of any duration where there is reason to believe that the employee has abused sick leave privileges or after the Employer has counseled the employee with respect to the use of his sick leave, a record of such counseling is on file, and the sick leave record of the employee subsequent to the counseling does not indicate improvement. The requirement for a medical certificate will be provided the employee in writing. The Employer will review the sick leave record with said employee at least semi-annually. Where such review reveals no specific evidence that the employee has abused sick leave privileges during the period reviewed, the employee will be notified, in writing, that a medical certificate will no longer be required for each absence and the original letter will be removed from the record.

**Section 13.** Sick leave, not exceeding a maximum of 240 hours, may be advanced to an employee in cases of serious illness or disability, including pregnancy, upon his request. Additional guidance is stated in Fort Sam Houston 690-14, paragraph 10, a. (1) through (5).

### **PART III - Family Leave**

**Section 14.** An employee who is pregnant may be granted sick leave, annual leave, or leave without pay, as appropriate, during delivery, confinement and care of the infant. An employee will make known to her supervisor her intent to request leave for maternity reasons, including the type of leave, and the approximate dates, in order that the supervisor may plan for staffing adjustments which may be necessary during her absence.

**Section 15.** Under the Family Medical Leave Act and this agreement, employees who have completed at least 12 months of civil service are entitled to 12 weeks of leave during any 12-month period for the following reason(s):

- a. Birth of a son or daughter and care of such son or daughter, and the placement of a son or daughter with the employee for adoption or foster care; and/or
- b. The care of a family member of the employee with a serious health condition. Family member is defined as spouse, parents thereof, children (including adopted children), and parents of the employee.

Supervisors are encouraged to approve additional leave if circumstances warrant.

**Section 16.** Employees may use the provisions of the Federal Employees Family Friendly Leave Act which expands the use of sick leave by permitting most employees to use a total of up to 104 hours of sick leave each leave year (or in the case of part-time employees with uncommon tours of duty, the number of hours of sick leave normally accrued during a leave year) for the following:

(1) To provide care for a family member as a result of a physical or mental illness, injury, pregnancy, childbirth; or for a medical, dental or optical examination or treatment; or

(2) To make arrangements necessitated by the death of a family member or attend a funeral of a family member.

Under this Act all covered full-time employees will be able to use a total of up to 40 hours of sick leave each year for family care or bereavement purposes. In addition, a covered full-time employee who maintains a balance of at least 80 hours sick leave will be able to use an additional 64 hours of sick leave per year for these purposes. This brings the total amount of sick leave available for family care and bereavement purposes to maximum of 104 hours per year for employees who satisfy this condition. This Act includes the broader definition of "family member" that is used in the Federal leave sharing program.

#### **PART IV - Administrative Leave or Excused Absence**

##### **Section 17.**

a. **Registration and Voting.** The Employer may, upon request, excuse employees from work in order to vote or register to vote provided that the particular circumstances make voting/registering after duty hours impractical. When the polls are not open at least 3 hours, either before or after an employee's regular hours of work, he may be granted an amount of excused absence to vote which will permit the employee to report for work 3 hours after the polls are opened or to leave work 3 hours before the polls close, whichever requires the lesser amount of time off.

b. **Blood Donation.** Consistent with mission requirements, employees are encouraged to serve as blood donors and will be excused from duty. Employees who give blood without compensation may be excused without charge to leave for any portion of the day blood is donated, for travel to the donation site, donation and recovery immediately following the donations. Normally this will not exceed 4 hours unless unusual travel time is required. The Employer will make a good faith effort to schedule blood drives during mid-day hours.

c. **Court Leave.** Court Leave is authorized absence, without charge to leave or loss of pay, for jury duty or to serve when summoned as a witness, in a nonofficial capacity, on behalf of federal, state, or local government or when such government is a party to an action. The Employer will grant court leave as appropriate.

(1) Employees excused for court duty when two or more hours remain in the workday are expected to return to duty unless extenuating circumstances (distance from home, duty station, court, etc.) make returning impractical.

(2) Employees will present evidence of a call to court service to their supervisor immediately upon receipt. Upon completion of court duty, employees will obtain a Certificate of Service from the Court Clerk and deliver it to their supervisor.

d. **Bone Marrow or Organ Donor Leave.** Upon request, the Employer will grant bone marrow or organ donor leave as appropriate to employees who serve as a bone-marrow or organ donor.

### **Section 18.**

a. **Unusual Climatic Conditions.** Excused absence which may be appropriate due to weather extremes is within the discretion of the Employer and will be appropriately considered in accordance with applicable laws and regulations. Emergency essential employees will continue to report to duty as directed by the Employer. When possible, the Union will be notified in advance.

b. **Work Interruptions.** Employees who are prevented from working due to interruptions or suspension of normal work operations will be assigned to other work where possible. If other work is not available, the employee may be excused or placed on leave at the discretion of the Employer. Management will notify the Union in advance when not precluded by an emergency.

c. Where employees are excused, Management will notify employees.

**Section 19.** Leave usage will be charged in increments of 15 minutes.

**Section 20.** The Employer shall have the option to excuse infrequent absences and tardiness of less than an hour on the part of the employee. Each case shall be considered on its merits and employees shall be treated fairly.

**Section 21.** Leave without pay will normally be granted to employees for the following reason(s):

- a. For relocation purposes;
- b. When an employee is disabled and receiving OWCP benefits;
- c. When a reservist is on military duty for 3 months or less;
- d. When an employee is serving as a National Officer or representative for the National Union.

## ARTICLE 20

### PERFORMANCE STANDARDS AND EVALUATION

**Section 1. Purpose.** The Parties to this agreement each recognize that high level performing employees are essential to the efficient operation of the agency and are necessary for the achievement of the agency's goals and objectives. The purpose of this Article is to emphasize a fair and equitable procedure to be utilized by supervisors when informing employees of their performance. The employee performance appraisal system will be administered in accordance with the requirements of 5 U.S.C. 4301, 5 C.F.R. Part 430 as amended, and Army Regulation 690-400, Total Army Performance Evaluation System (TAPES), as supplemented by this agreement.

**Section 2. Policy.**

a. The Parties agree that, to provide a continuing mechanism to address employee concerns, systemic issues regarding annual performance appraisal and performance award processes will be referred to the Partnership Council of each respective organization. The councils would have the authority to make adjustments to these processes as necessary consistent with Partnership Council principles in Article 2.

b. Within 45 days after the end of the appraisal period, a written rating of record shall be prepared and given to each unit employee.

**Section 3. Performance Plan.** Employees will be actively involved in the development of their performance plans, including establishment and changes in individual performance standards. Supervisors will discuss individual performance standards with affected employee(s) within the first thirty (30) days of the rating period to promote a common understanding of what is required for a satisfactory performance and how employees may exceed the standards. Management will provide the employee a copy of the final performance standards after considering his comments. Employees who enter unit positions or are promoted, demoted, or reassigned to a different unit position, should have their new performance standards communicated to them as soon as possible, but normally no later than thirty (30) days after assuming the duties of the new position. Changes to individual performance standards may be proposed during the appraisal cycle, however, such changes will be kept to a minimum. Such changes will be discussed with the affected employee(s) before the proposed changes are implemented.

**Section 4. Performance Standards.** To the extent feasible, each employee's standard will permit the accurate evaluation of job performance on the basis of objective criteria related to the employee's job. Performance standards will be defined at the fully successful level for each critical element (i.e., Responsibilities in the Base System and Objectives in the Senior System) to be used in the summary rating of each employee. A performance standard is an expression of the performance level that must be met to be appraised at the fully successful level. A performance standard may include quality, quantity, timeliness, or manner of performance. The

standard should be written as objectively as feasible; e.g., to include milestones, fiscal resources, and other measurable aspects.

