

Collective Bargaining Agreement

Between

The Adjutant General of New Mexico

&

Army & Air Technicians Local 1636 (L.I.U.N.A.)

Effective through 7 January 2011



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PREAMBLE

The parties hereto agree as follows:

WHEREAS the public interest, unit operational readiness and national security requires high standards of technician performance, the continual development and implementation of modern and progressive work practices to facilitate improved performance and efficiency; and

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

WHEREAS the participation of technicians should be improved through the maintenance of constructive and cooperative relationships between the UNION and management officials; and

WHEREAS subject to law and the paramount requirements of public service, unit operational readiness and effective labor-management relations within the Federal Service require a clear statement of the respective rights and obligations of labor organizations and agency management; and

WHEREAS it is in the best interests of the parties to maintain fair and reasonable working conditions, improved programs designed to aid management and employees in achieving their acknowledged and reasonable objectives, the highest degree of morale and responsibility, the adjustments of all differences which may arise related to matters covered by this agreement, systematic employee-management cooperation and a safe and healthful working environment;

NOW THEREFORE, and subject to final approval by the Adjutant General of New Mexico and the Department of Defense, and to ratification by membership of Army and Air Technicians Local 1636 (L.I.U.N.A.), the parties hereto agree as follows:

ARTICLE 1 - AUTHORITY

This agreement is entered into between the New Mexico National Guard, hereinafter referred to as "Management," and Army and Air Technicians Local 1636 (L.I.U.N.A.), hereinafter referred to as the "UNION," under the authority contained in Title VII Public Law 95-454.

ARTICLE 2 - GENERAL PROVISIONS

2.1 Under the provisions of Chapter 71, Title 5 of the United States Code, management recognizes Army and Air Technicians Local 1636 (L.I.U.N.A.) as the exclusive representative of all non-supervisory, non-professional, non-managerial, General Schedule, and Wage Grade employees, including the positions of personnel clerk (typing) GS-0203-05 and GS-0203-06, employed by the New Mexico Army and Air National Guard with the exception of the following:

- a. All supervisory, professional, and managerial employees, including the positions of Production Controller (Aircraft) GS-1152-09, Motor Vehicle Operator WG-5703-09, Aircraft Ordnance Systems Mechanic GS-6652-11, Aircraft Pneudraulic Systems Mechanic WG-8268-11, and Electronic Measurement Equipment Mechanic (Army) WG-2602-12, and Personnel Management Specialist GS-0201-09, employed by the New Mexico Army and Air National Guard.
- b. A confidential employee;
- c. An employee engaged in personnel work in other than a purely clerical capacity;
- d. An employee engaged in administering the provisions of this chapter;

e. Both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

f. Any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security;

g. Any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity; or

2.2 Terms and provisions of this agreement will apply only within the recognized unit for which negotiated, and will not be contrary to any regulation of a higher authority in effect as of the effective day of this agreement.

ARTICLE 3 - EFFECTIVE DATE, TERM AND AMENDMENT

3.1 This agreement, when signed by the parties, will remain in effect for a period of three (3) years from the date approved by the Department of Defense (DoD). It shall be automatically renewed for three (3) year periods thereafter unless either party shall notify the other party in writing not more than 105 calendar days but not less than sixty (60) calendar days prior to such date or any subsequent anniversary date of its desire to renegotiate the agreement. It is agreed that if such notice to renegotiate has been given, this agreement shall remain in full force and effect in order to provide the parties an opportunity to renegotiate the agreement. Any amendments or supplements that may be subsequently negotiated shall remain effective concurrent with the basic agreement. No section or article of this agreement will be changed without the parties' mutual agreement.

3.2 When either party desires to amend this agreement, it must give written notice to the other party of the intent to reopen this agreement at least sixty (60) days prior to eighteen (18) months after the effective date of this agreement (mid-term of this agreement). The written notice must include a summary of the issue(s) proposed for negotiation. Negotiations will begin no later than thirty (30) days following the eighteen (18) month re-opener date. Amendments and supplements may be negotiated at any time when such revisions are required by changes in applicable laws or the regulations of appropriate authority (government wide regulations).

ARTICLE 4 - PUBLICATION AND DISTRIBUTION OF THE AGREEMENT

Management will publish and make available to each employee any new agreement and any revisions to the existing agreement. Copies of this agreement will be posted to the Human Resources Office (HRO) web page. All associated forms will be in fillable format. Supervisors will ensure their employees have access to the HRO web page. New employees will be informed of this information.

ARTICLE 5 - MANAGEMENT, UNION, AND TECHNICIAN RIGHTS

5.1 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 take other disciplinary actions against such employees;

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

(c) with respect to filling positions, to make selections for appointments from--

(i) among properly ranked and certified candidates for promotion;

(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 exercise of 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.

c. In addition to the above management rights, the adjutant general is given special authority in Public Law 90-486 (82 Stat 755; 32 USC 709) to take the following actions and the right of appeal shall not extend beyond the adjutant general.

(1) Separate a technician who is separated from the National Guard, or ceases to hold the military grade specified for his position by the secretary concerned.

(2) Separate a technician who fails to meet the military security standards.

(3) Separate a technician for cause.

(4) Separate a technician for reduction-in-force, removal, or take adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in technician rank or compensation.

(5) The Equal Employment Opportunity Commission is final approval authority for EEO cases and the Federal Labor Relations Authority is final approval authority for UNION rights violations.

d. Notice of Separation:

(1) A technician shall be notified in writing of the termination of his/her employment as a technician and such notification shall be given at least thirty days prior to the termination date of such employment.

(2) Temporary, probationary/trial employees are not entitled any advance notice of termination. Indefinite and permanent military technicians who fail to reenlist or extend their enlistment following notification or voluntarily cease membership in the New Mexico National Guard are not entitled to any advance notice of termination.

5.2 REPRESENTATION RIGHTS:

a. The UNION is the exclusive representative of the technicians in the unit and is entitled to act for, and negotiate collective bargaining agreements covering, all technicians in the unit.

b. The UNION shall be notified in advance and be given the opportunity to be represented at:

(1) Any formal discussion between one or more representatives of the agency and one or more technicians in the unit or their representative concerning any grievance or any personnel policy or practices or other general conditions of employment; or

(2) Any examination of a technician in the unit by a representative of the agency in connection with an investigation if;

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

(b) The employee requests representation.

c. Management will furnish to the UNION, upon request, available data in the HRO technician personnel records that is reasonably necessary for the proper representation of a bargaining unit employee who has filed a grievance.

d. Management will provide the UNION president and vice-presidents, upon request, but not more often than quarterly, a list of bargaining unit employees and their duty locations. This information will be provided without charge and within a reasonable amount of time.

e. Management will solicit recommendations from the UNION in the development of the Affirmative Employment Plan as it pertains to changes in personnel policies, practices and matters affecting working conditions within the scope of bargaining for employees they represent. In addition, the UNION encourages solicitation of UNION views on the overall Equal Employment Opportunity Plan. Management will provide each UNION official a copy of the published Affirmative Employment Plan.

f. The employer agrees to negotiate with Local 1636 on all negotiable matters required by law affecting the employees' condition of employment or, as applicable, on the implementation of any new policy or procedures to be used and/or appropriate arrangement for adversely affected employees.

g. Article 5.2 is limited by restrictive laws and regulations concerning privacy, and by the reasonable expectations of privacy of all employees.

