

APPENDIX B

**Tentatively Agreed
Upon (TAU'd) Articles**

APPENDIX B

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**ARTICLE 1
PARTIES TO THE AGREEMENT**

Section 1. This Agreement is made by and between the National Air Traffic Controllers Association, AFL-CIO (hereinafter "the Union"), and the Federal Aviation Administration, Department of Transportation (hereinafter "the Agency"). The Union and the Agency are referred to collectively herein as "the Parties."

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ARTICLE 2
UNION RECOGNITION AND REPRESENTATION

Section 1. The Agency hereby recognizes the Union as the exclusive bargaining representative of Air Traffic Control Specialists located in terminal and enroute facilities, as certified by the Federal Labor Relations Authority (FLRA) on June 19, 1987 (Appendix 1). The Agency also recognizes the Union as the exclusive bargaining representative of Traffic Management Coordinators/Specialists in terminal and enroute facilities and the Air Traffic Control System Command Center (ATCSCC), as certified by the FLRA on May 25, 2000 (Appendix 2), and NOTAM specialists at the ATCSCC, as certified by the FLRA on March 23, 1999 (Appendix 3).

Section 2. If the bargaining unit(s) described in Section 1 is/are amended to include other employees, those employees shall be covered by this Agreement.

Section 3. The Union may designate one (1) Principal Facility Representative and one (1) designee for each facility. Only the Principal Facility Representative and/or his/her designee may deal with the Air Traffic Manager and/or his/her designee. The Union may designate one (1) representative and one (1) designee for each team, crew, group or area, including the NOTAM Office and the traffic management unit, as appropriate in each facility. On each tour of duty, the Union may designate one (1) representative to deal with first and second-level supervisors. At the tour representative's option, he/she may designate an alternate to act on his/her behalf in dealing with first and second-level supervisors. The designation of all Agency and Union representatives shall be in writing.

Section 4. When the Union designates a nonresident Facility Representative, absent an emergency or other special circumstances at the facility at which he/she is employed, he /she shall be made available to carry out his/her functions under this Agreement. A nonresident Facility Representative is entitled to official time in accordance with Section 14, for the facility being represented, but is not entitled to official time for travel or to travel and per diem allowances. The management representative assigned to the facility at which the Union has designated a nonresident Facility Representative shall deal with the nonresident Facility Representative in person, via telephone, by letter or otherwise mutually agreeable method, on all matters covered under this Agreement or otherwise required by law.

Section 5. During meetings between the Air Traffic Manager, or his/her designee and the Principal Facility Representative or his/her designee, the Facility Representative or his/her designee will be afforded representatives in equal numbers. Such meetings shall be held at mutually agreeable times. At any meeting called by the Air Traffic Manager or his/her designee, the Union participant(s) shall be on official time if otherwise in a duty status.

Section 6. The Agency agrees to meet/deal at the national level with the National Officers of the Union and/or their designees.

Section 7. The normal point of contact at the regional level shall be the appropriate Service Area Director for the affected facility(s) or his/her designee and the Union Regional Vice President or his/her designee. The normal point of contact at the regional level for ATCSCC issues shall be the Director, System Operations, ATO-R or his/her designee and the Union's Regional Vice President or his/her designee.

Section 8. When other qualified employees are available, the principal Facility Representative or his/her designee shall not be required to temporarily perform supervisory duties. When a Facility

Representative is detailed to a supervisory position, the Union will name a designee to act in his/her place as a Union representative.

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Section 9. The Union representatives specified in the above Sections of this Article are the only individuals authorized to represent the Union in dealings with FAA officials at the respective levels specified in this Article.

Section 10. Any Union official and/or his/her designee shall be permitted to visit air traffic facilities to perform representational duties, subject to prior notification. Visits to other Agency facilities shall be subject to notification and approval in advance.

Section 11. Once annually, the Principal Facility Representative or his/her designee may be granted excused absence for short periods of time, ordinarily not to exceed sixteen (16) hours at a time to receive information, briefings, or orientation by the Union and/or Agency relating to the Federal Labor Relations Program. Such meetings may be held locally, regionally, or nationally. The Parties shall exchange agendas for meetings under this Article to the appropriate official. Determinations as to whether an individual can be spared from duty shall be made by the Agency, based on staffing and workload.

Section 12. The Principal Facility Representative or his/her designee will be granted sixteen (16) hours of official time to receive orientation on the meaning of Articles of this Agreement. In the event the principal facility representative is officially replaced, his/her successor will be granted sixteen (16) hours of official time to receive orientation on the meaning of the Articles in this Agreement, provided they have previously not received this time. Unless staffing and workload do not permit, excused absence not to exceed eight (8) hours shall be granted for on-site briefings for other designated Union representatives. Excused absence granted under this section must be utilized within six months from the effective date of this agreement. The time granted under this section is in addition to the bank of hours for official time granted to the Principle Facility Representative each pay period.

Section 13. The Union at the National level shall be afforded a bank of official time of two-thousand (2500) hours annually for designees to attend the NATCA Representative School for the mutual benefit of the Union and the Agency. The Union shall normally provide a minimum of forty-five (45) days advance notice for scheduling purposes unless otherwise mutually agreed to by the Parties. Such delegation shall be made in writing to the Agency and shall include: the name of the Union designee and the number of hours delegated. Absent an emergency or other special circumstance the delegated hours shall be approved. The granting of this time shall take precedence over the approval of pending annual leave requests for the dates requested.

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Section 14. Absent an emergency or other special circumstances, upon request, each Principal Facility Representative shall be granted the following amount of official time per pay period for representational duties.

- a. eight (8) hours in facilities with 1-20 combined bargaining unit employees;
- b. twelve (12) hours in facilities with 21-35 combined bargaining unit employees;
- c. sixteen (16) hours in facilities with 36-50 combined bargaining unit employees;

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- d. twenty-four (24) hours in facilities with 51-75 combined bargaining unit employees;
 - e. thirty-two (32) hours in facilities with 76-150 or more combined bargaining unit employees;
 - f. fifty-four (54) hours in facilities with 151 or more combined bargaining unit employees.

This grant of time is exclusive of time provided for by the Federal Service Labor-Management Relations Statute for negotiations or impasse proceedings as provided for in 5 USC § 7131 (a) and (c), investigations, formal discussions/meetings or any other provision of this Agreement.

Principal Facility Representatives may delegate their official time to other Union designees at their facility. Should a Principal Facility Representative elect to delegate his/her official time, such delegation shall be made in writing to the facility Manager or his/her designee and shall include; the name of the Union designee and the number of hours delegated. The delegated time must be requested prior to its use. Principal Facility Representatives or their designees who are granted official time may pursue their representational duties off the premises when on official time, unless there is a particular reason to anticipate an emergency or other special circumstance which would necessitate a need for them to resume work (e.g., an imminent severe weather disturbance).

The Principal Facility Representative shall notify the facility manager of his/her intention to perform representational duties off the premises and the manager may impose some reasonable requirement as to periodic call-ins or similar communication as a protection against unexpected emergency need for the representative's return to duty.