**Section 5. Performance Rating Procedures.** The evaluation of employees by their supervisors shall be objective to the maximum extent possible.

a. In the interest of providing for objectivity in an appraisal, an employee should have been working under the supervisor and an approved performance plan for at least 120 days. When this is not the case the annual rating will be deferred until these time frames are met unless the employee voluntarily requests otherwise.

b. The rating official shall be a supervisor/management official who has direct knowledge about the employee's performance and the type of work performed and has access to all the employee's performance records.

c. The rating official will discuss the employee's job performance in a private setting at least once at the midpoint of the appraisal cycle and during the final rating. These reviews will be documented on the appraisal form.

d. If the supervisor has identified shortcomings in the employee's performance, the employee shall be notified when the problem is perceived. Where performance is less than fully successful, the rater will suggest ways for the employee to improve his work in order to raise the employee's performance to a fully successful level.

e. Employees will be afforded fifteen (15) calendar days to submit accomplishments/contributions related to their performance during the appraisal period. The rater will consider all information such as assignments of any duration, abnormal work situations, and factors beyond the employee's control.

f. A memorandum will be prepared for employees whose performance is less than fully successful. The memorandum will explain why their performance is less than fully successful and what specific measures and assistance will be provided to assist them in improving their performance. The memorandum will normally allow employees not less than 60 days to improve their performance to the fully successful level. If the employee's performance is brought up to a fully successful level during the notice period, the memorandum will be removed from all records.

## ARTICLE 21

## **ACTIONS BASED ON UNACCEPTABLE PERFORMANCE**

**Section 1.** The Employer may reduce in grade or remove an employee for unacceptable performance in accordance with Army Regulation 690-400, Chapter 432, and other applicable laws and regulations. Whenever there is a conflict with rules or regulations other than those of a government-wide authority, this agreement will prevail.

**Section 2.** Prior to initiating an action under this Article, an employee must be:

- a. Informed in writing (Letter of Warning) of the applicable critical elements and standards of performance;
- b. Informed of performance deficiencies and what needs to be accomplished for the employee to receive an acceptable rating;
- c. Allowed a reasonable amount of time (normally not less than forty-five (45) calendar days) to demonstrate acceptable performance. What constitutes a reasonable amount of time will depend on the nature of the employee's position and the performance deficiency(s) involved, and how long it would take to demonstrate acceptable performance, as well as other special circumstances; e.g., a seasonal work schedule, extended leave, an alcoholism or drug problem, etc.;
- d. Informed, in writing, of how the supervisor will assist in the effort.

**Section 3.** An employee whose reduction in grade or removal is proposed is entitled to:

- a. Thirty (30) calendar days advance notice (Notice of Proposed Removal/Change to Lower Grade for Unacceptable Performance) of the proposed action which identifies:
  - (1) Specific instances of unacceptable performance on which the proposed action is based, and that employee has not improved his performance to an acceptable level.
  - (2) The critical elements of the employee's position involved in each instance of unacceptable performance.
- b. Be represented by a Union representative or by a representative of employee's choice.
- c. Be provided at least twenty (20) calendar days following receipt of the proposed action to answer orally and in writing.
- d. A written decision (Notice of Decision) as soon as possible, but not later than thirty (30) calendar days after the notice period expires which:
  - (1) Specifies the instances of unacceptable performance on which the action is based;and

(2) Be concurred in by a higher level official than the one who proposed the action.

**Section 4.**

a. Actions to reduce in grade or remove employees for unacceptable performance resulting from alcohol or other drug abuse will be postponed for those enrolled and satisfactorily progressing in an approved rehabilitation program.

b. Previously initiated action in which the final decision letter has not been issued will be held in abeyance upon the employee's enrollment in the rehabilitation program, provided the employee has not previously refused rehabilitation assistance.

c. Such action may be reinitiated if job performance is unsatisfactory, or if, at any time during the active rehabilitation process, the employee refuses such assistance.

**Section 5.** In cases of decision to reduce in grade or remove an employee for unacceptable performance, the Employer agrees that the decision may be based only on those instances of unacceptable performance by the employee specified in the proposed notice.

## ARTICLE 22

### DISCIPLINARY ACTIONS

**Section 1.** The Employer shall determine when the need for disciplinary action occurs and such actions will be administered in accordance with Fort Sam Houston Regulation 690-26, other applicable laws and regulations and this agreement. Whenever there is a conflict with rules or regulations other than those of a government-wide authority, this agreement will prevail.

**Section 2.**

a. Disciplinary actions fall into two categories; informal (oral admonishment and written warnings) and formal (letter of reprimand and suspension of 14 days or less). An employee will be subject to discipline only for such cause as will promote the efficiency of the service.

b. Disciplinary actions against all employees should be based on just cause, include fair consideration, and be consistent with applicable laws and regulations. In general, progressive discipline requires the least stringent penalty to motivate improved behavior. Punitive discipline normally will require a stronger penalty to preclude repeated acts of misconduct and to deter such conduct by others.

**Section 3.**

a. Prior to making a determination as to whether or not disciplinary action is warranted, the Employer shall conduct a preliminary inquiry to document the facts. The inquiry shall include discussions with the employee(s) concerned as appropriate.

b. Employees are entitled to be represented at any examination held for this purpose if:

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

(2) The employee requests representation.

c. If the employee desires such representation, it shall be granted before further action occurs.

**Section 4.** Disciplinary action will normally be initiated within a reasonable period of time following Management's knowledge of the alleged incident. In cases where disciplinary actions may be taken based upon formal investigative or civil actions generated at the Commander's level or third Party, the period may be adjusted accordingly.

**Section 5.** An employee who is issued a written reprimand is entitled to:

a. A specific description of the infraction for which reprimanded;

b. An opportunity to review the material relied upon to support the reprimand; and

c. Advice concerning the employee's right to grieve the action under the Formal Steps of the negotiated grievance procedure or the ADR process.

**Section 6.** An employee against whom a suspension of 14 days or less is proposed is entitled to:

a. An advance written notice stating the specific reasons for the action;

b. The name of the deciding official to whom the employee may respond;

c. Be provided at least fifteen (15) calendar days following receipt of the proposed action to answer orally and/or in writing, and to furnish affidavits and other documentary evidence in support of the employee's answer. Upon request of the employee, Management will consider reasonable requests for extensions;

d. Be represented by an attorney or other representative including a Union representative;

e. Be advised of his non-pay status during the notice period, if applicable; and

f. Be granted a reasonable amount of official time, if otherwise in a duty status, to receive copies of and review the material relied on to support the reasons in the notice, to secure affidavits or other written statements, and to prepare an answer to the notice.

**Section 7.** The official making the final decision on disciplinary matters (excluding letters of reprimand and informal discipline actions) shall normally be at a higher level in the activity than the proposing official. After investigation and consideration of the employee's response and any mitigating factors, this deciding official may;

a. Withdraw the action proposed;

b. Institute a lesser action; or

c. Take the proposed action.

Where the final decision is unfavorable to the employee, he will be advised of his right to appeal the decision under the negotiated grievance procedure or the ADR process or file a complaint under the EEO procedure, if applicable. The phone number of the Union President should be included in the letter.

## **Section 8.**

a. An employee will be given at least seven (7) calendar days from the date of receipt of the decision to the effective date of a suspension.

b. The Employer shall provide the Union with a copy of all disciplinary actions and decisions where requested by the employee.

c. Formal disciplinary actions will be documented in the employee's Official Personnel Folder in accordance with appropriate regulations. Informal actions will be annotated on the Supervisor's Employee Brief for up to 6 months. Management may remove the action earlier than 6 months at their option.

## **Section 9.**

a. The employee shall be notified by the Employer when any derogatory matter is documented on the Supervisor's Employee Brief and the employee shall have the opportunity to discuss the matter with the supervisor. The employee will initial and date all derogatory entries made on the Supervisor's Employee Brief by the Employer. The employee's initials will signify knowledge of, not necessarily concurrence with, the entry. The employee has the right to review and acquire a copy of the Supervisor's Employee Brief within a reasonable time (normally, 24 hours) after the employee's request. The employee will be given the opportunity to attach a written rebuttal to the entry, within 20 calendar days.

b. The Parties understand that Supervisor's Employee Brief is subject to provisions of the Privacy Act.