5.3 TECHNICIAN RIGHTS:

a. Index of rights: The following is not complete but a summarized guide. UNION or management officials can provide answers to specific questions from bargaining unit employees. This section does not in and of itself grant rights not otherwise found elsewhere in this contract, in regulations, or in law. This section is not to be used to interpret rights or determine facts.

b. Each technician has the right to form, join, or assist any UNION, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each technician shall be protected in the exercise of such right. Such rights include the right:

(1) to act for the UNION in the capacity of a representative and the right, in that capacity, to present the views of the UNION to heads of agencies and other officials of the executive branch of the government, the Congress, or other appropriate authorities, and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by technicians in the unit.

c. Nothing in this agreement prevents a bargaining unit employee, regardless of UNION membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, rules, regulations, or established agency policies, or from being represented by an attorney or other representative,

other than the UNION of the employee's own choosing in any grievance or statutory appeal action, except those filed under the negotiated grievance procedures.

d. Nothing in this agreement shall require a technician to become or to remain a member of the UNION, or to pay money to the UNION except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions.

e. Management shall not discipline or otherwise discriminate against a technician because he has filed a formal grievance, complaint, or given testimony under Title VII Public Law 95-454.

f. The employer and the UNION shall take such action consistent with law and regulation, as may be required, in order to inform employees of their rights and obligations, as prescribed in the Civil Service Reform Act of 1978 as amended, and this article.

g. **ACCOUNTABILITY:** An employee is accountable for the performance of official duties and compliance with standards of conduct for federal employees and as per the Joint Ethics Regulation (JER), DoD 5500.7-R, as amended, and AGONM Technician Personnel Regulation 735.

h. **NONDISCRIMINATION:** No employee will be unlawfully discriminated against by either the employer or the UNION because of race, color, creed, religion, sex, national origin, age, marital status, physical handicap or lawful political affiliation. Also, no employee will be subjected to reprisal/retaliation for having filed a discrimination complaint.

i. A technician will not be precluded from presenting his/her views to officials of the executive branch, the Congress, or other appropriate authority.

j. Technicians have the right to apply and be considered for promotion to vacancies for which they are qualified and eligible for appointment in the area of consideration.

k. Employees have a right to copies of material used in a charge, investigation, or to prepare a grievance or complaint, provided the request meets all legal and regulatory requirements.

l. Employees have the right to working conditions that are safe and healthful.

m. Employees have the right to training normally considered necessary to ensure satisfactory job performance, at no cost to the employee, based on the availability of funds and training allocations. Training includes, but is not limited to, new equipment training, new procedure training, new technologies training, and training required as a consequence of new job requirements.

n. Employees have the right to express concerns involving improvement of work methods and working conditions.

o. Employees have the right to leadership that ensures that employees understand what is expected of them, to whom they are directly responsible and what is expected of them in their work relationship with their fellow employees.

p. Employees have the right to privacy consistent with law, regulation, and this agreement.

q. Employees are entitled access to a copy of this agreement and all subsequent agreements.

r. Employees are entitled access to a list of UNION officials and stewards. This list is to be compiled and maintained jointly by management and the UNION and posted on the HRO website.

s. Employees have the right to UNION representation during meetings:

- (1) With supervisors or managers when the employee suspects the purpose is disciplinary or adverse in nature.
- (2) On appeals to performance appraisals.

- (3) On disciplinary or adverse actions.**
 - (4) On grievances relating to:**
 - (a) Conditions of employment.**
 - (b) Relationships with employer representatives or other employees.**
 - (c) EEO complaints.**
 - (5) Regarding arbitration - when invoked by the UNION or management.**
 - (6) Regarding Reduction-In-Force.**
 - (7) When being counseled regarding possible sick leave abuse.**
 - (8) Regarding unacceptable performance and appraisal appeals.**
 - (9) Regarding any other items covered by laws, rules, or regulations.**
- t. Employees are entitled to a consistent work period only varied for mission requirements and then with as much prior notice as possible. (Normally not less than two weeks except in cases of emergencies).**
 - u. Employees are entitled to withholding of UNION dues, and other UNION sponsored pension plans.**
 - v. Employees are entitled access to personnel information (TPRs, Regs., SOPs, procedures, etc., affecting employment).**
 - w. Employees are entitled to suitable accommodations on TDYs as defined by existing policies.**
 - x. Employees are entitled to be conferred when establishing or changing performance standards.**
 - y. Employees are entitled to be considered for incentive awards.**
 - z. Employees are entitled to use the Technician Assistance Program and the Employee Assistance Program.**
 - aa. Employees are entitled to voluntarily participate in physical training activities as defined by The Adjutant General.**
 - bb. Employees are entitled to an annual vacation and other permissive uses of annual leave.**
 - cc. Employees are entitled to a reasonable amount of time to vote.**
 - dd. Employees are entitled to special arrangements for religious observances.**
 - ee. Employees are entitled to have a UNION representative present when discussing a problem of alleged discrimination with an EEO counselor, if the employee so desires.**
 - ff. Employees are entitled to other rights provided by law, rule and regulation as may now be in force or may be enacted in the future.**

ARTICLE 6 - UNION REPRESENTATION

6.1 UNION OFFICIALS:

- a. Management agrees to recognize L.I.U.N.A. National Officers and Representatives, the local president, elected officials, and individual stewards as specified in this agreement.
- b. The agency agrees to negotiate with Local 1636 on all negotiable matters required by law affecting the employees' conditions of employment or, as applicable, on the implementation of any new policy or change in policy affecting the employees' conditions of employment.
- c. The local president of the UNION or his/her designated representative will be spokesperson for the UNION and shall have the right to consult and negotiate with management on any and all matters covered by this agreement. The contact for the president is through the labor relations specialist as the designated representative for the adjutant general for labor-management relations.
- d. The UNION president will be the labor relations specialist's point of contact for matters pertaining to the entire bargaining unit and matters pertaining to his/her specific branch of service. The executive vice-president will be the point of contact for the other branch of service.
- e. When management exercises its right to implement a new policy or practice, or a change to an existing policy or practice, the UNION shall have the opportunity to represent the bargaining unit.
- f. Representation shall occur at the lowest level at which a matter can be resolved, and the initial attempt at resolution normally should occur between the UNION steward and the first level supervisor. If either party believes resolution of a matter of concern is outside its jurisdiction, the matter shall be referred to those officials of the employer or the UNION who may have the authority to act upon the problem. Management recognizes that sharing ideas may save time and money. At management's discretion, the UNION will be consulted before drafting of new or changed policies or practices. The parties agree that the UNION shall at all times have the right to offer proposals and ideas to the lowest level management official. A copy will be provided to the HRO or his authorized representative whether in written or oral form.
- g. The UNION will supply the human resources officer in writing, and shall maintain on a current basis, a list of authorized stewards and officers and the group of technicians each represents. The Human Resources Office will publish a list of approved stewards and the technicians they represent for distribution and posting on appropriate bulletin boards where there are four or more technicians employed.
- h. If requested by the technician concerned, UNION officers and stewards will be allowed a reasonable amount of official time from their assigned duties without loss of pay to receive, investigate, prepare and present employee grievances, appeals, or complaints, or to discuss with appropriate officials of the employer other matters related to personnel policies, practices, and working conditions affecting bargaining unit employees. The UNION agrees that it will guard against the use of excessive time whenever such representational duties are being performed during regular hours. Reasonable time for receiving, investigating, preparing, and presenting a complaint, grievance, or appeal must necessarily depend on the facts and circumstances of each -- e.g., number and nature of allegations, number and complexity of supporting specifics, the volume of supporting evidence, availability of documents and witnesses and similar considerations. A reasonable amount of official time for representational purposes will be granted. A UNION representative required to travel for representational purposes in an appellate proceeding will be granted a reasonable amount of official time for this purpose.
- i. UNION officers and stewards, when they are requested to leave their worksite to perform representational duties, shall first coordinate with and receive approval from their immediate supervisor, or in the absence of the immediate supervisor, the next higher level of supervision. Approval, without unnecessary delay, will normally be granted unless compelling circumstances preclude leaving at that particular time. If approval is denied, the supervisor will inform the UNION representative of the reason for the denial and of the earliest possible time when UNION representative can leave his/her worksite. If the approval is delayed, the time frame for any presentation or claim will be extended the same amount of time. UNION officials and stewards will report back to their supervisors when they return from their representational duties. If the UNION representative must meet with supervisors, management officials, or employees in another shop or work-site, management will ensure that these individuals are available to meet before the representative leaves their work area.