Section 15. In accordance with OPM requirements and in order that the Agency may properly track the use of official time used under this Agreement, Union representatives will advise the appropriate Agency official of the category into which the use of such official time falls. Not later than the last day of each pay period, the Principal Facility representative will utilize the agreed upon form (Appendix 4) for reporting official time in the categories as defined below.

- a. Term Negotiations: Includes time used by union representatives for, or in preparation for (1) negotiations over a basic agreement; or (2) negotiations over the supplementation or renegotiation of that agreement or under a re-opener provision in that agreement;
- b. Mid-Term Negotiations: Includes time used by union representatives for, or in preparation for negotiations occurring during the term of that agreement (i.e., mid-term bargaining). This category includes both interest based and position based negotiations. FMCS, FSIP, and interest arbitration services are also included in this category.
- c. Dispute Resolution: Official time granted for employee representation functions in connection with such things as grievances, arbitrations, adverse actions, alternative dispute resolution (ADR), and other labor relations complaint and appellate processes. This category may also include union counseling of employees on problems, phone calls, e-mails, and meetings with management concerning employee complaints/problems that are pre-grievance or pro-complaint, but not part of any formal ADR process.
- d. General Labor-Management Relationship: Official time authorized for representational functions in connection with all other activities not covered by the categories of

Negotiations and Dispute Resolution. This category might include labor-management committees, partnership activities where the union is represented, consultation, pre-decisional meetings, walk-around time for OSHA inspections, labor-relations training for union representatives, and formal and Weingarten-type meetings under 5 U.S.C. 7114(a)(2)(A) and (B).

Section 16. Unless staffing and workload do not permit:

- a. At facilities with one hundred (100) or less Union members, one (1) Union delegate shall be permitted to take annual leave, compensatory time or credit hours to attend (including travel time) the Union's annual convention. The Agency may grant LWOP to attend the Union's convention.
- b. At facilities with more than one hundred (100) members, one (1) additional delegate shall be granted such leave in accordance with a. of this section, for each additional fifty (50) Union members.

Leave requests under this Section shall be submitted prior to bidding vacation leave for the upcoming year. Any questions regarding the number of Union members shall be resolved using dues withholding figures pursuant to Article 11 of this Agreement. The granting of this time shall take precedence over the granting of requested leave to other bargaining unit employee for the date(s) indicated. In the event the Union changes delegate(s) the time granted under this Section may be transferred to the new delegates within the facility.

Section 17. The Agency recognizes the right of a duly recognized Union Representative to express the views of the Union, provided those views are identified as Union views.

Section 18. The amounts of official time contained in this Agreement may not be increased or decreased. Exceptions to this Section may be agreed to only by the Parties at the national level.

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**ARTICLE 3
RIGHTS OF UNION OFFICIALS**

Section 1. National and Regional Union officials who are elected or appointed to serve in an official capacity as a representative of the Union shall be granted, upon request, LWOP concurrent and consistent with elected terms of office or appointment. Each request by an employee for such LWOP shall be for a specified period and shall be certified by the national office of the Union.

Section 2. Each Regional Vice President of the Union shall be granted eighty (80) hours of official time per pay period to perform the representational duties of the office.

The time granted under this Section may be delegated to other Union representatives. Such delegation shall be made in writing to the appropriate Service Area Director or his/her designee and shall include: the name of the Union designee and the number of hours delegated. Delegated hours shall be approved absent an emergency or other special circumstances.

Section 3. The Agency agrees to return the Union official to his/her facility of record unless the Union official requests to be returned to a duty station other than the duty station to which he/she was assigned prior to his/her assuming LWOP status. Such requests will be handled in accordance with Employee Requested Reassignments (ERR). In the event there is a reduction-in-force at the facility to which he/she was assigned prior to his/her assuming LWOP status, the Union officials future duty status and duty locations shall be determined in accordance with Article 47 of this Agreement.

Section 4. Upon written notice to the Agency that need for LWOP granted under Section 1 of this Article has ended, Union officials shall be permitted to return to duty prior to the termination date of their LWOP status. Such request for return to duty shall be certified by the national office of the Union.

Section 5. An employee who is placed on LWOP while acting in an official capacity on behalf of the Union shall be entitled to all such continued benefits, including participation in the Federal retirement program, as provided in applicable laws and regulation

ARTICLE 4
EMPLOYEE RIGHTS AND RESPONSIBILITIES

Section 1. Each employee of the bargaining unit has the right, freely and without fear of penalty or reprisal, to form, join and assist the Union or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in the Civil Service Reform Act of 1978, the right to assist the Union extends to participation in the management of the Union and acting for the Union in the capacity of Union representative, including presentation of its views to officials of the Executive Branch, the Congress, or other appropriate authority. The Agency shall take the action required to assure that employees in the bargaining unit are apprised of their rights under the Civil Service Reform Act of 1978 and that no interference, restraint, coercion, or discrimination is practiced within the Agency to encourage or discourage membership in the Union.

Section 2. Employee participation in charitable drives and U.S. Savings Bonds campaigns is voluntary. The Agency shall not schedule mandatory briefings/meetings to discuss charitable drives/U.S. Savings Bond participation. Employees will be voluntarily excused from any portion of a briefing/meeting which discusses these subjects. Solicitations may be made, but no pressure shall be brought to bear to require such participation. Flyers, bulletins, posters, etc., associated with charitable drives may be posted a reasonable amount of time prior to the opening date and shall be removed concurrent with the closing date established in accordance with 5 CFR 950.102(a).

Section 3. The Agency's nepotism policies shall be uniformly administered throughout the bargaining unit. In those instances when an employee's spouse holds or accepts a position in another FAA facility, the Agency will provide priority consideration on a one (1) time basis to the bargaining unit member for in-grade/downgrade reassignment through Employee Requested Reassignment (ERR) for bargaining unit vacancies at or near the spouse's location before candidates under other placement actions are considered. The Agency retains the right to fill vacancies from other available sources. In that such moves are primarily for the convenience or benefit of the employee, additional travel and transportation costs shall not be allowed for the spouse beyond those he/she would be entitled to as a family member.

Section 4. Employees shall not be subjected to prohibited personnel practices as follows:

- (a) Any FAA employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:
 - (i) discriminate for or against any employee or applicant for employment, on the basis of:
 - race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Acts of 1964 (42 U.S.C. 2000e-16);
 - age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

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- sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (d));
- handicapping condition, as prohibited under Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or
- marital status, sexual orientation, or political affiliation, as prohibited under any law, rule, or regulation;
- (ii) coerce the political activity of any person (including the providing of any political contribution or service) or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;
- (iii) deceive or willfully obstruct any person to withdraw with respect to such person's right to compete for employment;
- (iv) influence any person to withdrawal from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
- (v) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
- (vi) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of:
 - any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences: a violation of any law, rule or regulation; gross mismanagement, a gross waste of funds, an abuse of authority; or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law, and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or
 - any disclosure to the Special Counsel or to the Inspector General of an agency, or another employee designated by the head of the agency to receive such disclosures of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;
- (vii) to take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of:
 - the exercise of any appeal, complaint, or grievance right granted by law, rule, or regulation;
 - testifying for or otherwise lawfully assisting of any individual in the exercise of any right referred to in this section;
 - cooperating with or disclosing information to the Inspector General of any agency, or the Special Counsel, in accordance with applicable provision of the law; or

- for refusing to obey an order that would require the individual to violate a law;
 - (viii) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account, in determining suitability or fitness, any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or the United States; or
 - (ix) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation, implementing or directly concerning, the merit system principles contained in this Section.
- (b) Section 4 (a) shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.
 - (i) The head of each line of business or staff organization shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of a line of business or staff organization delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.
 - (ii) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to employee or applicant for employment in the civil service under:
 - Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;
 - Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;
 - Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (d)), prohibiting discrimination on the basis of sex;
 - Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition; or
 - the provision of any law, rule, or regulation prohibiting discrimination on the basis of marital status, sexual orientation, or political affiliation.