## ARTICLE 23

### ADVERSE ACTIONS

**Section 1.** The Employer shall determine when the need arises for adverse actions and such adverse actions will be administered in accordance with Fort Sam Houston Regulation 690-26 and other applicable laws and regulations and this agreement.

**Section 2.**

a. An adverse action is defined as a removal, suspension for more than fourteen (14) days or a reduction in grade or pay taken for cause, or furlough for thirty (30) days or less.

b. This Article does not apply to suspensions or removals taken in the interest of national security (5 U.S.C. 7532), actions taken under RIF procedures, reduction in grade or removal of employees based upon unacceptable performance (5 U.S.C. 4303) or to the separation of an employee serving a probationary or trial period under an initial appointment pursuant to 5 U.S.C. 7511 (a) (1) (A).

c. An employee will be subject to adverse action only for such cause as will promote the efficiency of the service.

**Section 3.**

a. Prior to making a determination as to whether or not adverse action is warranted, the Employer shall conduct a preliminary inquiry to document the facts. The inquiry shall include discussions with the employee(s) concerned as appropriate.

b. Employees are entitled to be represented at any examination held for this purpose if:

(1) The employee reasonably believes that the examination may result in adverse action against the employee; and

(2) The employee requests representation.

c. If the employee desires such representation, it shall be granted before further action occurs.

**Section 4.** Adverse action will normally be initiated within a reasonable period of time following Management's knowledge of the alleged incident. In cases where adverse action may be taken based upon formal investigative or civil actions generated at the Commander's level or third party, the period may be adjusted accordingly.

**Section 5.** A notice of proposed adverse action against an employee shall be in writing. The employee is entitled to:

a. An advance written notice of at least thirty (30) calendar days, stating the specific reasons for the proposed action. Where there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, a lesser notice period will be warranted.

b. Be represented by an attorney or other representative including a Union representative. Representatives must be designated in writing.

c. Be provided at least twenty (20) calendar days following receipt of the proposed action to answer orally and/or in writing, and to furnish affidavits and other documentary evidence in support of the employee's answer. Upon request of the employee, Management will consider reasonable requests for extensions.

d. The name of the deciding official to whom the employee may respond; and

e. A statement of the employee's non-pay status during the notice period, if applicable.

**Section 6.** An employee who otherwise is in a duty status shall be authorized a reasonable amount of official time to review the material relied upon by the Employer in proposing an adverse action and for the purpose of preparing and submitting an oral and/or written response.

**Section 7.** The official making the final decision on adverse actions shall normally be at a higher level in the activity than the proposing official and will issue a written decision stating the specific reasons at the earliest practical date. After investigation and consideration of the employee's response and any mitigating factors, this deciding official may:

a. Withdraw the action proposed;

b. Institute a lesser action; or,

c. Take the proposed action.

Where the final decision is unfavorable to the employee he will be advised of his right to grieve the matter under the negotiated grievance procedure, use the ADR process, appeal the action to the MSPB, or file a complaint under the EEO procedure, if applicable, in accordance with Article 29, Grievance Procedure.

**Section 8.** On suspension actions, an employee will be given ten (10) calendar days from the date of receipt of the decision to the effective date of the action to be taken. If the suspension action is for thirty (30) days or more, at the employee's request, Management will consider incremental periods in lieu of a continuous suspension. The Employer shall provide the Union with a copy of all adverse action decisions, where requested by the employee.

## **ARTICLE 24**

### **EMPLOYEE ASSISTANCE PROGRAM**

## **PART I - Employee Counseling Services**

**Section 1.** The Employer recognizes that behavioral and/or emotional problems unrelated to alcohol or other drug abuse can interfere with an employee's job performance.

### **Section 2.**

a. A supervisor shall immediately refer to the Employee Counseling Services Program any employee who acknowledges having a behavioral/emotional problem, either of his own or a family member. If the supervisor reasonably suspects that the employee has a problem in this area, the supervisor should refer the program to the employee. An employee may seek the assistance of the program without notifying the supervisor.

b. Employee participation in the program shall be voluntary.

**Section 3.** The designated trained official for employee assistance will maintain listings and information regarding community facilities for treatment of medical/behavioral problems. This information may include, but is not limited to, cost and eligibility criteria. The designated trained official for employee assistance will refer the employee to an appropriate community resource; i.e., agencies or individuals offering screening and/or diagnostic services in the community.

## **PART II - Alcohol And Drug Abuse Program**

**Section 4.** The Employer and the Union agree to support the Department of the Army Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) and have as their goal the early identification and rehabilitation. Early intervention will be helpful in returning employees to full productivity.

### **Section 5.**

a. Each employee is responsible for:

(1) Recognizing the adverse effect that alcohol or other drug abuse is having on job performance;

(2) Seeking appropriate assistance in problem resolution; and

(3) Bringing job performance to an acceptable level through control of the problem.

b. When an employee has alcohol or other drug abuse problems he may obtain assistance by:

(1) Volunteering for referral to the ADAPCP program directly through his supervisor, Civilian Program Coordinator, Occupational Health Service, Union representative or other source; and/or

(2) Referral to the ADAPCP by a physician as the result of a fitness-for-duty examination.

**Section 6.**

a. Participation by an employee in all aspects of the ADAPCP program is voluntary. Employees who choose to accept ADAPCP services will be enrolled in the installation ADAPCP and may participate in either the installation program or an approved rehabilitation program in the community.

b. The designated trained official for employee assistance will provide referral and follow-up services for employees who elect to participate in approved community rehabilitation programs.

**Section 7.** The diagnosis of alcohol and other drug abuse can be made only by a physician. Until a physician has made a diagnosis, no diagnostic term will be used with reference to the individual.

**Section 8.** An initial interview will be conducted with an employee referred to the ADAPCP. This interview will be conducted by a counselor and will be completed prior to the employee's referral to the physician for clinical evaluation.

**Section 9.** Employees enrolled in the ADAPCP will normally be limited to 90 consecutive days of active rehabilitation and 9 consecutive months participation in follow-up rehabilitation. However, it can be extended by the designated trained official for ADAPCP employee assistance.

**Section 10.** Employees will be granted sick leave or other authorized leave, in accordance with existing rules and regulations, to obtain treatment and rehabilitation.

**Section 11.**

a. No employee will have job security or promotion action jeopardized by a request for counseling or referral assistance, except as limited by a sensitive position assignment. In such case, the employee may be reassigned pending a final determination at the option of the Employer.

b. If a discharged employee makes a good faith effort to seek counseling assistance within three (3) months after being terminated, or shows substantial improvement in ongoing treatment, upon request from the employee consideration will be given for reinstatement.

## **Section 12.**

a. Initiation of adverse/disciplinary action for absenteeism or misconduct related to alcohol or other drug abuse will be postponed for those enrolled and satisfactorily progressing in the ADAPCP or an approved rehabilitation program unless retention in a duty status might result in damage to government property or personal injury to the employee or others.

b. Previously initiated action in which the final decision letter has not been issued will be held in abeyance upon the employee's enrollment in the ADAPCP or approved rehabilitation program, provided the employee has not previously refused rehabilitation assistance.

c. Such action may be reinitiated if, at the end of the rehabilitation period (see Army Regulation 600-85), conduct is unsatisfactory, or if, at any time during the active rehabilitation period the employee refuses such assistance.

## **Section 13.**

a. The Union may have a representative at any on-post training program provided for bargaining unit employees concerning the ADAPCP program.

b. Union representatives may be invited to Management training on the program.

**Section 14.** The Union will be furnished upon request ADAPCP literature in the form of posters, brochures and other handouts. Both Parties agree to publicize this program.