j. Any bargaining unit employee serving as a UNION negotiator in collective bargaining sessions with the employer shall be authorized official time for such purposes, including attendance at impasse proceedings. The number of people representing the UNION and management will normally be the same on each team. The parties may decide within ground rules the maximum and minimum number to be on each team.

k. When the employer calls a meeting with UNION representatives or arranges such a meeting at the request of the UNION to discuss matters of mutual interest, the UNION representatives will be granted official duty time for such meetings.

l. In the interest of efficient conduct of government business and the economical use of government time, and in order to draw a reasonable distinction between representational and non-representational duties, those activities concerned with internal management of the UNION, or solicitations of membership, collection of dues, campaigning for UNION officers and conduct of elections for UNION officers will be conducted outside regular working hours. Upon advance written request and subject to normal security restrictions, the UNION shall be granted permission to conduct membership drives of up to thirty (30) days duration each per year during the non-work status of the employees involved, provided there is no interference with the work of the employer. Such membership drives shall not exceed two per calendar year.

m. There shall be no restraint, coercion, or discrimination against any UNION official because of the performance of duties in consonance with this agreement and the Civil Service Reform Act.

6.2 STEWARDS:

a. Management will recognize the individual stewards authorized by this agreement.

b. Stewards will be employed in one of the organizations, or activities they represent. Stewards in the Army National Guard will be limited as follows:

- (1) Onate Complex (Excluding CSMS) (Maximum 2 stewards)
- (2) Combined Support Maintenance Shop (Maximum 2 stewards)
- (3) Army Aviation Support Facility (Maximum 2 stewards)
- (4) Field Maintenance Shop 4-A – Springer (Maximum 2 stewards)
- (5) Field Maintenance Shop 3 – Albuquerque (Maximum 1 steward)
- (6) Field Maintenance Shop 3-A – Rio Rancho (Maximum 2 stewards)
- (7) Field Maintenance Shop 2 – Las Cruces (Maximum 2 stewards)
- (8) Field Maintenance Shop 1 – Roswell (Maximum 2 stewards)
- (9) Field Maintenance Shop 1-A – Clovis (Maximum 1 steward)
- (10) MATES (Maximum 2 stewards)

c. Stewards in the Air National Guard will be limited to five (5) total.

d. The steward normally will represent the employees of their designated areas in dealings with supervisors about the application of personnel practices and other matters affecting working conditions in the designated area. Officers or stewards as assigned are authorized to represent individuals in other parts of the bargaining unit in accordance with the following criteria:

- (1) The technician requests and justifies alternative representation to the UNION President.

(2) UNION steward normally will not cross the vice-presidential geographical areas as listed below.

(a) Area 1 - Units/activities in Santa Fe including the CSMS, FMS 4, FMS 4A, and Camp Luna Training Site.

(b) Area 2 - Units/activities in AASF and RTI

(c) Area 3 - Units/activities in USPFO and Warehouse

(d) Area 4 - Units/activities in Air Guard, FMS 3, FMS 3A, and Socorro/Stallion Training Site.

(e) Area 5 - Units/activities in FMS 1, FMS 1A, and Roswell Training Site.

(f) Area 6 - Units/activities in MATES, FMS 2, and Deming Training Site.

(3) UNION officials (executive vice-president and president) representation requests will be coordinated with the labor relations specialist in the HRO, and

(4) In order to be fair to the UNION, management and the individual concerned, the UNION agrees that it will guard against the excessive use of the same representative for this purpose.

e. Area vice-presidents of the UNION will act as chief stewards and work with the next higher level of management in their designated area. Area vice-presidents when acting as chief stewards will attempt to resolve conflicts that could not be settled between stewards and the first level supervisors. Conflicts that cannot be resolved by a chief steward will be referred to the UNION president.

f. The UNION will appoint a substitute steward for any steward that will be on an extended absence and will notify the Human Resources Officer in writing, of the change and effective date.

g. Immediate supervisors and stewards should endeavor to establish a good day-to-day relationship. In their day-to-day relationship, immediate supervisors should endeavor to keep stewards informed of matters affecting technicians in their employment area. In their discussions of personnel policies, practices and working conditions with the immediate supervisor concerned, stewards will be recognized as an official representative of the UNION with equal status.

6.3 OFFICIAL TIME:

a. UNION officials and stewards will be credited with official time when performing representational duties. When such duties are performed away from their regular place of business they will be paid travel and per diem IAW VOL II of the JTR by the employer subject to prior approval by the HRO.

b. The UNION agrees that it will guard against excessive use of this provision by using the closest representative consistent with good representation.

c. UNION officials on official time for representational duties will be afforded an area of privacy as determined by management.

ARTICLE 7 - ATTIRE

The following procedures will be used in issue and care of attire:

a. Army: Maintenance technicians (direct labor positions) will be provided three (3) 100% cotton coveralls and two (2) insulated coveralls to include cleaning and repair or replacement as necessary of such coveralls, through a

contract service to be determined by management. Insulated coverall may be provided IAW negotiations between the SAO and other facility managers and Local 1636 officers.

b. Air: Personnel as defined by the air commander or designee, in consultation with Local 1636, will be provided three (3) 100% cotton coveralls and two (2) insulated coveralls to include cleaning and repair or replacement as necessary of such coveralls, through a contract service to be determined by management.

ARTICLE 8 - NEGOTIATION

8.1 GENERAL PRINCIPLES:

- a. Management and the UNION, through appropriate representatives, shall meet at reasonable times and negotiate in good faith with respect to conditions of employment, subject to law, personnel requirements, and regulations.
- b. Matters appropriate for negotiation shall include conditions of employment and all negotiable matters under law affecting working conditions within the recognized unit.
- c. In prescribing regulations relating to conditions of employment and working conditions, management shall have due regard for the obligation imposed in paragraph a, above.
- d. It is the mutual obligation of management and the UNION to meet at reasonable times and negotiate in good faith. Such obligation does not, however, compel either party to agree to any specific matter.
- e. It is agreed that informal discussion or negotiation, as provided in this agreement between management and the UNION, on matters of personnel policy or application of this agreement may resolve many differences. The labor management relations specialist and the local president and vice-president will maintain an "open door" policy for discussion by phone, in writing, or appointment on matters of mutual concern which are appropriate for discussion in accordance with this agreement, and if either party requests, the parties agree to meet promptly. The matters requiring the need of the meeting will be specified in advance.
- f. Negotiations will be as stated in this agreement.