Section 5. FAA regulations on outside employment and financial interests shall be uniformly administered throughout the bargaining unit.

Section 6. Bargaining unit employees may have access to any of the Agency's facilities after prior coordination with the management of the facility to be visited. Approval may be restricted for legitimate security or operational concerns.

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Section 7. Employees covered by this Agreement shall have the protection of all rights to which they are entitled by the Constitution of the United States.

Section 8. Radios, television sets, appropriate magazines/publications, pagers/cell phones, and electronic devices will be permitted in designated non-work areas at all facilities for use at non-work times. Non-Government issued pagers, cell phones, and electronic devices will be permitted in work areas but shall be set in the off position.

Section 9. In the performance of his/her official duties, or when acting within the scope of his/her employment, the employee is entitled to all protections of the Federal Employees Liability Reform and Tort Compensation Act of 1988, (P.L. 100-694) regarding personal liability for damages, loss of property, personal injury, or death arising or resulting from the negligent or wrongful act or omission of the employee.

Section 10. Any bargaining unit employee required by the Agency to attend any meetings scheduled by the Agency away from the facility shall be entitled to duty time, travel and per diem allowance, if applicable.

Section 11. There shall be no prohibition on the approval of an employee's LWOP request based solely on the employee having other types of leave accrued.

Section 12. Employees are responsible to:

Observe and abide by all laws, rules, regulations, and other authoritative policies and guidance, written and unwritten. Employees will familiarize themselves with the Standards of Conduct.

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**ARTICLE 5
MANAGEMENT RIGHTS**

Section 1. In accordance with the provisions contained in 5 USC 7106, Management rights:

- (a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency-
 - (1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and
 - (2) in accordance with applicable laws-
 - (A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or to take other disciplinary action against such employees;
 - (B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the agency's operations shall be conducted;
 - (C) with respect to filling positions, to make selections for appointments from-
 - (i) among properly ranked and certified candidates for promotions; or
 - (ii) any other appropriate source; and
 - (D) to take whatever actions may be necessary to carry out the agency mission during emergencies.
- (b) Nothing in this section shall preclude any agency and any labor organization from negotiating-
 - (1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
 - (2) procedures which management officials of the agency will observe in exercising any authority under this section; or
 - (3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

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**ARTICLE 6
REPRESENTATION RIGHTS**

Section 1. When it is known in advance that the subject of a meeting is to discuss or investigate a disciplinary, or potential disciplinary situation, the employee shall be so notified of the subject matter in advance. The employee shall also be notified of his/her right to be accompanied by a Union representative if he/she so desires, and shall be given a reasonable opportunity both to obtain such representation, and confer confidentially with the representative before the beginning of the meeting. If during the course of a meeting it becomes apparent for the first time that discipline or potential discipline could arise, the Agency shall stop the meeting and inform the employee of his/her right to representation if he/she so desires, and provide a reasonable opportunity to both obtain representation and confer confidentially before proceeding with the meeting, if requested. The Union retains the right to determine its representatives in accordance with Article 2 of this Agreement.

This Section applies to meetings conducted by all Management representatives, including DOT/FAA security agents, EEO investigators and agents of the Inspector General. The above provisions shall apply to meetings conducted by the National Transportation Safety Board (NTSB) to the extent the provisions are consistent with NTSB regulations and procedures. Additional representational rights in operational error/deviation situations are covered in Article 64 of this Agreement.

Section 2. In an interview where possible criminal proceedings may result and the employee is the subject of the investigation, the employee will be informed of the general nature of the matter (i.e., criminal or administrative misconduct) being investigated, and, upon request, be informed whether or not the interview is related to possible criminal misconduct by him/her. The employee will be required to answer questions only after he/she has been informed that he/she must answer questions specifically related to their job performance or face disciplinary action. Any answers given under these circumstances are considered involuntary. Such answers may not be used against the employee in a subsequent criminal proceeding, except for possible perjury charges for giving any false answers while under oath. When a written declination of criminal prosecution is received from the appropriate authority, the employee will be provided a copy.

Section 3. As specifically provided under 5 USC 7114 (a)(2)(A), the Union shall be given advance notice and the opportunity to designate a representative to attend any formal discussion between one (1) or more representatives of the Agency and one (1) or more employees in the unit or their representatives concerning any grievance or any personnel policies or practices, or other general condition of employment. The Agency shall advise the Union at the corresponding level, in advance, of the subject matter.

Section 4. By mutual consent of the Agency, employee, and the Union, if requested by the employee, discussions under Section 1 of this Article may be accomplished by telephone. By mutual consent of the Agency, employee(s) and the Union, discussions under Section 3 of this Article may be accomplished by telephone.

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Section 5. A Union representative, while performing his/her representational duties, will not be required to disclose information obtained from a bargaining unit employee who is the subject of an investigation, unless the confidentiality of the conversation with that employee is waived by the representative, or an overriding need for the information is established.

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**ARTICLE 7
MID-TERM BARGAINING**

Section 1. It is agreed that personnel policies, practices and matters affecting working conditions, not expressly contained in this Agreement, shall not be changed by the Agency without prior notice to, and negotiation with the Union in accordance with applicable law. The provisions of this Article apply to substance bargaining, if appropriate, procedures which the Agency will observe in exercising a management right, and/or appropriate arrangements for employees adversely affected by the exercise of a management right. Additionally, the provisions of this Article apply to any negotiations specifically required or allowed by reference in any provision of this Agreement.

Section 2. All bargaining shall be at the national level, except where specifically authorized by this Agreement or otherwise agreed to by the Parties at the national level. Agreements reached as a result of mid-term bargaining may not increase or diminish entitlements expressly contained in this Agreement or otherwise conflict with any express provision of this Agreement.

Section 3. Should the Agency propose a change described in Section 1, thirty (30) days written notice of the proposed change shall be provided to the Union at the national level except where specifically authorized by this Agreement or otherwise agreed to by the Parties at the national level. The Union shall have up to fifteen (15) days from receipt of the notice to request a meeting regarding the change. If the Union requests a meeting, the meeting will be held within ten (10) days of the Union's request, and the Parties will review the proposed changes. Otherwise, the Union may submit written proposals within thirty (30) days of receipt of the original notice of the change(s). If the Agency fails to hold the meeting at a time which is mutually agreeable to the Parties within ten (10) days of the Union's request, the Union shall have at least ten (10) days from the conclusion of the meeting to submit written proposals. However, regardless of when the meeting is held, the Union's initial proposals must be submitted within forty-five (45) days from the date of the original notice. If the Union requests a meeting or submits written proposals, the Parties shall meet at a mutually agreeable time and place to conduct negotiations. The Parties agree that every effort shall be made to reach agreement as expeditiously as possible. If the Union does not request a meeting or submit written proposals within the prescribed time period, the Agency may implement the change as proposed.