## ARTICLE 25

### EQUAL EMPLOYMENT OPPORTUNITY (EEO)

**Section 1.** The Employer and the Union agree that they are mutually committed to the principle of equal opportunity in employment or conditions of employment for all persons. It is further agreed that discrimination because of race, color, religion, gender, national origin, age, or non-disqualifying handicap shall be prohibited. The Employer agrees to promote the full realization of equal employment opportunity through a positive and continuing effort. An Employee may grieve an incident of discrimination, use the ADR process, or file a complaint of discrimination using the EEO Complaints Processing System.

**Section 2.** The Employer agrees to notify the Union whenever new, and/or replacement EEO Counselors are appointed. Nominations for the appointments may be submitted by the Union to the EEO Officer.

**Section 3.** An employee may choose his representative in the processing of a complaint under the EEO complaint procedures. An employee's choice of representative may be delayed pending urgent mission needs or disapproved due to a conflict of interest. In such case, the employee may choose another representative or wait on the release of the employee's originally requested representative.

**Section 4.** An employee may have a representative of his choice at any stage in the process of an EEO complaint. However, if the complainant is not represented by the Union or by a Union representative acting as a "personal representative", the Union will be granted an opportunity to attend formal discussions held for the purpose of finalizing settlement agreements of formal complaints. This provision does not apply to settlement meetings wherein the Union is involved in the allegation(s) of discrimination.

**Section 5.** An employee and/or his representative shall be given a reasonable amount of official time to prepare and present an EEO complaint. In accordance with regulatory guidance, employees must arrange in advance with their supervisors to use this duty time. Disagreements as to what is reasonable time are resolved either through the grievance procedure (Article 29), or the ADR process (Article 30).

**Section 6.** Employees who initiate an EEO complaint on matters of employment may choose to participate in an established EEO ADR process. Employees may be represented during this process by a representative of their choice.

## ARTICLE 26

### SEXUAL HARASSMENT

**Section 1.** Sexual harassment is a particular type of sex discrimination which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual behavior.

**Section 2.** Sexual harassment is defined as a form of sexual discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

a. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's job, pay, or career; or

b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

c. Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

**Section 3.** Employees who are sexually harassed by supervisors, superiors, co-workers, or peers, should make it clear that such behavior is offensive and report the harassment to the appropriate level. It is the responsibility of the supervisor/manager to examine the matter and take necessary action, as appropriate.

**Section 4.** An employee may grieve an incident of sexual harassment or file a complaint of harassment, using the EEO Complaints Processing System.

## ARTICLE 27

### SAFETY AND HEALTH

**Section 1.** It is agreed that a work environment of safety and health is conducive to high morale and maximum efficiency. Therefore, the Employer will continue to make every reasonable effort to provide and maintain safe working conditions and to comply with applicable Federal laws and regulations relating to the safety and health of employees.

**Section 2.** The Union agrees to support the safety program through encouragement to all employees to conscientiously abide by established safety rules, regulations, directives, etc., to report job-connected injuries or illnesses to their supervisor immediately, and to complete all forms required by applicable regulations.

**Section 3.** Employees are expected to be alert to unsafe practices, equipment and conditions in all areas which represent safety or health hazards, and will report them to their supervisors for the purpose of making such conditions or procedures safe, and will be responsible for reporting accidents in which they are involved or which they witness.

#### **Section 4.**

a. The Employer agrees to assure prompt response to employee reports of unsafe or unhealthy working conditions. Any employee or Union representative who believes that an unsafe or unhealthy working condition exists in any work-place where such employee is employed, is encouraged to report the unsafe condition to his supervisor and shall have the right to make a report of the unsafe or unhealthy working condition to the Installation Safety Officer and/or Occupational Safety and Health Act (OHSA) and request an inspection of such workplace for this purpose.

b. No employee shall be subject to restraint, coercion, discrimination, or reprisal for reporting or filing a complaint of unhealthy or unsafe working conditions.

**Section 5.** The Employer will pursue such accommodations as may be necessary to provide a safe and healthy work environment for physically disadvantaged employees. These actions may include the installation of guard rails, wheelchair ramps, reserved parking spaces, accessible water fountains, rest rooms, break rooms, and eating facilities.

#### **Section 6.**

a. Employees shall immediately, or as soon as practicable, report to their supervisor all injuries and occupational illnesses which occur on or as a result of the job. Employees shall be released to the Brooke Army Medical Center Emergency Room facility for treatment or referred, at the employee's request, to an alternate medical facility. The supervisor shall provide the employee with Forms CA-1 and CA-16 for traumatic injuries, or Form CA-2 for occupational diseases.

b. The Employer agrees to assist the employee in filing the appropriate forms and documentation regarding the illness or injury with the OWCP. Such assistance will include an explanation of the benefits and options available under the Federal Employees Compensation Act and submission of such forms to the CPAC.

c. When an employee has been returned to work by the Employer's medical authority for a temporary period of light duty, the Employer agrees to assign the type of work to the employee that will not aggravate his illness or injury when such work is available and which he is qualified to perform.

d. In the event of a work related injury, during the employee's duty hours, work lost by the employee on the day or shift on which the injury occurred will be excused without charge to leave (in accordance with appropriate regulations). If the injury incapacitates the employee for work beyond the day the injury occurred, then the employee will be advised of and assisted with the provisions of the Federal Employees Compensation Act regarding use of leave or continuation of pay by the Employer.

#### **Section 7.**

a. Safety equipment and protective devices and clothing will be provided to employees as needed and prescribed by applicable directives and regulations.

b. The Employer will certify in writing that a workplace hazard assessment has been performed and that required training has been conducted for all personnel using safety equipment, protective devices, or clothing. Each written certification shall contain the name of each employee trained, the dates of training, and the subject of the certification.

c. Cleaning and repair of government owned protective clothing and devices will be provided by the Employer.

d. The Employer will provide each employee whose duties require the use of safety footwear an annual allowance of \$100 for the purchase of such items. The Installation Safety Office will review each employee's request for safety footwear. As a minimum, footwear must satisfy the safety requirements for the work situation, e.g., steel toe, electrical hazard, ankle height, etc. Deviations to the foregoing will only be allowed with a physician's certification. Payment of this allowance will be made in the last pay period in October.

**Section 8.** Safety inspections will be conducted by the Employer as required to maintain a safe and healthful workplace. These inspections will be in accordance with applicable regulations and the Union will be notified at least 24 hours in advance provided the Employer has sufficient advance notice. A Union representative may accompany the inspector.

**Section 9.** Management will provide Health and Safety Training to employees, as appropriate.

**Section 10.** The Employer agrees to ensure prompt abatement of unsafe or unhealthy working conditions as established by OSHA standards. Once it has been determined that an unsafe or unhealthy working condition exists, a notice will be posted in accordance with 29 C.F.R. 1960. Accordingly, the Employer shall post and keep posted a notice or notices informing employees of the protections and obligations provided for in the OSHA.

**Section 11.** When an employee, during the course of performance of official duties, believes he is exposed to a health or safety hazard which presents an imminent danger which may cause death or serious physical harm, the employee shall immediately take appropriate action to protect life and limb and promptly notify the nearest available supervisor. The employee has the right to decline to perform his assigned task if he has a reasonable belief that under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures. The Employer shall make an evaluation of the situation and after discussions with appropriate safety personnel, make a decision as to whether work may proceed. If the employee disagrees with the determination of the Employer, the employee may grieve the decision under the negotiated grievance procedure or use the ADR process. If it is determined that an imminent danger exists, the employee will not be obligated to return to the assignment until the imminent danger is removed.

**Section 12.** It is understood that no employee should be required to perform work in an area that is determined to be unsafe or unhealthy unless such unsafe or unhealthy condition can be alleviated through the use of appropriate safety equipment, and/or the employee receives the appropriate hazard or environmental differential pay in accordance with applicable regulations.

**Section 13.**

a. The Employer and the Union will cooperate in the continuing effort to eliminate accidents and health hazards. To this end, there shall be established a joint Installation Occupational Safety and Health Council.

b. The Employer agrees that the Union may have one permanent representative at meetings of the Installation Occupational Safety and Health Council. The representative must be an employee in the bargaining unit and must have authority to speak for the Union. Further, the Union representative may be accompanied by not more than two technical advisors.