8.2 NEGOTIATIONS:

- a. 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. The procedures established in this article shall be used by the parties when negotiating on matters affecting the employees' conditions of employment, or as applicable, on the implementation of any new policy or change in policy affecting the employees' conditions of employment. These procedures also apply to the negotiation of supplements and amendments to the basic agreement between the parties. The employer agrees to provide the UNION with advance written notice of and an opportunity to negotiate on these negotiable matters. Both parties recognize the others right to submit changes or additional counterproposals at the bargaining table.
- b. The following procedures will be used when negotiating agreements, amendments or supplements to this agreement. Negotiation sessions may be requested in writing by either party. Such requests shall state the specific subject matter to be considered at such sessions, and shall contain written proposals for consideration by the other party.
 - (1) The negotiating teams of each party shall consist of no more than five (5) members.
 - (2) The chief spokesperson for each party will speak for their respective teams, but may at their discretion allow their other team members to participate in any discussion. A chief spokesperson shall be designated in writing by each party.
 - (3) Names of the members on each negotiating team will be exchanged formally by the parties in writing no later than three (3) calendar days prior to the beginning of negotiations. Any changes regarding team membership will be submitted to the other party no later than one (1) day prior to the next negotiation session.

(4) Negotiations will begin on a mutually agreed date no later than the thirty (30) days from receipt of proposals. The employer will furnish a room suitable for negotiations, and will allow both parties to caucus.

(5) All negotiations and reasonable time to prepare shall be conducted on official duty time. This shall include a reasonable amount of time to prepare and present matters to the Federal Mediation and Conciliation Service and the Federal Service Impasses Panel.

(6) Upon reaching agreement on any supplement or amendment to the contract, the chief spokespersons shall signify agreement by initialing the agreed upon item. Upon reaching agreement on all supplements or amendments, the agreement shall be signed by the members of both negotiating committees, ratified by the UNION members in a manner prescribed by the UNION, and upon ratification, signed by the UNION president and the employer. It is recognized by the parties that all supplements or amendments to this agreement are subject to review for legal and regulatory compliance by DoD. Any supplements or amendments will remain effective concurrent to the basic agreement.

(7) Upon reaching agreement on a proposed new policy or practice, or a proposed change to existing policy or practice affecting the conditions of employment of bargaining unit employees, the spokespersons of the employer and the UNION shall sign the agreement reached, with a copy of the agreement provided to both parties.

8.3 NEGOTIATIONS OF AGENCY POLICY AND PRACTICES: When management exercises its rights to implement a new policy or practice, or a change to existing policy or practice, the UNION shall have ten work days in which to review the employer's policy, practice, or procedure and advise the employer of its intentions. Failure to notify the Human Resources Office will be construed as an acceptable change. If the UNION has questions regarding the change, or desires clarification, the UNION shall make a request to the Human Resources Office to meet to discuss and clarify the change. The UNION will indicate the specific area(s) requiring clarification or discussion, and the employer will arrange a meeting at a mutually agreed upon time. If after discussion, the change is acceptable to the UNION, the UNION shall notify the employer of this fact. If the change is unacceptable after discussion, the UNION shall submit a written request to retain the current policy or negotiate the change, to the Human Resources Office within five workdays. To facilitate the negotiating process, all requests for negotiations shall be accompanied by a copy of the specific proposal desired by the UNION.

8.4 UNION EMPLOYER MEETINGS:

a. The parties agree that meetings between representatives of the employer and the UNION shall be held as the need arises for the purposes of exchanging information of mutual interest; attempting to resolve problems concerning the working environment of bargaining unit employees; administering this agreement; and conferring on personnel policies, practices or other matters affecting the working conditions of bargaining unit employees. UNION-Management meetings shall in no way nullify or abrogate the right of the UNION to negotiate on all negotiable matters. Such meetings shall be conducted in an atmosphere that will foster mutual respect. In the interest of efficient use of personnel resources, the parties agree that the number of UNION representatives in attendance at such meetings shall be no more than five (5) or less than two unless mutually agreed by both parties to effectively transact the business of the meeting. Management and the UNION will have an equal amount of representatives each to the UNION-Management negotiation meetings. UNION representatives will be on official time for the negotiation meetings.

b. Joint UNION-Employer meetings shall be held at mutually agreeable times upon request by either party. Either party desiring to meet with the other shall give advance notice to the other party. Specific item(s) for discussion normally will be provided in advance of the meeting by either party, although items not submitted may be discussed if it is mutually agreed to do so. A summary of the meeting, reflecting items discussed and decisions reached, shall be furnished to the UNION by the employer when the parties mutually agree in advance that a written record of the meeting is necessary. New or changed policy proposals which cannot be readily agreed to at a UNION-Employer meeting may be submitted for negotiation in accordance with negotiation procedures established in this agreement. UNION-Employer meetings will be conducted during regular working hours, (Mondays through Fridays from 0800

to 1630) with UNION officials in attendance authorized official time. Emergency meetings will be arranged for the convenience of both parties involved as soon as possible after a request by either party is received, and such requests shall indicate the subject matter for discussion.

ARTICLE 9 - GRIEVANCE PROCEDURES

9.1 GENERAL:

a. **Scope:** This negotiated grievance procedure shall apply to matters of concern or dissatisfaction regarding: the interpretation, application or violation of law, regulation or this agreement; published policies; conditions of employment; prohibited personnel practices; or relationships with supervisors and management officials. It shall apply to all matters as indicated above whether or not set forth in this agreement. It shall be the sole procedure available to the UNION and technicians for resolving such grievances.

b. The UNION and the employer recognize the importance of settling disagreements and disputes in a prompt, fair, and orderly manner which will maintain the self-respect of the parties involved and be consistent with the principles of good management. To accomplish this, every reasonable effort will be made to settle grievances expeditiously and at the lowest possible level of supervision.

c. Grievance Coverage:

(1) Except as provided in this article, any matter of concern or dissatisfaction to a technician, which is subject to the control of management, and is related to conditions of employment of bargaining unit employees can be grieved through this procedure.

(2) This does not apply to:

(a) Non-adoption of a suggestion or disapproval of quality salary increase, or performance award, or other kind of honorary or discretionary award.

(b) A preliminary warning or notice of an action which, if affected, would be covered under the grievance system.

(c) Any claimed violation relating to prohibited political activities.

(d) Retirement, life or health insurance.

(e) An examination, certification or appointment.

(f) Any matter relating to the classification of any position except for the duties outlined in that position description.

(g) Actions in accordance with PL 90-486 and (32 USC, Sec 709 [f]), for which the right to appeal shall not extend beyond the adjutant general; These are reduction in force, (except that the UNION may grieve any violation of the RIF procedures that are negotiated), or adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in compensation.

(h) Matters for which no personal relief to an employee is appropriate, as agreed upon by management and the UNION.

(i) Performance appraisal disagreement

d. Right to Grievance:

(1) A technician is entitled to present a grievance under provisions of this article. Management shall accept and process a properly presented grievance in accordance with this grievance system.

(2) A technician, in presenting his/her grievance, is entitled to communicate with and seek advice from:

(a) The Human Resources Office;

(b) The State Equal Employment Opportunity Office and/or an equal employment counselor;

(c) A supervisory or management official of higher technician grade than the technician's immediate supervisor and in the immediate supervisor's direct technician chain of command;

(d) A representative of the EAP and/or;

(e) UNION official or steward.