Nothing in this Article shall be construed as infringing on the Union's right to designate its own representative(s).

Section 4. If the Parties are unable to resolve a dispute, the Parties are free to pursue whatever course of action is available to them under the Federal Service Labor-Management Relations Statute.

Unless otherwise permitted by law or this Article, no changes will be implemented by the Agency until all negotiations have been completed including any impasse proceedings.

Section 5. The Union at the national level may initiate bargaining on personnel policies, practices, and matters affecting working conditions during the term of this Agreement on matters not expressly contained in this Agreement in accordance with the Federal Service Labor-Management Relations Statute. When the Agency has received a written proposal from the Union, if requested, a meeting will be scheduled within fifteen (15) days at a mutually agreeable time and place to review the Union's proposal. The Agency may submit written counter proposals within thirty (30) days of the Union's proposal. The Parties shall meet at mutually agreeable times and places to conduct negotiations. If the Agency fails to respond or if no agreement is reached, the provisions of Section 4 of this Article shall apply.

Section 6. The Union, under this Article, will be authorized an equal number of representatives on official time for the conduct of negotiations in accordance with 5 USC 7131. The time limits under this Article may be extended by mutual agreement of the Parties.

Section 7. Nothing in this Article is intended to preclude the Parties from formulating ground rules for mid-term bargaining issues.

Section 8. The Parties agree that they will not assert, as a defense to a demand for bargaining over a proposed mid-term change in conditions of employment, that the proposed change is inseparably bound up with and thus plainly an aspect of a subject covered by this Agreement, but they may assert the first prong of the FLRA "covered by" doctrine that the matter is expressly contained in this Agreement.

Section 9. Except where the Parties have reached agreements and understandings during the course of the negotiations of this Agreement, upon the effective date of this Agreement, all memoranda of agreement; memoranda of understanding; past practices; and other written or oral agreements whether formal or informal, shall have no force or effect and shall not be binding on the Parties in any respect. The foregoing applies at the local, regional, and national levels.

Nothing in this section shall be construed as a waiver of the Union's right to midterm bargaining under this Article.

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**ARTICLE 8
PROBLEM SOLVING**

Section 1. The Parties recognize that the traditional methods of dispute resolution (e.g., grievance/arbitration and unfair labor practice charges) are reactive and not always the most efficient means of problem resolution. The Parties also understand that an early and open exchange of information is essential to clearly address the concerns or reservations of each Party. Therefore, the Parties agree to use the provisions of this Article to the fullest extent possible before resorting to other avenues of dispute resolution.

Section 2. The Parties to this Agreement support the following technique:

- a. When a complaint/problem/concern arises, the employee, Union or Agency may notify the other affected Parties within ten (10) days of the event giving rise to the complaint/problem/concern. A meeting will be held within ten (10) days of notification, which will include the bargaining unit employee(s), the appropriate local Union representative and appropriate management representative.
- b. The purpose of the meeting is to allow the employee, the Union and the Agency to freely present, receive and/or exchange information and their views on the situation.
- c. The Parties shall try to find an opportunity for problem resolution and, if one arises, it will be, with mutual agreement, acted upon.
- d. If the matter relates to pending discipline, disciplinary action will not be issued during the meeting.
- e. If the Parties are unable to resolve the issue under this Article, the Agency shall render a decision within ten (10) days of the meeting. Once the decision has been rendered, and if appropriate, the employee may proceed with Article 9, Section 7, Step 1. Upon request, the provisions of Article 9, Section 7, Step 1, will be waived and the Parties will proceed under the provisions of Article 9, Section 7, Step 2, to resolve their complaint/problem/concern. The Agency or Union may proceed with Article 9, Section 8, Step 1. The time limits in Article 9 begin when the decision is rendered.
- f. This basic format may be modified with the written agreement of the Parties at the local level.
- g. This Article shall not diminish the Agency's right to discipline, where otherwise appropriate, nor shall the rights of the Union or the employee be affected by this Article.

Section 3. The Parties shall continue their support of training on problem solving techniques and similar programs which the Parties mutually agree to pursue. The Union and the Agency shall mutually agree on the scope, content, development and arrangements for delivery of any joint problem solving training under this Article.

Section 4. Official time, travel and per diem shall be granted to Union representatives to attend jointly agreed upon training/briefings on joint problem solving techniques.

Section 5. At the request of either Party at the National level, the Parties shall meet in an effort to develop a process of alternative dispute resolution. The Union's representatives shall be on official time, if otherwise in a duty status.

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**ARTICLE 9
GRIEVANCE PROCEDURE**

Section 1. A grievance shall be defined as 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 unit employee; or
- c. By a unit employee or either Party concerning any claimed violation, misinterpretation, or misapplication of any law, rule, regulation, or this Agreement affecting conditions of employment.

The Agency recognizes that employees are entitled to file and seek resolution of grievances under the provisions of the negotiated grievance procedure. The Agency agrees not to interfere with, restrain, coerce, or engage in any reprisal against any employee or Union representative for exercising rights under this Article.

Section 2. This procedure provides for the timely consideration of grievances. Except as limited or modified by Sections 3, 4, and/or 5, it shall be the exclusive procedure available to the Parties and the employees in the unit for resolving grievances. Any employee, group of employees or the Parties may file a grievance under this procedure. The Parties shall cooperate to resolve grievances informally at the earliest possible time and at the lowest possible supervisory level.

Section 3. This procedure shall not apply to any grievance concerning:

- a. Any claimed violation of subchapter III of Chapter 73, Title 5 USC (relating to prohibited political activities);
- b. Retirement, life insurance or health insurance;
- c. A suspension or removal under Section 7532, Title 5 USC (relating to national security matters);
- d. Any examination, certification or appointment (Title 5 USC 7121 (c)(4));
- e. The classification of any position which does not result in the reduction-in-grade or pay of any employee;
- f. The removal of probationers.

Section 4. An employee, who believes that discriminatory practices have resulted in a prohibited personnel practice/action, as set forth in Article 4 of this Agreement and applicable statutes, regulations or orders/directives, shall have the option of utilizing this grievance procedure or any other procedures available in law or regulation, but not both.

Section 5. The Parties reserve their rights to all applicable statutory appeal procedures.

Section 6. Employees are entitled to be assisted by the Union in the presentation of grievances. Any employee covered by this procedure may present grievances without the assistance of the exclusive representative, as long as the exclusive representative has been given the opportunity to be present during the grievance proceedings. No other individual(s) may serve as the employee's representative in the processing of a grievance under this procedure, unless designated by the Union. The right of individual presentation does not include the right of taking the matter to arbitration unless the Union agrees to do so.