**Section 14.** In consonance with 29 C.F.R. 1960, of the Department of Labor Rules and Regulations, the Employer will keep on-the-job accident and illness reports and maintain these records on site. A copy of all such reports will be provided to the Union once a month.

**Section 15.** The Employer will make available to the permanent Union representative of the Installation Occupational Safety and Health Council the same training that is provided Management council representatives during the life of this agreement. Union representatives will be in a duty status while attending this training.

**Section 16.** Adequate foul weather clothing deemed necessary will be provided for employees required to work outside in inclement weather during emergency and nonemergency conditions, in accordance with appropriate regulations.

**Section 17.** The Employer agrees to use every reasonable effort to insure the supply and maintenance, on a regular basis, of an adequate number of fire extinguishers in all sections.

**Section 18.** The Union shall upon request be provided Federal Occupational Illnesses Survey (OSHA Form 200) and pertinent safety notices or newsletters, as filed or published.

**Section 19.** Only authorized employees who are qualified or in training under the direct supervision of a qualified employee will operate machinery or equipment or perform work that could cause serious injury to an inexperienced operator or endanger other employees.

**Section 20.** Space availability and budget considerations permitting, the Employer will make good faith effort to provide adequate dressing room facilities and individual lockers for employees required to change into safety clothes and/or required uniforms.

**Section 21.**

a. The Parties agree that physical and mental fitness are conducive to a productive, healthy workforce. Supervisors will approve individual employee schedules to the maximum extent possible in accordance with Article 17, Hours of Work, to allow employees to participate in their personal fitness programs. Employees are authorized to voluntarily use the Employer's gym facilities during its hours of operation. Personnel at these facilities will, upon request and subject to scheduling demands, assist employees in establishing their personal fitness programs. The Employer will accommodate the hours needed by the employee's initial screening at the facility. This may be accomplished by changing the employee's work schedule for one pay period, including approval and use of compensatory time up to two (2) hours. It is suggested that employees consult with their personal physician prior to starting or significantly changing their personal fitness programs.

b. Employees will be required to participate in mandatory programs provided for in applicable regulations governing sight and hearing conservation and periodic examinations for those exposed to physical contaminants, contagious diseases, toxic agents, etc.

c. Prompt medical treatment will be provided for employees injured on the job to include transportation where required.

d. The Employer may offer a medical examination to an employee:

(1) When the employee requests his physical or mental condition be evaluated in relation to unacceptable performance, conduct or leave problem.

(2) When an employee has made a request for a change in duty status, assignment or working conditions based upon medical reasons and the Employer determines it cannot act further on the request without verification of the clinical findings.

**Section 22.** Where extreme working temperatures are encountered, e.g., exceeds 99 degrees Fahrenheit or goes below 32 degrees Fahrenheit, the Employer will make reasonable efforts to alleviate the effects on employees. Protective equipment will be provided as needed and required by regulation. The Employer reserves the right to alter normal duty assignments (e.g., keep employees in the shop) to prevent exposure to extreme conditions. When employees are required to work in extreme conditions the employee may reasonably alter normal work/rest period regimes to provide for more rest/recovery time. Such changes will be at the discretion of the employees unless the Employer believes that the policy is being abused. Environmental Differential Pay will be paid in accordance with regulations unless hazards were taken into consideration in the classification of the position or practically eliminated or alleviated by protected equipment, clothing and devices.

**Section 23.**

a. AIDS (Acquired Immune Deficiency Syndrome) is caused by Human Immune Virus (HIV) infection. This is a disease which breaks down a part of the body's immune system. The breakdown leaves the body vulnerable to a variety of unusual, life threatening illnesses.

b. HIV infection can result in medical conditions which impair the employee's health and ability to perform safely and effectively. In these cases, the Employer will treat HIV infected employees in the same manner as employees who suffer from other serious illnesses. In this regard, the Employer will consider accommodation of an employee's AIDS related condition(s) in the same manner as other medical conditions warrant consideration.

c. The utmost effort will be made to preserve the confidentiality of personal/personnel medical records. Knowledge of positive HIV test results will be limited to a very small number of people with a bona fide need to know.

d. The Employer will provide information to employees about AIDS.

e. The Employer will provide necessary barrier protections in accordance with OSHA/Center for Disease Control standards, such as gloves, mouth pieces, etc. for employees who may come in contact with blood or other body fluids during their assigned duties.

f. The Employer and employees will follow all applicable regulations and guidelines relating to the prevention of transmission of blood borne pathogens in the health care setting, commonly known as universal blood and body fluid precautions or "universal precautions." This includes having an approved HIV germicidal available for immediate use as established by the Center for Disease Control.

g. As determined by medical authority, HIV infected employees should be allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety and health threat to themselves or others in the work place.

## ARTICLE 28

### TOOL POLICY

**Section 1.** The purpose of this Article is to promulgate the policy for accountability, control, and replacement of tool kits.

**Section 2.** Initial issues of required hand tools, specialized tools, equipment, powered tools, and other similar items will be provided by the Employer at no cost to the employee. Tool calibration will be accomplished, as required, using government resources.

**Section 3.** The Employer will designate suitable secure storage areas for employee tool kits in and/or near the shop/work area or work vehicle. When government issued tools or equipment are lost or damaged because of fire, theft, or other adverse action, while locked and stored in an authorized secure area, the loss shall be immediately reported to the employee's supervisor. The Employer will:

- a. Investigate the circumstances surrounding the loss or damage and report the incident to the local security/military police as appropriate; and
- b. Request a report of survey in accordance with applicable regulation.

**Section 4.** The Employer will replace tools as needed. However, the employee will replace government tools that are lost, broken, or stolen while in the possession of the employee due to the employee's ordinary negligence. A joint supervisor/employee inventory will be made at the time of initial issue, at least annually thereafter, and upon final turn-in to ensure total accountability of all issued tools. Shortages will be replaced by the employee at the employee's expense. The employee may either purchase the shortage(s) from the Employer or from a dealer of his choice, provided the tool(s) is/are of equivalent quality.

**Section 5.** Employees may be authorized to transport assigned tool kits by public conveyance and/or privately owned vehicles. When such transportation is authorized, hand receipts for tool kits containing government owned tools will be annotated to read, "Employee is authorized to transport tools, identified herein, by public conveyance and/or privately owned vehicle."

**Section 6.** Summary:

- a. government provides initial issue of tools;
- b. Employer replaces tools as needed;
- c. Employee only replaces if any tool is lost, broken, or stolen due to ordinary negligence;
- d. Employer provides secure area for off-duty tool storage. Loss from secure area is subject to report of survey (i.e., employee is not responsible if tools were in government provided secure area when stolen); and

e. Inventories are conducted to ensure total accountability.

## ARTICLE 29

### GRIEVANCE PROCEDURE

**Section 1.** The Employer and the Union recognize the importance of settling disagreements and disputes promptly, fairly, and in an orderly manner. Efforts will be made to settle grievances expeditiously and at the lowest level of supervision.