(3) A technician, in presenting a grievance under the grievance system shall:

(a) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal;

(b) Have the right to be accompanied, represented and advised by a representative of the UNION or to represent himself/herself; and

(c) Be assured a reasonable amount of official time if he/she is in a technician status.

(4) When the UNION designates a UNION representative as the grievant's representative, the representative, in presenting a grievance shall:

(a) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal; and

(b) Be assured a reasonable amount of official time if he/she is in a technician status.

e. Cancellation of technician grievance. Management will cancel a grievance:

(1) At the technicians request;

(2) Upon termination of the technician's employment unless the personal relief sought by the technician may be granted after termination of his employment;

(3) Upon the death of the technician unless the grievance involves a question of pay;

(4) Not timely filed; or

(5) When corrective action requested is disciplinary action against another employee or supervisor.

9.2 GRIEVANCE PROCEDURES:

a. The employee will bring the complaint/grievance to a UNION official or will present the complaint to the first-line supervisor.

b. The UNION official will evaluate the merits of the complaint and advise the employee whether to proceed. Any grievance shall be brought within 15 working days after the employee has knowledge of the original incident or action that gave rise to the grievance.

c. If the complaint is to proceed, the employee initiates the informal grievance form, HR Form 771-1, and notifies the first-level supervisor of the filing of the grievance and the need for official time. The first-level supervisor will contact the labor relations specialist in the Human Resources Office to determine the lowest

level of supervision that can address the grievance, date, and forward the grievance to that lowest level of supervision.

d. The grievance will be taken to the lowest level of resolution for discussion. The lowest level of resolution will contact the grieving party. A discussion will take place within 10 working days of the initial notification to the first-level supervisor of the intent to grieve. If the grievance is resolved at this stage, the resolution will be documented and signed by both parties.

e. If resolution is not agreed upon, the parties have five days to enter into facilitated discussion. A facilitator, mutually agreed upon, will be found within the organization or from an external source. This facilitator might be another supervisor, a UNION official, a co-worker, or a person trained in mediation. If the grievance is resolved at this stage, the resolution will be documented and signed by both parties.

f. If there is no resolution as a result of the facilitated discussion, the complaint will be forwarded for review to the highest level of supervision below the deciding official prior to forwarding to the deciding official as a formal grievance. This level of supervision may recommend a second facilitated discussion, with the agreement of both parties. This level of supervision has five working days to decide to attempt a second facilitated discussion or forward the complaint to the deciding official as a formal grievance. If the grievance is resolved at this stage, the resolution will be documented and signed by both parties. If there is no resolution, the grievance is forwarded to the deciding official as a formal grievance.

g. If either party in the grievance procedure does not agree to a facilitated discussion as a result of their initial meeting, as described in step e, the party refusing facilitated discussion will be represented in a facilitated discussion as follows:

(1) Management will be represented by the next higher level of supervision, unless the next higher level of supervision is the deciding official. If the next higher level of supervision is the deciding official, the complaint will be forwarded as a formal grievance.

(2) The employee will be represented by a UNION official. The result of the facilitated discussion will be implemented only with the concurrence of the employee. If the grievance is resolved at this stage, the resolution will be documented and signed by both parties. If resolution is not achieved, the complaint is forwarded to the highest level of supervision below the deciding official for review step f.

h. Once a grievance is forwarded to the deciding official, it is considered a formal grievance. Within five working days the deciding official will a) render a decision or b) suggest and participate in alternative dispute resolution as signatory in any resolution, or c) appoint a alternate deciding official with signatory authority to participate in alternative dispute resolution, or d) without resolution, recommend arbitration to the adjutant general. The grievant will either a) accept the deciding official's decision, or b) agree to alternative dispute resolution. If the grievance is resolved at this stage, the resolution will be documented on HR Form 771-2 and signed by both parties. If there is no resolution, the UNION may invoke arbitration on behalf of the grievant by completing HR Form 771-3.

i. The facilitated discussions referred to in steps e, f, g, and h shall commence within 15 working days from the time parties agree to enter into facilitated discussion. This time may be extended under extenuating circumstances by mutual agreement.

j. Working days means the working days of the grievant.

k. Alternative dispute resolution refers to any consensual process leading to resolution of a dispute such as facilitation, mediation, or last-chance agreements.

l. Any process that could lead to adverse or disciplinary action should involve a mediator rather than a facilitator from within the organization.

9.3 PROCEDURES FOR UNION OR EMPLOYER GRIEVANCE:

a. Either the UNION or management may file grievances:

(1) Management grievances may only be filed with and by the HRO on behalf of management. HRO should attempt to resolve the grievance at the lowest possible level in an informal manner.

(2) Any UNION official (this includes UNION stewards) may start an informal grievance at step b in 9.2 however before a UNION grievance can go formal in step h of 9.2, the UNION president or executive vice president must file a formal notification to grieve with the HRO.

b. If discussion regarding either UNION or management's grievance fails to resolve the issue either party may request mediation or arbitration within twenty (20) working days after discussion has failed. If mediation is mutually agreed to, the time frame for filing for arbitration will be extended until the final decision/recommendation from the mediator is received and approved or rejected by the parties.

9.4 GRIEVANCE STEP ADVANCEMENT: Failure to observe the time limits for any step in the grievance procedure shall entitle the grievant to advance the grievance to the next step. Failure of the grievant to observe the time limits at any step of the procedure will have the effect of canceling the grievance as untimely. All time limits of this article may be extended by mutual consent. A grievance may be withdrawn by the proponent at any time.

9.5 If an employee does not request representation by the UNION in any grievance presentation, the UNION will be advised of the meeting and allowed to provide a UNION representative there to represent the Local.

**NEGOTIATED GRIEVANCE FORM
INFORMAL**

Notification of Intent to File Grievance (Informal)

Name:

SSAN:

Title:

Organization:

This grievance involves the interpretation, application, or violation of:

Nature of the grievance (use additional forms if necessary)

Corrective action desired:

Designated representative in this grievance:

SIGNATURE OF GRIEVANT	DATE	SIGNATURE 1ST LINE SUPERVISOR	DATE RCVD
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Discussion at lowest level for resolution of grievance took place on:

Was grievance resolved? If YES (please provide details of resolution and sign below). If NO (please indicate whether mutually agreed upon facilitated discussion will take place and whether an internal or external facilitator will be used. If parties do not mutually agree to facilitated discussion, please indicate below, both parties sign and date below and forward grievance to next level supervisor) (use additional forms if necessary)

GRIEVANT'S SIGNATURE AND DATE	LOWEST LEVEL SUPERVISOR SIGNATURE AND DATE
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HR FORM 771-1

**NEGOTIATED GRIEVANCE FORM
FORMAL**

Deciding Official's Review/Decision

If after review of grievance, resolution is reached, document details of resolution and provide signatures of grievant and deciding official and date below. If resolution is not reached, indicate below, sign and date and forward all forms and documentation to the Human Resources Office ASAP.

GRIEVANT/UNION SIGNATURE AND DATE

DECIDING OFFICIAL'S SIGNATURE AND DATE

HR FORM 771-2

NEGOTIATED GRIEVANCE FORM

UNION's Request for Arbitration

The decision of the deciding official is not acceptable for the reasons given below. It is requested that the grievance be submitted to arbitration in accordance with Article 10 of the Collective Bargaining Agreement.