Section 7. Grievances filed by employees:

Step 1. An aggrieved employee's grievance shall be submitted, in writing on the standard grievance form, to his/her immediate supervisor (who may be the Air Traffic Manager) within twenty (20) calendar days of the event giving rise to the grievance or within twenty (20) calendar days of the time the employee may have been reasonably expected to have learned of the event. The standard grievance form shall include:

- a. Date of alleged violation and date submitted;
- b. Name of the grievant;
- c. The name of his/her Union representative;
- d. Issue(s)/subject;
- e. Statement of facts (e.g., who, what, where, when);
- f. Alleged contractual provision(s) violated. This is not meant to be all inclusive;
- g. Remedy sought;
- h. Whether or not a meeting is requested.

If requested on the grievance submission, the Agency shall promptly arrange for a meeting at a mutually agreeable time, to occur no later than ten (10) calendar days following the date the employee submitted the grievance. The employee and his/her representative shall be given a reasonable amount of time to present the grievance.

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The Agency Step 1 deciding official shall answer the grievance in writing within twenty (20) calendar days following the meeting, or within twenty (20) calendar days following the submission of the grievance. The decision shall be delivered to the employee and his/her representative or his/her designee. If the grievance is denied, the reasons for denial will be in the written response. A grievance filed pursuant to Article 10 of this Agreement may be initiated at Step 2.

All settlement Agreements shall be reduced to writing.

Step 2. If the employee or the Union is not satisfied with the Step 1 answer, the grievance may be submitted to the Air Traffic Manager, Hub Manager or Traffic Management Officer (TMO), as appropriate, within twenty (20) calendar days following the receipt of the answer or the day the answer was due. In those facilities where the Air Traffic Manager is also the supervisor, the Hub Manager, or his/her designee shall be the official to hear the grievance at this step. In such cases, the grievance may be processed through the Air Traffic Manager. If requested, the Air Traffic Manager, Hub Manager, or TMO, or his/her designee, as appropriate, shall, prior to making a decision, afford the employee and/or Union representative an opportunity to present the grievance orally. The employee and his/her representative shall be given a reasonable amount of time to present the grievance. The Agency Step 2 deciding official shall answer the grievance in writing within twenty (20) calendar days following the meeting, or within twenty (20) calendar days following the submission of the grievance. The decision shall be delivered to the employee and his/her representative or his/her designee. If the grievance is denied, the reasons for denial will be in the written response.

In disciplinary/adverse action cases, the Agency Step 2 deciding official shall answer the grievance in writing within seven (7) calendar days following the meeting, or within seven (7) calendar days following the submission of the grievance if no meeting is requested. The decision shall be delivered personally to the employee and his/her representative or his/her designee. If personal delivery is not possible, the Agency shall send the decision via certified mail or other similar system that requires a signature upon receipt to the address on file at the employee's facility. If the grievance is denied, the reasons for denial will be in the written response.

All settlement Agreements shall be reduced to writing.

Step 3. If the Union is not satisfied with the Step 2 decision, the Union may within twenty (20) calendar days following receipt of the decision or the day the answer was due, advise the Manager, Regional Labor Relations Branch, via certified mail or other similar system that requires a signature upon receipt, that it desires the matter to be reviewed. The Union, at the Regional level, will be notified via certified mail or other similar system that requires a signature upon receipt within twenty (20) calendar days of the regional decision. If the grievance is denied, the reasons for denial will be in the written response. The Union at the National level may, within thirty (30)

calendar days following receipt of the Step 3 decision or the date the answer was due, notify the Director, Office of Labor and Employee Relations, that it desires the matter be submitted to arbitration. Such notification shall be via certified mail or other similar system that requires a signature upon receipt.

Section 8. Grievances filed by the Union or Agency

Step 1. In the case of any grievance filed on behalf of the Union or on behalf of the employee(s) which the Union at the facility, regional or national level may have against the Agency at the corresponding level, or which the Agency at the regional or national level may have against the Union at the corresponding level, the moving Party shall, at that level, submit the grievance to the respondent in writing, on the standard grievance form, within twenty (20) calendar days of the event giving rise to the grievance or within twenty (20) calendar days of the time the moving Party may have been reasonably expected to have learned of the event. When an alleged violation involves more than one employee, the Union is encouraged to file one grievance on behalf of all affected employees. The standard grievance form shall include:

- a. Date of alleged violation and date submitted;
- b. Charging Party;
- c. Point of contact;
- d. The aggrieved employee(s), if applicable;
- e. Issue(s)/subject;
- f. Statement of facts (e.g., who, what, where, when)
- g. Alleged contractual provision(s) violated. This is not meant to be all inclusive;
- h. Remedy sought;
- i. Whether or not a meeting is requested.

If requested on the grievance submission, the respondent shall promptly arrange for a meeting at a mutually agreeable time and place, to occur no later than ten (10) calendar days following the date of submission of the grievance. The Representative shall be given a reasonable amount of time to present the grievance. The respondent Step 1 deciding official shall answer the grievance in writing within twenty (20) calendar days following the meeting, or within twenty (20) calendar days following the submission of the grievance. If the grievance is denied, the reasons for denial will be in the written response.

In disciplinary/adverse action cases, the Agency deciding official shall answer the grievance in writing within seven (7) calendar days following the meeting, or within seven (7) calendar days following the submission of the grievance if no meeting is requested. If the grievance is denied, the reasons for denial will be in the written response. When filed at the facility level, the decision shall be delivered personally to the principal Facility representative or his/her designee. If personal delivery is not possible, the Agency shall send the decision via certified mail or other similar system that requires a signature upon receipt to the Union.

Step 2. If the grievance originated at the facility level and the Union is not satisfied with the Step 1 decision, the Union may within twenty (20) calendar days following receipt of the decision or the day the answer was due, advise the Manager, Regional Labor Relations Branch, by certified mail or other similar system that requires a signature upon receipt, that it desires the matter to be reviewed. The Union, at the Regional level, will be notified via certified mail or other similar system that requires a signature upon receipt within twenty (20) calendar days of the regional decision. If the grievance is denied, the reasons for denial will be in the written response.

The Union at the National level may, within thirty (30) calendar days following receipt of the Step 3 decision or date the answer was due, notify the Director, Office of Labor and Employee Relations, that it desires the matter be submitted to arbitration. Such notification shall be via certified mail or other similar system that requires a signature upon receipt.

If the grievance originated at the Regional or National level and the moving Party is not satisfied with the decision, they shall advise the respondent at the National level by certified mail or other similar system that requires a signature, they desire the matter to be submitted to arbitration, within thirty (30) days following the receipt of the respondent's answer or the date the answer was due.

Section 9. The Parties shall create a National panel of ten (10) mutually agreeable arbitrators and a panel of five (5) mutually agreeable arbitrators in each FAA Region. Arbitrators selected for panels must also agree to hear expedited arbitration cases. Within sixty (60) days from the effective date of this Agreement, the Parties shall meet for the purpose of selecting arbitrators for the remainder of the current calendar year. Thereafter, the Parties shall meet no later than ninety (90) days prior to the end of the calendar year for the purpose of selecting arbitrators for the next calendar year.