**Section 2.** A "grievance" means any complaint:

- a. By any employee concerning any matter relating to the employment of the employee;
- b. By the Union concerning any matter relating to the employment of any employee; or
- c. By any employee, the Union, or the Employer concerning;
  - (1) The effect or interpretation, or a claim of breach, of this agreement; or
  - (2) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

**Section 3.**

- a. The following matters are specifically excluded from the coverage of this Article:
  - (1) Any claimed violation of Subchapter III of Title 5 of the U.S.C. (relating to prohibited political activities);
  - (2) Retirement, life insurance, or health insurance;
  - (3) A suspension or removal under Section 7532 of Title 5 of the U.S.C. (in the interests of National Security);
  - (4) Any examination, certification, or appointment;
  - (5) The classification of any position which does not result in the reduction in grade or pay of an employee;
  - (6) A preliminary warning or proposal of an action which, if effected would be covered under this procedure or under a statutory appeals procedure;
  - (7) Nonselection from a properly constituted referral list or certificate of candidates;
  - (8) Individual employee RIF actions appealable to the MSPB;
  - (9) An action terminating a temporary promotion without cause;

(10) Individual employee claims, which both Parties agree to raise to the appropriate government-wide authority (such as GSA, GAO, and OPM) which are accepted and decided upon; and,

(11) Non-adoption of a suggestion, disapproval of a quality salary increase, performance award, or any other kind of honorary or discretionary award. (An employee may raise these issues for resolution under the ADR process, Article 30.)

b. This procedure shall be the exclusive procedure available to employees of the bargaining unit for resolving grievances described in Section 2 above except:

(1) An aggrieved employee affected by a removal or reduction in grade based on unacceptable performance (5 U.S.C. 4303) or adverse action (5 U.S.C. 7512) may, at his option, raise the matter under only one of the following procedures: A statutory procedure or a negotiated procedure (including the ADR process).

(2) An employee who alleges a prohibited personnel practice under 5 U.S.C. 2302 (b)(1) (relating to equal employment opportunity violations) may either:

(a) File a First Step grievance pursuant to this Article within twenty (20) calendar days following:

1 The date of the alleged discriminatory incident;

2 The date upon which the aggrieved became aware of the alleged discriminatory incident or situation;

3 The date of the employee's final interview with the EEO Counselor;

(b) File a complaint under the ADR Process (see Article 30);

(c) Initiate an action under the EEO complaint procedure by filing a Formal Complaint of Discrimination; or through the EEO ADR Process;

(d) Initiate a mixed case appeal to the MSPB.

(3) An employee shall be deemed to have exercised his option of procedure under this section when the employee files a timely written formal complaint under the applicable procedure.

**Section 4. Informal Procedure:** Employees and/or their representative(s) are encouraged to discuss issues of concern to them informally with their supervisors at any time. Issues concerning any matter relating to the employment of an employee must be discussed informally with the employee's supervisor prior to filing a formal grievance. The supervisor may respond

orally or in writing. A Union representative may attend informal resolution meetings if requested by the employee.

NOTE: If the substance of the grievance concerns an action, directive or decision made at a level other than the first-line Management official, the Parties may agree to initiate the grievance with another Management official with authority to settle the grievance.

### **Section 5. Formal Procedure:**

a. **First Step.** The aggrieved employee and/or his representative will present the grievance in writing to the Director, Staff Office Chief, or equivalent, within twenty (20) calendar days from the specific act or occurrence, or at any time when it concerns dissatisfaction with continuing conditions. The grievance must be presented in writing on the grievance form (see Appendix II) and contain sufficient detail to identify and clarify the basis for the grievance, and specify the personal relief requested. The Director, Staff Office Chief, or equivalent, will review the situation, and at either Party's request, discuss the matter with the employee and/or his representative. If a discussion is held, an invitation must be extended to the Union to be present, even if the grievant has not designated a Union representative. If the matter is outside the scope of the Director, Staff Office Chief, or equivalent authority, the grievance may be referred to an alternate First Step deciding official who has the authority to resolve the grievance and who accepts the action. The Director, Staff Office Chief, or equivalent, shall have fifteen (15) calendar days from the date following the day the grievance was received to give the employee(s) a written decision. If an alternate official renders the decision it shall be rendered within ten (10) calendar days after the action was referred or within fifteen (15) calendar days from the date following the day the grievance was received, whichever is earlier.

b. **Second Step.** If the grievance is not settled at the First Step, the grievant may submit the grievance in writing to the Commander, ATTN: Director, CPAC, Bldg. 144, Fort Sam Houston, Texas 78234-5022, for further consideration. The employee's written grievance must be submitted and received in the CPAC within fifteen (15) calendar days after receipt of the First Step decision. The Commander or his designee (who is in a higher position in the chain of command than the First Step responding official) will review the grievance and give a final written decision within twenty (20) calendar days after receipt of the grievance. If a discussion is held, the Commander or his designee must extend an invitation to the Union to be present, even if the grievant has not designated a Union representative.

c. **Third Step.** If the grievance is not satisfactorily settled at the Second Step, the Union or the Employer may refer the matter to arbitration. Upon mutual agreement, the grievance will be submitted to mediation prior to or in lieu of arbitration. If it is in lieu of arbitration, it shall be binding on both sides. No new issues will be raised before the arbitrator that have not been introduced at Step Two.

**Section 6. Employer-Union Grievance Procedure:** An attempt will be made by both Parties to resolve disputes which arise from grievable matters described in this Agreement over which the Party complained against has control. Failure to do so will be followed by submitting the dispute in writing to the CPAC, if initiated by the Union, or to the President of the Union, if

initiated by the Employer. Such grievances must be presented within twenty (20) calendar days from the specific act or occurrence, or from when the Party became aware of the act or occurrence, or at any time when they concern dissatisfactions with continuing conditions. Representatives of the two Parties will meet as soon as possible, but not later than fifteen (15) calendar days, to discuss the dispute and attempt to resolve it. The Party complained against will render a final decision within twenty (20) calendar days of this initial meeting. Additional meetings may be scheduled during the intervening period by mutual agreement of the Parties. If the dispute is not settled by this method, either Party may submit the matter to arbitration in accordance with procedures contained in the agreement. Upon mutual agreement, the grievance will be submitted to mediation prior to or in lieu of arbitration. If it is in lieu of arbitration, it shall be binding on both sides.

**Section 7.** Disputes that cannot be resolved by the Parties as to whether or not a grievance is on a matter subject to the grievance procedure in this agreement, or is subject to arbitration under this agreement, will be referred to the Arbitrator as a threshold issue at the hearing on the merits. A threshold issue may be submitted to the arbitrator by either Party.

**Section 8.** A grievance under the negotiated procedure will be canceled at the employee's written request. It will also be canceled upon the employee's leaving the bargaining unit unless the grievance involves an adverse action. A copy of the written request will be provided to the Union.

**Section 9.** All time limits in this Article may be extended by mutual agreement. However, failure of the Employer to observe the time limit shall entitle the Union to proceed directly to arbitration. In such cases, the Employer will pay 25% of the arbitration costs. The aggrieved may elect at his option to advance the grievance to the next step instead. Failure by the aggrieved to present the grievance within the time limits at any step so that the grievance is not received by the individual specified in these procedures will result in termination of the grievance. In such cases the aggrieved will be notified in writing. Any extension of a time limit expressed in this Article should be presented, in writing, before the expiration of that time limit. Requests by the Employer for time extensions will be presented to the grievant's designated representative, if any, or the Union President, or to the grievant, if self-represented. Requests by the aggrieved for time extensions will be presented to the supervisor(s), or operating official(s) who is to rule on the grievance or the servicing Personnel Management Specialist, CPAC, who services the activity where the grievance arose.

**Section 10.** In most instances, employees are required to use the Informal and First Steps before proceeding to the Second Step submission of the grievance to the Commander, or his designee. However, there may be issues considered appropriate for processing directly to the Second Step because of the serious nature of the actions involved, or the previous consideration of some issues, will substitute for the Informal and First Steps. Therefore, employees seeking to file a grievance or requesting advice regarding the filing of a grievance will be advised that grievances involving the following issues will be initiated at the Second Step within twenty (20) calendar days of the decision or occurrence being grieved:

- a. Formal Disciplinary Actions;

- b. A removal or reduction in grade based on unacceptable performance (5 U.S.C. 4303); or
- c. Gross waste, mismanagement and fraud or a substantial and specific danger to public health or safety.

**Section 11.** An employee or group of employees wishing to present a grievance under Section 5 without representation of the Union may do so. However, the grievant(s) does not have the option of selecting a non-Union personal representative of his own choosing in the grievance process, but must proceed on his own. Any adjustment of such grievance must be consistent with the terms of this Agreement, and the Union must be given the opportunity to be present at any formal meeting if such is held. Additionally, the Union will be given copies of all "pro se" grievances upon closure with the employees' names sanitized.