SIGNATURE
PRESIDENT L.I.U.N.A. LOCAL 1636

DATE

HR FORM 771-3

ARTICLE 10 – ARBITRATION

10.1 GENERAL:

- a. Any grievance not satisfactorily settled under the above procedure shall be subject to binding arbitration which may be invoked by either the UNION or the NMNG.
- b. The Human Resources Office, upon request by either management or UNION, will request a list of arbitrators. All requests for arbitration must be submitted within twenty (20) work days of the decision and signed by the UNION President or the Adjutant General or his designee.

10.2 SELECTING THE ARBITRATOR:

- a. Within five (5) work days from the date of receipt of request, the parties shall attempt to select an arbitrator. If the parties are unable to agree upon an arbitrator, they shall immediately request the Federal Mediation and Conciliation Service to submit a list of seven (7) impartial persons qualified to act as arbitrators. A brief statement of the nature of the issues in dispute will accompany the request to enable the service to submit the names of arbitrators qualified for the issues involved. The request will include a copy of the bargaining agreement. The parties shall meet within five (5) work days after receipt of such list to select an arbitrator. If they cannot agree upon one of the listed persons, management and the UNION will each strike one arbitrator's name from the list of seven and shall repeat this procedure until only one name remains. The remaining name shall be the only and duly selected arbitrator. The winner of a coin toss will determine which party strikes first.
- b. The party requesting arbitration may withdraw the request at any time prior to the actual convening of a hearing or submission of the case to the arbitrator. However, once a definite hearing date has been established with an arbitrator, it is agreed that the party requesting such a withdrawal will make every reasonable effort to notify the other party and the arbitrator of its desire as far in advance of the scheduled hearing date as possible.
- c. In the event that an arbitrator's costs are incurred due to the late withdrawal of the request for arbitration, the party requesting withdrawal shall pay such costs. In the event that costs are incurred due to postponement of arbitration hearing caused by management failure to release a witness, management will bear the cost of the postponement.

10.3 ARBITRATION PROCESS:

- a. Fees and expenses of the arbitrator shall be paid by the losing party including the cost of transcript if required by the arbitrator. The employer and the UNION shall share equally the expense of any mutually agreed upon services in connection with the arbitration. The parties shall bear their own individual services expenses during the arbitration proceedings. Costs of the arbitration will be shared equally in the event the decision renders no winner/no loser.
- b. Both parties will request the arbitrator to render his decision as quickly as possible, but no later than thirty (30) days after the conclusion of the hearing.
- c. The provisions of 32 USC 709(f), United States Code are excluded from arbitration, in that they have other statutory appeal rights.
- d. The arbitration hearing will normally be conducted during duty hours. Technicians required to attend the hearing as complainants, witnesses, etc., will attend without loss of pay or leave and may be provided government travel if justified.
- e. A submission to arbitration hearing should be used when a formal hearing is necessary to develop and establish facts relevant to the issue. In this case, a formal hearing is convened and conducted by the arbitrator. The arbitration hearing shall be held on employers' premises during the regular day-shift hours of the normal basic work week. The aggrieved employee, his/her UNION representative, and the employee witnesses who have direct knowledge of the circumstances and the factors bearing on the case shall be excused from duty for a reasonable period of time without loss of pay or charge to annual leave to prepare for arbitration. The aggrieved employee and

his/her UNION representative will be granted official duty time to participate in the arbitration proceeding. The employer agrees to assure that all witnesses otherwise in a duty status will be readily available to testify as required by the Arbitrator. Employee participants assigned to tours of duty other than the regular day-shift will be temporarily placed on the day-shift for the day(s) of the arbitration hearing. Travel and per diem shall be borne by the employer but not to exceed the maximum allowed in Vol. II, Joint Travel Regulation.

f. Following selection of the arbitrator and indication of his/her availability, the parties will attempt to prepare a joint letter submitting the issue or issues to be decided by the arbitrator. Such letter(s) shall present the matter(s) upon which arbitration is sought and shall include the agreement provisions governing the arbitration. If the parties fail to agree on a joint submission of the issue(s) for arbitration, each party will submit, in writing, a statement of what they believe to be the issue(s) to the other party and to the arbitrator. The arbitrator shall then determine the issue(s) to be decided, to include any questions.

g. When the employer and the UNION agree to the facts at issue, and believe that an arbitration hearing would be unnecessary, the parties may submit in writing a joint stipulation of facts to the arbitrator with a request that a decision be rendered based upon the facts jointly presented.

h. The arbitrator shall have no authority to add to, change, modify, alter, or delete any provision of this agreement. The authority of the arbitrator will extend to the interpretation of agency regulations, provision of law, or regulations of appropriate authorities outside the agency. The arbitrator will make no findings of fact, recommendations, or interpretations of this agreement except to the extent necessary to resolve the issue(s) submitted or determined.

i. The arbitrator's decision shall be binding on the parties. However, either party may file exceptions to the arbitration award in accordance with the provisions of Title VII of the Civil Service Reform Act and the Rules and Regulations of the Federal Labor Relations Authority. If either party files an exception to the Authority, a copy will be submitted to the other party.

ARTICLE 11 - USE OF OFFICIAL TIME

11.1 OFFICIAL TIME: With supervisory approval in consideration of mission, UNION officers and officials, including stewards, shall be permitted reasonable time during working hours, without loss of leave or pay, to effectively represent employees in accordance with this agreement. Reasonable time for representational functions is applicable to the following situations and conditions:

- a. All negotiations shall be conducted on official duty time.
- b. Reasonable time for receiving, investigating, preparing and presenting a complaint, grievance, or appeal must depend on the facts and circumstances of each case.
- c. Reasonable time for an authorized UNION observer of a complaint, grievance, or appeal action shall be the time necessary to observe the proceedings to their conclusion.
- d. Reasonable time for the Secretary-Treasurer to file necessary reports to the Internal Revenue Service and to the Department of Labor.

11.2 UNION TRAINING SESSIONS:

- a. Official time, not to exceed a total of 400 hours per fiscal year, may be granted to the UNION for use of duly elected or appointed officials of the local, including stewards of the UNION, to enable them to attend UNION sponsored training sessions, provided the subject matter of such training is of mutual concern of the government and the technician in his capacity as an organization representative and the governments' interest will be served by the technician's attendance. In addition 18 hours of official time may be granted to first-time elected stewards for UNION-sponsored training. The UNION agrees to guard against excessive (NTE 40 hours) of official time for UNION sponsored training per UNION official per fiscal year. Provided there is a cogent reason why a newly

elected official could not utilize his/her 18 hours during the first fiscal year in office, then the individual may use his/her time in the next fiscal year, but as soon as possible.

b. Technician UNION officials will be excused from technician duties unless mission requirements prohibit such attendance.

c. The local president will submit a request for personnel to be excused for UNION sponsored training to the Adjutant General, ATTN: NMAG-HR, no later than fifteen (15) days prior to the training session. Exceptions to the 15-day requirement will be considered if based on proper justification. The request will contain the names of technicians, the type and agenda of the training to be conducted and justification that the training will serve the governments' interest.