An arbitrator on the panel may be removed from the list by either Party by giving a thirty (30) day written notice to the arbitrator with a copy to the other Party. Upon receipt of written notice, no further cases will be assigned to that arbitrator, but the arbitrator will hear and decide any case(s) already assigned to him/her. Additionally, the Parties may mutually agree to remove an arbitrator from the panel at any time. In any case where an arbitrator has been removed, another arbitrator shall be mutually selected to fill the

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vacancy.

Within thirty (30) days from the selection of the panels, and every sixty (60) days thereafter, the Parties shall request each arbitrator to provide available dates for a one-hundred eighty (180) day period. Within five (5) days of receipt of dates provided by the arbitrator(s), the Parties shall meet in order to select and schedule a minimum of five (5) days per month for arbitration hearings at the National level and a minimum of five (5) days per month for each FAA Region, for those months within the one-hundred eighty (180) day period. The Parties agree to jointly notify the arbitrator of the dates selected. All cases ripe for arbitration must be scheduled, at a minimum, thirty (30) days prior to the date the parties have reserved for the particular arbitrator. If thirty (30) days prior to an agreed upon date there are no cases ripe for arbitration, the Parties shall jointly notify the arbitrator to release the dates. The Parties agree to rotate the arbitrators on the respective panels in a fair and equitable manner. The Parties may mutually agree to select a particular arbitrator to hear a particular case.

The arbitrator's fees and expenses of arbitration shall be borne equally by the Parties. The Parties must mutually agree to any postponement or cancellation of any scheduled arbitration hearing. Unless mutually agreed upon, any costs associated with the cancellation of an arbitration will be borne by the canceling Party. If a verbatim transcript of the hearing is made and either Party desires a copy of the transcript, that Party will bear the expense of the copy or copies they obtain. The Parties will share equally the cost of the transcript, if any, supplied to the arbitrator.

Section 10: The Union advocate, if an employee of the FAA, shall be granted sixteen (16) hours of official time for preparation for the hearing. Additional release time may be granted, unless staffing and workload do not permit. Such time may be annual leave, earned compensatory time, earned credit hours, leave without pay, or a combination thereof. The grievant and/or the Union advocate shall be given a reasonable amount of official time to present the grievance. FAA employees who are called as witnesses shall be in a duty status, if otherwise in a duty status, including reasonable travel time. Absent an emergency, the Agency agrees to adjust the schedules of witnesses, to allow them to appear in a duty status. The Parties will exchange lists of potential witnesses to an arbitration hearing fourteen (14) days prior to the scheduled hearing. Each Party shall bear the expense of its own witnesses who are not employed by the FAA, or who are not located at that duty location where the grievance arose. The Agency agrees to make every reasonable effort to produce witnesses requested by the Union. The arbitrator shall submit his/her decision to the Agency advocate and the Union advocate, as soon as possible, but in no event later than thirty (30) calendar days following the close of the record before him/her unless the Parties waive this requirement. The decision of the arbitrator is final and binding. If the Union advocate elects to submit a post hearing brief, the Union's case advocate, if an employee of the FAA, will be granted up to twenty-four (24) hours of release time to prepare the post hearing briefs, unless staffing and workload do not permit. Such time will be annual leave, earned compensatory time, earned credit hours,

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leave without pay, or a combination thereof. Additional release time may be granted, unless staffing and workload do not permit.

Section 11. Expedited arbitrations:

- a. If the Union at the national level elects to process a disciplinary/adverse action under this Section, rather than Section 8, it shall within twenty (20) calendar days following the effective date of the disciplinary/adverse action, notify the Director, Office of Labor and Employee Relations, that it desires the matter be submitted directly to expedited arbitration. This request will include a completed standard grievance form. Within seven (7) calendar days after receipt of the request, an arbitrator shall be selected from the national or regional panel by the Parties or by alternately striking names until one (1) remains. An arbitrator unable to hear an expedited arbitration case within seven (7) calendar days shall be deemed unavailable and the next arbitrator in turn will be selected. The hearing shall be conducted as soon as possible. The arbitrator shall issue a decision as soon as possible, but no later than twenty-one (21) calendar days after the hearing has been held. The necessity for transcripts or filing of briefs shall be determined on a case-by-case basis. The election of either Party to request a transcript and/or file a post hearing brief shall not delay the time frame for the arbitrator to render his/her decision.
- b. In cases other than disciplinary/adverse actions, either Party at the national level may refer a particular issue to expedited arbitration in lieu of the normal arbitration process in this procedure. The request for expedited arbitration shall include a completed standard grievance form. The Parties shall meet and select an arbitrator from the national or regional panel or by alternately striking names.

The hearing shall be conducted as soon as possible and shall be informal in nature. There shall be no briefs, no official transcripts, no formal rules of evidence, and the arbitrator shall issue a decision as soon as possible, but no later than five (5) calendar days after the official closing of the hearing unless otherwise agreed between the Parties. Determinations as to whether expedited arbitration shall be utilized in cases other than disciplinary/adverse actions shall be based on the facts and circumstances of each case; however, only those grievances where the passage of time would preclude a remedy or result in irreparable harm are subject to this expedited procedure. Disagreements as to whether an issue is appropriate for this expedited procedure shall be referred to the arbitrator for decision.

Section 12. The arbitrator shall confine himself/herself to the precise issue(s) submitted for arbitration and shall have no authority to determine any other issue(s) not so submitted to him/her.

Section 13. Failure of the moving Party to proceed with a grievance within any of the time limits specified in this procedure shall render the grievance void or settled on the basis of the last decision given by the respondent, unless an extension of time limits has been agreed upon. Failure of the respondent to render a decision or conduct a meeting within any time limits specified in this procedure shall entitle the moving Party to progress the grievance to the next step without a decision. Any time limits contained in this Article may be extended by mutual agreement of the Parties. A request for extension may be made orally, but approval must be in writing (including e-mail) and given within three (3) work days after the request is made.

Section 14. The Parties may, by mutual agreement, stipulate the facts and the issue(s) in a particular case directly to an arbitrator for decision without a formal hearing. Argument will be by written brief.

Section 15. Questions as to whether or not a grievance is on a matter subject to the grievance procedure in this Agreement or is subject to arbitration shall be submitted to the arbitrator for decision.

Section 16. In the handling of grievances under this Article and where law and OPM regulations permit, the Union shall have access to such information as is relevant and necessary to the processing of the grievance.

Section 17. The Parties retain their rights under Title 5 USC 7122 and 7123.

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**ARTICLE 10
DISCIPLINARY/ADVERSE ACTIONS**

Section 1. This Article covers actions involving oral and written admonishments, written reprimands, suspensions, removals, reductions-in-grade or pay, or furloughs of thirty (30) days or less for reasons other than a lapse in Congressional appropriations. Involuntary reassignments will only be made to promote the efficiency of the service, and will not be made to discriminate or punish, or for any reason that would violate law, rule, regulation, or this Agreement.

This Article does not apply to the removal of probationers.

Section 2. When the Agency decides that corrective action is necessary, consideration should be given to the application of measures which, while not disciplinary, will instruct the offending employee and/or remedy the problem. When it is determined that discipline is appropriate, informal disciplinary measures should be considered before taking a more severe action. However, it is not necessary to have taken an informal disciplinary measure before administering a formal measure.