**Section 12.** All arrangements for a Union representative must be made by the employee presenting the grievance. Management will be provided a written designation of the Union representative. An employee may change the representative provided the Director, CPAC is notified of the change in writing, and the representation is in accordance with the above section.

**Section 13.** The Employer agrees to provide space on an as needed basis for the use of the employee and his Union representative that will afford privacy to discuss/prepare a grievance.

**Section 14.** The employee and his representative will normally receive at least four (4) consecutive hours of official duty time to investigate.

## ARTICLE 30

### ALTERNATE DISPUTE RESOLUTION PROCESS

**Section 1.** All employees are encouraged to use the alternate dispute resolution (ADR) process for resolving problems concerning working conditions. It is the intent of the Parties that differences be resolved promptly, equitably and, whenever possible, informally.

**Section 2.** An employee(s) may elect to have an issue resolved by an ADR Committee or may proceed through the negotiated grievance procedure or statutory procedure. The employee's election must be presented in writing on the ADR Form (see Appendix III), contain sufficient detail to identify and clarify the basis for the grievance, and specify the personal relief requested. An election of the ADR process means the employee(s) will accept the decision of the Committee as final. An employee's election to pursue a grievable action, except termination actions, through the ADR process constitutes a waiver to pursue the matter through the grievance procedure, the EEO ADR procedures the Equal Employment Opportunity Commission (EEOC), the MSPB, and other statutory processes. Termination actions may be considered under ADR, however, an employee may then file a statutory appeal if he is not satisfied with the ADR decision. The settlement of a complaint through the ADR process will be considered a non-precedent setting resolution.

**Section 3.** An ADR Committee is hereby established for each of the four individual organizations of the Employer. The ADR Committee will be under the auspices of the respective Partnership Council in each individual organization and will be comprised of

- a. One Management representative (not in the employee's chain of command);
- b. One Union representative (not the steward representing the employee);
- c. One peer employee; and
- d. One peer supervisor.

**Section 4. Exclusions to the ADR Process:** Issues must be within the control of the Employer. Issues in the following areas are excluded from the ADR process:

- a. Claimed violations of 5 U.S.C., Chapter 73, Subchapter III, relating to prohibited political activities;
- b. Retirement, life insurance, or health insurance;
- c. A suspension or removal under 5 U.S.C. 7532, relating to National Security;
- d. Any examination, certification, or appointment;

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

f. A qualification determination concerning the ineligibility of an employee for a particular position. (This may be grieved under the negotiated grievance procedure.);

g. The termination of an employee serving an initial probationary period.

**Section 5. ADR Procedure:**

a. If informal attempts under Section 4, Article 29, Grievance Procedure, fail to resolve an issue, an employee may elect to have his issue heard by this Committee or proceed through the negotiated grievance procedure, within twenty (20) calendar days of the incident in question, or proceed through a statutory procedure. The employee's election of the ADR process will be presented to the first-line supervisor. Upon election of the ADR process, the supervisor will notify the CPAC Personnel Management Specialist. When a complaint concerns a decision of a disciplinary action, the ADR election will be presented to a Management official above the level of the supervisor who took the action, if possible.

b. Upon notification of election of the ADR process, the Personnel Management Specialist will meet with the Union President or designee to establish the ADR Committee. The peer employee and peer supervisor will be selected from two (2) lists of no more than twelve (12) volunteers, updated annually. The Personnel Management Specialist and Union President or designee will jointly select the peer employee and peer supervisor, neither of whom will be involved in the issue. The employee and the supervisor will have ten (10) calendar days to provide issues and interests in writing to the Committee. No member of the Committee will receive or review the written issues and interests from either party until all Committee members have been identified.

**Section 6.** All members of the ADR Committee and all participants will be on a reasonable amount of duty time for the necessary ADR actions.

**Section 7.** The ADR Committee may interview witnesses, investigate as needed, request information from the Union, employees, or Management, and conduct a hearing if they so wish, in order to make an equitable decision on any case before them. The Committee tasks include additional fact-finding, determining legal requirements, developing resolution option(s), and making a decision, using interest-based problem solving, etc.

**Section 8.** The decision of the ADR Committee will be by consensus and will be binding on all parties except termination actions. However, either party may decide to invoke arbitration. The ADR decision will be provided to the employee within five (5) calendar days after all fact-finding has been completed, unless there are complications.

**Section 9.** The ADR Committee will have a wide latitude to impose penalties for any wrong doing, correct any problems between employees, employees and their supervisors, or between

other personnel as the Employer determines, and can overturn any proposed action or decision by Management officials, as long as their decision does not violate law.

**Section 10.** The ADR Committee may publicize its decisions subject to privacy issues.

**Section 11.** Issues over the interpretation or application of this ADR agreement will be resolved by the Partnership Council.

## ARTICLE 31

### ARBITRATION

**Section 1.** A request for arbitration may be invoked only by the Union or the Employer and will be invoked only after all procedural steps have been properly pursued by the Parties to resolve the dispute in accordance with Article 29, Grievance Procedure. Any request for arbitration must be submitted in writing within fifteen (15) calendar days after receipt of the final decision under the grievance procedure.

**Section 2.** When arbitration is invoked by either Party, the Parties will submit a joint request, normally within five (5) calendar days, to the FMCS for a list of seven impartial persons qualified to act as arbitrators. The Parties shall meet within ten (10) calendar days after the receipt of such a list to select an arbitrator. If they cannot mutually agree upon one of the listed arbitrators, the Union and the Employer representative shall each strike one arbitrator's name from the list of seven and shall then repeat this procedure. The determination of which Party shall strike first from the list will be determined by the flip of a coin. The remaining name shall be the duly selected arbitrator.

**Section 3.** If, for any reason, either Party refuses to participate in the selection of an arbitrator and all other requirements for arbitration of this agreement are satisfied, the other Party will make a selection of an arbitrator from the list.

**Section 4.** The fee and expenses of the arbitrator shall be borne by the non-prevailing Party. It is further agreed that the Union and the Employer shall share equally the expenses of any mutually agreed upon services in connection with the arbitration processing. The Employer agrees to provide the space for the proceeding at no cost to the Union. If either Party withdraws the case from arbitration after a fee has been incurred from the arbitrator, the withdrawing Party shall pay the fee in full. If the withdrawal occurs due to a settlement, the Parties shall equally split the fee. In the event of an arbitrator's split decision, the arbitrator will determine the appropriate ratio of the fee to be paid by each Party.

**Section 5.** The arbitration process to be used will be a formal hearing unless the Parties agree to one of the following:

a. Expedited arbitration may be used to expedite the resolution of the grievance. In such case, the arbitrator will be directed to announce his award at the close of the hearing. (Each side will have thirty (30) minutes to present a closing statement on their case, before a decision is made.)

b. A stipulation of facts to the arbitrator can be used when both Parties agree to the facts at issue and a hearing would serve no purpose. In this case, all facts, data, documentation, etc., are jointly submitted to the arbitrator with a request for a decision based upon the facts presented.

**Section 6.** The arbitrator will be requested to render a decision and remedy within thirty (30) calendar days after the conclusion of the hearing. The arbitrator shall date the award upon mailing of the decision.

**Section 7.** The arbitrator's award shall be final and binding on the Parties, except that either Party may file exceptions to the arbitrator's award with the FLRA under regulations prescribed by the FLRA.

**Section 8.** The arbitrator shall have no power to add or subtract from, disregard or modify any of the terms of the Agreement. However, the arbitrator shall have the authority to resolve any questions concerning arbitrability and/or grievability.

**Section 9.** In considering grievances concerning matters covered by 5 U.S.C. 4303 (reduction in grade or removal of an employee for unacceptable performance) and 5 U.S.C. 7512 (adverse actions), the arbitrator shall be governed by 5 U.S.C. 7701 (c), as applicable.