ARTICLE 12 - DISCIPLINARY AND ADVERSE ACTIONS

Determining the appropriateness of a penalty relies not only on establishing factual circumstances but also on application of judgment and prudent discretion. Selection of an appropriate penalty results from a responsible balancing of relevant factors. These factors are discussed in Appendix C, National Guard Bureau Technician Personnel Regulation 752. Disciplinary and adverse actions procedures contained in National Guard Bureau Technician Personnel Regulation 752 will apply to all bargaining unit employees with the following provisions:

a. Counseling an employee can normally resolve a problem without the need for disciplinary or adverse action. Counseling is a friendly business like exchange of information guided by the supervisor. It is a private matter between the employee and his/her supervisor and has the specific purpose of improving the employee's knowledge of a particular subject; it is not a disciplinary action. A problem can also be resolved by warning an employee. This too is a private matter between the employee and his/her supervisor and is not a disciplinary action. Unlike counseling, a warning has a more serious intent because along with a business-like exchange of information, is a warning that disciplinary or adverse action may result if the problem is not corrected.

b. Oral admonishments are included under the negotiated grievance procedures.

c. Letters of admonishment and reprimand shall be specific in nature. All such letters will be filed as temporary documents in the OPF and may be retained for a period of 1 to 2 years depending on the severity of the action. They must be removed from an employee's file immediately upon completion of the time period as stated in the letter. Once a letter of admonishment or reprimand is removed from the employee's file, it will not be referred to for purposes of progressive discipline. Employees will be permitted to examine their employee record cards (NGB 904-1) upon request. After six months, and upon an employee's request, an admonishment or reprimand may be removed earlier than the time period stated if, in the opinion of the permanent supervisor, the action has served its purpose.

d. If the individual has reasonable doubt that the appointed reviewing official or hearing examiner would not for cogent reason provide an impartial investigation/hearing, the individual may request, in writing, to the HRO, together with any evidence that the reviewing official or hearing examiner should be replaced by another individual. The HRO will study the evidence and advise the adjutant general.

ARTICLE 13 - PROMOTIONS

13.1 PROMOTIONS: The procedures established by Technician Personnel Regulation 335 will apply in the promotion and placement of all competitive and excepted bargaining unit employees with the following provisions:

- a. When management has not made a decision on reinstatement to former grade, employment at entrance level position and other authorized non-promotional personnel actions to fill vacancies within the recognized unit, employees in the bargaining unit interested in reassignment opportunities may notify the HRO of their interests. Management has the right to fill a position from any appropriate source. However, employees within the bargaining unit who are qualified for a position, must receive first consideration of their request for reassignment.
- b. When management decides to affect a temporary promotion by means other than merit promotion, the UNION will be notified first.
- c. Technicians receiving temporary promotion will receive the pay for the position to which temporarily promoted.
- d. Recommendations from the UNION will be considered for merit promotion plans and the UNION will be consulted prior to any changes.
- e. Vacancy announcements will contain a re-promotion statement.
- f. Vacancy announcements will be opened (posted) for a minimum of 15 calendar days, but normally 21 calendar days.
- g. Positions which can be filled by either Army or Air technicians may be opened to either Army or Air technicians, or concurrently to both, depending on regulatory or strength ceiling limitations.
- h. Applicants applying for a position requiring warrant officer status must submit evidence of eligibility.
- i. Qualified eligible candidates will be certified as follows:
 - (1) On vacancies advertised to presently employed technicians only, all qualified eligible applicants will be certified and referred to the selecting official.
 - (2) On vacancies which are advertised outside of presently employed technicians, and there are more than 10 qualified eligible applicants, a panel of three or more will screen and evaluate prior to referral.
 - (3) In making a selection, the selecting official shall either interview all referred applicants or shall interview none. Interviews shall be either face-to-face or by telephone.
- j. If the employee files a grievance and is represented by the UNION, the employee representative shall be permitted to review any and all documents used in evaluating all candidates for promotional purposes. If copies of documents are requested by the UNION or its authorized representative, the agency will furnish data not prohibited by law.
- k. The Human Resources Office will post all vacancy announcements on the HRO web page and furnish a copy of each vacancy announcement to the UNION president.

13.2 TEMPORARY PROMOTIONS: Temporary promotions within the recognized unit may be used to meet situations requiring the temporary services of a technician in a higher graded position. Competitive procedures must be used when the promotion will last for more than 120 days. Whenever practical, temporary promotions made without competition should be rotated among qualified technicians. The minimum practical period for a temporary promotion is 30 days; otherwise management should use detail to address temporary substitute workload needs. Each occurrence of a higher graded technician's absence should be used to afford other qualified technicians than those previously temporarily promoted, an opportunity for temporary promotion. Management should inform the UNION when

temporary promotions are made. This notification should be made at the lowest possible level, for example the first line supervisor could discuss it with the UNION steward. In accordance with Title 5 USC temporarily promoted technicians will be paid at the higher grade.

13.3 DETAILS:

- a. A detail is the temporary assignment of a technician to a different position for a specified period, with the technician returning to his regular duties at the end of the detail. Details are normally made when a special project or a temporary increase in work load requires the use of additional personnel for a period of time.**
- b. The assignment of additional duties to a position or the assignment of additional duties to fill in for a technician on temporary absence does not constitute a detail as the technician is not temporarily assigned to a different position.**
- c. Whenever practical, details for higher positions under thirty (30) days will be rotated for each period of detail among available and eligible technicians.**
- d. All details of National Guard technicians will be reported on Standard Form 52 by the supervisor and submitted to the Human Resources Office. Details of over 30 days will be filed as a permanent record in the technician's Official Personnel Folder. Details of less than 30 days will be filed as temporary records on the left side of the Official Personnel Folder.**
- e. Supervisors will record on NGB Form 904-1 appropriate experience obtained by detail or assignment of additional duties that may qualify a technician for promotion or reassignment.**
- f. Management should inform a UNION representative when details are made. This notification should be made in advance when possible.**

ARTICLE 14 - REDUCTION-IN-FORCE (RIF)

14.1 REDUCTION-IN-FORCE PROCEDURE:

- a. Through careful planning and use of other administrative techniques the employer will attempt to minimize the adverse impact of a RIF on bargaining unit employees. This agreement and National Guard Bureau regulations covering reduction-in-force procedures will be utilized by management in carrying out its responsibilities throughout the RIF process.**
- b. The employer agrees to inform the UNION of an impending reduction-in-force affecting bargaining unit employees as soon as they become aware. Bargaining as appropriate shall commence upon request of the UNION in accordance with the article on negotiations.**
- c. The employer in collaboration with the UNION will review the tenure, and the Service Computation Date (SCD) for each employee that may be affected by reduction-in-force after competitive area(s) have been established and prior to issuance of individual RIF notices. The UNION representative will be on official time during this process. The employer agrees to remind technician personnel annually of the importance of verifying their SCD.**

d. A specific reduction-in-force notice will be given to affected bargaining unit employees not less than 60 days prior to the effective date of the reduction-in-force and will include but not be limited to:

- (1) Reason for reduction-in-force.**
- (2) Specific action to take place (separation, furlough, offer of change to lower grade, etc.)**
- (3) Title, grade, and salary of current position.**
- (4) Competitive area and competitive level designated.**
- (5) Service computation date, technician service date, and retention rating.**
- (6) The position title, grade, salary, and location of any position offer or the reason why no offer can be made. Also, include the military grade requirements.**
- (7) Reasons for any exceptions to retention orders.**
- (8) Effective date of proposed action (none during 15 December through 3 January.)**
- (9) Where the technicians may review retention registers and reduction-in-force regulations and the HRO personnel specialist to contact for information.**
- (10) Appeal rights, how to file them, and any time limits.**
- (11) A clear explanation of the technician's grade and/or pay retention entitlements.**
- (12) Severance pay eligibility.**
- (13) Placement information and eligibility for reemployment priority list.**
- (14) Discontinued service retirement eligibility.**
- (15) A request for the technician to acknowledge receipt of the notice and to accept or decline any offer.**

e. In the event of a RIF, existing vacancies in the competitive area will be utilized to the maximum extent practicable to place bargaining unit employees in continuing positions who would otherwise be separated. In addition adversely affected employees may be considered for vacancies in other competitive areas within the bargaining unit after placement consideration in their competitive area has been completed.