Section 3. Unless otherwise specified in this Agreement, disciplinary/adverse actions taken against an employee, whether conduct or performance based, will be in accordance with FAA Personnel Management System, Chapter III, Paragraph 3 dated March 28, 1996.

All actions under this Article will be taken only for such cause as will promote the efficiency of the service regardless of whether they are based on conduct or performance. Any action taken by the Agency shall be supported by a preponderance of the evidence.

Section 4. An employee's off-duty misconduct shall not result in disciplinary action, unless a nexus can be shown between the employee's off-duty misconduct and the efficiency of the service. Any proposed action for off-duty misconduct will contain a statement of the nexus between the off-duty misconduct and the efficiency of the service.

Section 5. All facts pertaining to a disciplinary/adverse action shall be developed as promptly as possible. Actions under this Article shall be promptly initiated after all the facts have been made known to the Agency.

Section 6. Except for oral and written admonishments and written reprimands, the following procedures will be used to take disciplinary/adverse actions:

- a. The Agency shall give the employee written notice proposing the action. The notice period shall be at least fifteen (15) days for disciplinary actions and at least thirty (30) days for adverse actions unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. The notice must state the specific reasons for the action.
- b. The employee has the opportunity to reply to the notice orally and in writing within fifteen (15) days from the date the employee receives notice proposing the action. However, if the action is taken under the "crime provision" the employee is entitled to a reasonable amount of time but not less than seven (7) days to reply.
- c. The Employee's representative may participate in the employee's oral reply.

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- d. The Agency shall consider the employee's reply, and then give the employee a written decision concerning the proposed action.

Section 7. In addition to the provisions of Section 6, the following provisions are applicable to cases of reduction in grade or pay, or removal for unacceptable performance:

- a. If the final decision is to sustain the proposed removal or downgrade, the decision letter must specify the instances of unacceptable performance on which it is based and the decision must be concurred upon by a management representative who is in a higher position than the management representative who proposed the action. The decision may only be based on those instances of unacceptable performance which occurred within one (1) year prior to the date of the written notice described in Section 6 (a).
- b. If, because of performance improvements by the employee during the notice period the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable for one (1) year from the date of the written notice described in Section 6 (a), any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from the employee's Official Personnel File (OPF) and Employee Performance File (EPF).

Section 8. No advance written notice is required for the issuance of a written reprimand. The reprimand must state the specific reasons for the action. The employee may present an oral or written reply within fifteen (15) days of receipt of the reprimand. The Agency will consider the employee's reply and notify the employee in writing of the decision. If the reprimand is sustained, a copy of it, along with the employee's written reply, will be placed in the employee's Official Personnel File (OPF) for a period of time not to exceed two (2) years.

Section 9. An employee against whom disciplinary/adverse action is proposed under this Article shall have the right to a copy of all the information relied upon to support the proposal.

Section 10. The Agency's action may not be sustained if a harmful error is shown.

Section 11. The employee and the Union representative shall be granted a reasonable amount of excused absence and official time of up to sixteen (16) hours, if otherwise in a duty status, in cases involving removal, reduction-in-grade or pay, furloughs of thirty (30) days or less for reasons other than a lapse in Congressional appropriations, or suspensions; for preparation and presentation of answers to proposed actions under this Article. The timing of the grant of excused absence shall, to the maximum extent possible, be scheduled at the employee's convenience.

Section 12. Letters of confirmation of discussion shall not be considered disciplinary in nature, but may be used to document future disciplinary actions, provided the employee has been given a copy upon completion. If a letter of confirmation of discussion is prepared, a copy will be provided to the employee as soon as practicable after the discussion.

Section 13. Although not exhaustive, the Agency's table of penalties should be used, when applicable, as a guide to determine an appropriate penalty. If applicable, appropriate penalties for offenses unlisted in the table of penalties may be derived by comparing the nature and seriousness of the offense to those listed in the table, the employee's previous history of discipline, and other

relevant factors in each individual case. In assessing penalties, consideration will be given to the length of time that has elapsed from the date of any previous offense. As a general guide, a two (2) year time frame should be used in determining freshness.

Section 14. In making its determination that disciplinary/adverse action is necessary and when determining the appropriateness of a penalty, the Agency shall consider the factors as outlined in Douglas v. Veterans Administration, 5 MSPB 313 (1981).

Section 15. Any notification to an employee which is not made personally shall be accomplished by certified mail return receipt requested.

Section 16. The Agency at the national level may allow an employee subject to removal or suspension of more than fourteen (14) days, the opportunity to exhaust all appeal rights available under this Agreement before the suspension or removal becomes effective.

Section 17. An employee against whom an adverse/disciplinary action is taken may grieve that action under Article 9 of this Agreement, or any other applicable statutory procedure, but not both.

Section 18. The Agency shall brief all employees on the provisions of the Conduct and Discipline Manual annually.

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**ARTICLE 11
DUES WITHHOLDING**

Section 1. Payroll Deductions

- a. Pursuant to 5 USC 7115, deductions for the payment of Union dues shall be made from the pay of members in the unit who voluntarily request such dues deductions.
- b. The amount of national dues to be withheld under this Agreement shall be the regular dues of the member as specified on the member's Standard Form 1187 (SF-1187), Request for Payroll Deductions for Labor Organizations, or as certified by the Union if the amount of regular dues has been changed as provided in Section 3b of this Article. A deduction of regular national dues shall be made every pay period from the pay of an employee who has requested such allotment for dues. It is agreed that no deduction for dues shall be made in any pay period for which the employee's net earnings after other deductions are insufficient to cover the full amount of dues.
- c. Dues deductions for payment of local dues under the terms and conditions contained in this Agreement for the withholding of national dues are also authorized. Local Union dues to be deducted each regular pay period shall be determined by the Local. A separate SF-1187 must be submitted to authorize such deduction. If the amount of regular local Union dues is changed by the local Union under the terms contained in this Agreement, the local Union will notify the appropriate servicing payroll office in writing that the amount of local dues has changed and will certify as to the new amount of local dues to be deducted each regular pay period. The local Union shall be responsible for notifying the appropriate servicing payroll office of the address where checks for local Union dues should be sent. Local Union dues shall be automatically terminated upon permanent reassignment of an employee from the facility from which local dues were being deducted.

Section 2. Employee Responsibilities

- a. A member who desires to have his/her dues deducted from his/her pay must complete the appropriate portion of SF-1187 and have the appropriate section completed and signed by an authorized official of the Union who will forward it to the appropriate payroll processing center. The authorized official of the Union will include "TC0000" for ATCSs, "TC0053" for TMC/TMS and "TC1545" for NOTAMs on the SF-1187 as the appropriate payroll identification for NATCA. The form must be received in the payroll office at least four (4) days prior to the beginning of the pay period in which the deduction is to begin.
- b. An employee who has authorized the withholding of Union dues may request revocation of such authorization after one (1) year by completion and submission of a Standard Form 1188 (SF-1188), Cancellation of Payroll Deductions for Labor Organization Dues, to the appropriate payroll processing center in accordance with the procedures below:

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- (1) **First year members:** An SF-1188 may be filed anytime by an employee during the thirty (30) calendar-day period beginning forty-five (45) days prior to the anniversary date of his/her first dues withholding and ending fifteen (15) days prior to the anniversary date. It is the employee's responsibility to ensure timely filing of his/her revocation forms. Revocation forms shall only be accepted by the Agency during this time period. The payroll office shall notify the Union, in writing, of all revocations and provide a copy of the SF-1188 at the time the revocation is made effective.