**Section 10.** The Party initiating a request for arbitration (i.e., the Union or the Employer) may request withdrawal of the case from arbitration at any time. The arbitration is automatically canceled upon movement of the grievant out of the bargaining unit unless the grievance involves an adverse action. If the employee desires to withdraw the arbitration, the employee must sign a statement so declaring. If the Union wishes to continue with arbitration, the Union will bear the expense of the arbitrator and court reporter.

**Section 11.** The Parties agree that only the minimum number of relevant witnesses who have a direct knowledge of the circumstances and factors bearing on the case will be called. Both Parties agree to exchange lists of witnesses normally ten (10) calendar days before the arbitration or expedited arbitration hearing. Witnesses who are not employees of the government who are called as witnesses will not be entitled to reimbursement for expenses from the Employer. The Parties will furnish descriptions of the relevance of expected testimony of each witness. Also the Parties will exchange copies of all known exhibits to be introduced.

**Section 12.** All employees who are called as witnesses will be excused from duty without charge to leave to the extent necessary to participate in the arbitration.

**ARTICLE 32**  
**NEGOTIATIONS**

**Section 1.** Both Parties to this agreement have the responsibility of conducting negotiations and other dealings in good faith and in such manner as will further the public interest. Subjects appropriate for negotiation between the Parties are personnel policies and practices and other matters relating to or affecting working conditions of employees within the bargaining unit. The Employer agrees to negotiate with the Union on any new policy or change in established policy prior to implementation. In accordance with Article 4, Employer Rights, the actual change is not subject to negotiations, the impact upon the employees and procedures for implementing the change may be negotiated. All changes will be held in abeyance until negotiations are completed unless the change covers one mandated by law, or one on which there is an agreed to compelling need. If either Party alleges a compelling need, negotiations will be expedited.

**Section 2.**

a. It is understood that no provision of this agreement shall nullify or invalidate the rights of employees, the Union or the Employer, established under the Federal Service Labor Management Relations statute, other statutes, or regulations of appropriate authority.

b. To the extent that provisions of any instruction or directive within the discretion of the Agency may be in conflict with this Agreement, the provisions of this Agreement shall govern unless the terms of this Agreement have been properly modified under this Article or Article 33, Duration, Review and Supplementation.

**Section 3.** The Employer or the Union will furnish written notice of proposed change affecting conditions of employment or change to the negotiated agreement to the designated representative of the other Party. Such notice will be given upon finalization of all preparatory actions and decisions necessitating the change. The proposed change will not be implemented without giving the other Party an opportunity to negotiate, as appropriate.

a. The Employer shall notify the Union twenty (20) calendar days or more prior to the planned implementation date of the proposed change. The Union shall give the Employer its request to bargain within ten (10) calendar days.

(1) If the Union does not request negotiations within the time limit, the Employer may implement the proposed change immediately.

(2) Upon timely request by the Union, the Parties shall enter into good faith negotiations, as appropriate, with a view toward reaching an agreement.

b. In the event, the Parties become engaged in a negotiability dispute or reach impasse, either Party may seek the services of the FMCS, the FSIP, or the FLRA, as appropriate.

(1) The Employer further agrees to retroactively apply any procedures for implementation and appropriate arrangements for the employees adversely affected as negotiated by the Parties or imposed upon them by the Panel.

(2) The Parties agree to begin negotiations, as appropriate, within thirty (30) calendar days after a negotiability decision by the FLRA.

**Section 4.** It is the responsibility of both Parties to conduct mid-term bargaining in good faith and in such a manner as will promote the efficiency of the Federal service and a harmonious relationship between the Union and the Employer. Accordingly, mid-term negotiations, as appropriate, will be conducted as informally and as efficiently as is practical for the given situation. One or more of the ground rule provisions listed below may be invoked by either Party if more economical and efficient methods for accomplishing the instant negotiations are not evident or agreed to by the Parties.

a. The request to invoke mid-term negotiations, in accordance with this Article, shall articulate the issues to be discussed.

b. Each Party will designate, in writing, a spokesperson who will be empowered to speak for and make binding commitments for his Party or negotiating committee.

c. Union negotiators at any level of the bargaining unit will be on official time during negotiations, mediation, and impasse resolution sessions. If Union negotiators are scheduled to work a different shift from the time of negotiations, mediation, or impasse, the Employer shall change that employee's shift so that he will be on official time, subject to timely notification by the Union and where essential mission requirements are not impacted.

d. The number of Union representatives for whom official time will be authorized for negotiations shall be at least two but shall not otherwise exceed the number of individuals designated as representing the Employer.

e. The Parties will exchange names of the members of the negotiating team as soon as possible prior to negotiations.

f. Union representatives may be granted a reasonable amount of official time to prepare for negotiations. The amount and schedule of time provided will be decided on a case-by-case basis.

g. Upon reaching agreement, the terms may be reduced in writing at the request of either Party. Terms so formalized will be authenticated by the signatures of the respective spokespersons.

h. When the Parties cannot agree on a negotiable matter and an impasse has been reached, the item shall be set aside. After all negotiable items on which agreement can be reached have been disposed, the Parties shall again attempt to resolve any impasses.

i. When the Employer believes that a matter is nonnegotiable, it will immediately advise the Union of its rationale for such belief. After all negotiations have been completed, the Union will request a confirmation of the Employer's allegation. The Union then has the right to proceed to the FLRA in accordance with Section 7105 (a) (2) (E) of Title VII and the regulations of the Authority and Sections 7117 (a), (b), and (c) of Title VII. To determine whether or not a compelling need exists (if that is the reason for the claim on non-negotiability), the criteria set out in the Authority's regulations will be used. The Parties will sign off on the rest of the issues being negotiated pending a decision by the FLRA on the negotiability issues.

**Section 5.** Union representatives will be entitled to official time, to prepare initial proposals, when this basic agreement is reopened in accordance with Section 1 of this Article. Not more than forty (40) hours will be provided for each negotiating committee member employed in the bargaining unit. For any Union official who is on an approved percentage basis of official time, the hours granted in this Article are in addition to their approved percentage of time. No overtime or compensatory time will be paid as a result of preparation time in this Article.

## ARTICLE 33

### DURATION, REVIEW AND SUPPLEMENTATION OF AGREEMENT

**Section 1. Effective Date And Term:** The effective date of this agreement shall be the day it is approved by the DOD, or on the 31st day after it is signed by the Parties, whichever comes first.

If the DOD review reveals any violation of law or government-wide regulation, the Parties will meet within seven (7) calendar days of notification and attempt to renegotiate that language. The Agreement shall remain in effect for three (3) years from the signing of this Agreement. The Agreement shall be renewed for an additional three (3) year Agreement period on each third anniversary date thereafter, unless between one hundred five (105) and sixty (60) calendar days prior to any such date either Party gives written notice to the other of its desire to amend, terminate or modify the Agreement. If such notice is given, this Agreement shall remain in full force and effect until the changes have been negotiated and approved or the Agreement is terminated by either Party. Such notice to amend or modify shall include the issues to be negotiated. No issues other than those submitted in accordance with the ground rules may be subject to negotiations.

**Section 2. Introduction - Amendments And Supplements:** This Agreement may be amended and/or supplemented in accordance with the procedures in Article 29, Negotiations, and the following:

- a. By either Party when applicable law or government-wide regulations prompt change;
- b. In accordance with Article 4, Employer Rights, and Article 5, Union Rights;
- c. By either Party upon mutual agreement;
- d. By the Employer, when mission needs or policy changes prompt supplementation on matters not specifically covered by this agreement; or
- e. By the Union, no more than once every six (6) months commencing from the effective date of this agreement, when in the general interest of the bargaining unit, supplementation on matters not specifically covered by this agreement is warranted.

**Section 3. Effective Date, Amendments And Supplements:** Amendments and supplemental agreements to this Agreement shall become effective on the date approved by the DOD or on the 31st day after it is signed and shall remain effective concurrent with the basic agreement.