- (2) **All other members:** March 1 shall be the annual date for all revocations of Union dues. The employee must complete and submit an SF-1188 to the Agency between the dates of January 1 to January 31 of any given year. Upon receipt of a valid revocation form completed and signed by the employee, the appropriate Agency payroll processing center shall discontinue withholding the dues from the employee's pay effective only with the first full pay period which begins after the following March 1. The payroll office shall notify the Union, in writing, of all revocations and provide a copy of the SF-1188 at the time the revocation is made effective.

- c. Employees are responsible for ensuring that their dues withholding status is accurately reflected each pay period on the Statement of Earnings and Leave. Employees shall, through appropriate facility channels, notify the payroll processing center promptly of any errors. Failure or delay by an employee to promptly initiate and actively pursue any such errors may release the Agency and the Union from any obligation to reimburse the employee for dues withheld.

- d. All deductions of dues provided for in this Agreement shall be automatically terminated upon separation of an employee from the bargaining unit. The Agency shall be responsible for notifying the appropriate servicing payroll processing center when one of these actions occurs.

- e. The Agency shall not refer former bargaining unit employees to the Union to obtain refunds for erroneously withheld dues.

Section 3. Union Responsibilities

- a. The Union shall be responsible for purchasing and distributing SF-1187. The Union shall also be responsible for the proper completion and certification of the forms and transmitting them to the appropriate payroll processing center.

- b. The Union agrees to inform the Agency of the following:
 - (1) If the amount of regular national dues is changed by the Union, the Union will notify the Director, Office of Labor and Employee Relations, in writing and will certify as to the new amount of regular national dues to be deducted each pay period. New SF-1187 authorization forms will not be required. Changes in the amount of Union dues for payroll deduction purposes shall not be made more frequently than once in a twelve (12) month period.

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- (2) The Union agrees to give prompt, written notification to the appropriate payroll office within one (1) pay period, in the event an employee having dues deducted is suspended or expelled from membership in the Union, so that the employee allotment can be terminated.
- (3) Immediate written notification will be provided to the Director, Office of Labor and Employee Relations, of any changes to the address or bank routing number for NATCA Headquarters where the electronic transfer for the total amount of dues deducted is sent.

Section 4. Agency Responsibilities

- a. The total amount of dues deducted each pay period shall be authorized by the appropriate payroll processing center and electronically transferred to the Union not later than ten (10) working days after the close of each pay period. The Union shall not incur any fees for this service. Each pay period, the Union shall be provided with an electronic list showing the names of employees, the amount deducted for dues for each employee, and the amount remitted by the accompanying electronic funds transfer (EFT).
- b. To ensure dues withholding without interruption for employees who change position within the bargaining unit, the Agency shall implement the following actions:
 - (1) Automatically generate in the remarks section of the employee's Notification of Personnel Action (SF-50) the statement "Continue Dues Withholding, If Applicable".
 - (2) Provide the SF-50 to the gaining payroll technician within the next pay period of the effective date the employee moves from one bargaining unit position to another.
 - (3) Generate a tickler record every pay period listing the employees for whom the preceding remark was generated.
 - (4) In the event that dues are discontinued erroneously, the Agency shall automatically reinstitute previously submitted SF-1187 on the dropped employee's behalf. The Agency shall be responsible for reimbursing the Union in an amount equal to the regular and periodic dues the Union would have received for the period of termination.
- c. The Agency shall terminate dues withholding, as soon as practicable, when an employee leaves a bargaining unit position, either temporarily or permanently, by effecting the following actions:
 - (1) Automatically generate in the remarks section of the employee's Notification of Personnel Action (SF-50) the statement "Employee Has Left Bargaining Unit; Terminate Dues Withholding, If Applicable".

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- (2) Provide the SF-50 to the gaining payroll technician within the next pay period of the effective date the employee leaves the bargaining unit position.
- (3) Generate a tickler record every pay period listing the employees for whom the preceding remark was generated.

In the event that an employee's dues are continued erroneously due to the action or inaction of the Agency, the Agency shall be responsible for reimbursing the employee, consistent with the provisions of Section 2c of this Article.

- d. If the Agency makes an erroneous payment to the Union or employee, the Agency shall correct the erroneous payment by billing the Union or employee directly within thirty (30) days from the payment date. After the Agency bills the Union or employee to correct an erroneous payment, the Union or employee shall verify that the billing is correct and repay the erroneous payment to the Agency within thirty (30) days of being notified of the error. If there is no dispute concerning the overpayment, the Union or employee may negotiate a payment schedule with the Agency. The Union or an Employee may request a waiver of overpayment in accordance with the Agency's directives. Upon such a request, any repayment will be held in abeyance pending a final decision.

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ARTICLE 12
ADDITIONAL VOLUNTARY ALLOTMENT DEDUCTIONS

Section 1. In addition to the regular deductions authorized by Agency directives for national and local Union dues, the Agency shall permit employees to voluntarily designate two (2) additional allotments from their pay, provided said allotments are for a lawful purpose deemed appropriate by the head of the Agency, as permitted by 5 CFR 550.311(b).

Section 2. An employee electing to have a voluntary deduction would complete a voluntary deduction election form. On this form the employee would designate the institution and the amount he/she elects to have regularly deducted from their pay and forwarded to the Union. The employee would then forward this form to the Union.

Section 3. The Union will review the form for completeness and verify that the employee submitting the form is eligible for the program. The Union would then forward the form to the employee's payroll processing center.

Section 4. At the payroll processing center, the payroll technician will again review the form for completeness. Following review, the form would be entered into the Agency's payroll system. Upon entry, the data would be edited to ensure that:

- a. a record for the employee exists on the Employee Master Record;
- b. that the employee's job series equals 2152; and
- c. that the amount being withheld does not exceed \$5,000.

These actions would be completed by the end of the pay period following the pay period in which the document was received.

Section 5. Upon entry and acceptance of the above data into the Agency's payroll system, the amount designated will be withheld each pay period from the employee's salary. The Agency's payroll system will accumulate all amounts withheld per pay period and prepare and forward to the Treasury Disbursing Office a Standard Form (SF) 1166, Voucher and Schedule of Payments, for a single payment in the amount of the total accumulated deductions. In addition, the Agency's payroll system will generate and forward to the Union a detailed report by Region listing each employee, the employee's address, and amount withheld in support of the amount remitted each pay period. The Agency's payroll system will also record accumulated year-to-date (pay year) totals for each individual's deductions and will cease taking deductions when the amount deducted would cause the year-to-date total deduction to exceed \$5,000. If desired, the list will be provided on magnetic tape. However, it will be the Union's responsibility to provide or pay for a blank tape.

Section 6. Responsibilities.