f. Competitive areas will be reviewed at the time the HRO receives notification of an action requiring a reduction-in-force. HRO will inform the UNION regarding the proposed competitive areas and the procedure that will be followed as soon as a reduction-in-force is indicated. These will be negotiated, as appropriate, if the UNION requests negotiations.

g. At all stages of the RIF process, the UNION will have the opportunity to review all applicable job descriptions and retention registers, including any undated or changed job descriptions or registers. In addition, all documents which relate to the need and purpose of the RIF and are legally releasable shall be made available to the UNION throughout the RIF process. The UNION will render its assistance in communicating to employees the reasons for the RIF through normal representational duties.

h. Where it is determined by the employer that an employee being separated fails to fully qualify for a vacant position at a lower grade for which being considered but has the specialized skills and abilities to perform the duties of that position in a satisfactory manner without undue interruption to the work program, the employee may be placed in the position.

- i. The employer will consider placing temporary employees in continuing temporary positions for which they qualify to the extent practicable. However, temporary employees within the affected competitive area will be separated prior to permanent employees, in accordance with RIF regulations.**
- j. Upon written application, bargaining unit employees are entitled to re-promotion consideration for positions for which they qualify up to the grade previously held, in accordance with the provisions of the merit promotion plan and governing laws and regulations.**
- k. If the employer determines that the training of displaced employees would make a direct contribution to the employee's placement, every reasonable effort will be made to make training available at government expense.**
- l. The UNION shall be notified of all individual RIF actions involving bargaining unit employees. This shall be accomplished by affording the UNION an opportunity to review RIF placement records prepared by the Human Resources Office. Such records shall include employee's name, grade, job title, and organization, job title and grade of position offered, if applicable; or separation, if applicable.**

14.2 OUTPLACEMENT:

- a. The employer agrees that in a reduction-in-force of bargaining unit employees, as defined by NGB TPR 351, all applicable existing outplacement programs will be fully utilized, to include full utilization of the DoD Priority Placement Program for bargaining unit employees who are eligible. The primary aim of these programs will be to find a position in the federal service for each affected bargaining unit employee.**
- b. The UNION and employer will jointly encourage each employee to see that his/her personnel file and application are up-to-date as soon as a reduction-in-force is announced. The employer will work with affected bargaining unit employees in registering in existing outplacement programs and assuring that application and Official Personnel Files are current. The employer agrees to allow designated UNION representatives to be present to assist the bargaining unit employee during the registration process, provided the request is made in writing by the employee and acknowledged by the UNION. Outplacement program eligibility will be discussed during the registration process in accordance with pertinent program regulations. The duration of a bargaining unit employee's registration in outplacement programs will vary depending upon the specific program(s) for which registered. Any retraining costs will be provided only as and to the extent permitted by law.**

ARTICLE 15 - TECHNICIAN TRAINING

15.1 RESPONSIBILITIES: The employer recognizes the responsibility to provide training and career development opportunities for all employees that will improve their skills, knowledge and abilities to perform their official duties, both present and future. The employer will ensure that, in the selection of technicians for training, there is no discrimination because of race, color, religion, sex, national origin, or other factors unrelated to the need for training. Merit principles will be followed in selecting technicians for training that is given primarily to prepare technicians for advancement and that is required for promotion. When training is to be given to some, but not all of the technicians in a given occupational or organizational group or level, the following will be considered in selecting from among those who might be trained:

- a. The relative degree of technicians' need for the training.**
- b. The relative length of time, and degree to which the employer expects to benefit from the technicians' improved knowledge, skill, and performance.**
- c. The technicians' own interests in and efforts to improve his work.**
- d. The relative ability of the technicians to pass the training on to others upon returning to the job.**

15.2 TRAINING/UNION CONTRACT AGREEMENT: Management and UNION will jointly conduct training sessions for all technicians on the contents of this agreement.

15.3 SCHEDULED TRAINING: It shall be a matter of interest and concern for management and the UNION that appropriate training courses, seminars, conferences, and meetings be scheduled, whenever possible, during working hours to allow the technicians the opportunity to gain information, education, and training. Management will identify, schedule, and pay for employee training.

15.4 RECORDS: Management agrees to record training accomplishments in accordance with applicable directives. This does not relieve the employee to keep his/her personnel records current and complete to fully reflect technician training. The UNION agrees to encourage employees to review their personnel folders.

15.5 EQUIPMENT: Subject to its approval and determination of hours, management agrees to make available such computers, typewriters and calculators as are generally used on-the-job by an employee which are reasonably necessary for success in the approved course.

ARTICLE 16 - WORK SCHEDULE, HOURS OF WORK, OVERTIME, LEAVE

16.1 ADMINISTRATIVE WORKWEEK: The administrative workweek shall consist of seven (7) consecutive calendar days, Sunday through Saturday.

16.2. ALTERNATIVE WORK SCHEDULES AND HOURS OF WORK:

a. The work schedule of the Army & Air National Guard will be as recommended by the UNION-Management teams identified in paragraph 16.2.b. and approved by the adjutant general.

b. Separate Air National Guard and Army National Guard UNION-Management teams (The Army National Guard will have a team for the Army Aviation Support Facility-AASF, one for ground maintenance activities, and one for all other NMARNG technician personnel) will be established consisting of two UNION members appointed by the UNION and two persons appointed by management (the air commander or designee for the Air Guard and the command administrative officer or designee for the Army Guard) who will, using the Interest-Based Bargaining process and through team consensus, decide if the current work schedule is productive. If the consensus is that another schedule would better suit the mission, that schedule will become the schedule for that activity following I & I bargaining with the UNION at the activity, as defined in 16.2(a) and (b), with approval of the adjutant general. If needed, the teams will meet on an annual basis to re-evaluate the work schedule for productivity.

c. Activities on a flexible tour of duty must ensure that personnel are available to respond to mission requirements during core hours of their established schedule.

(1) Core hours will be established by management after bargaining with the UNION.

(2) Once the earliest starting time and latest quitting time are established by the supervisor, a technician can then select his/her individual starting time and work 10/9/8 hours there after. This will establish the technician's tour of duty upon approval of the supervisor.

16.3 BASIC WORK WEEK:

a. For those with an approved hardship, and therefore not participating in the alternative work schedule, the basic workweek shall be five (5) consecutive eight (8) hour days each week.

b. Management will attempt to accommodate an employee who finds the alternative work schedule to be a hardship. The employee shall make a written request to management for exception or reassignment in accordance with 5 USC 6127(b) (2).

16.4 CHANGES IN WORK SCHEDULE AND HOURS:

a. The days and hours of a technician's work schedule may be changed if the technician receives as much advance notice as possible, but not less than one (1) week notice before the first day of work affected by the change. However, the one (1) week notice shall not be required when the command administrative officer (NMARNG) or the air commander (NMANG) determines that the organization to which the change applies would be seriously handicapped in carrying out its function or that costs would be substantially increased. This applies to both temporary and permanent changes.

b. The UNION will be consulted on any changes to the work schedule, tours of duty, or hours of work.

c. Management will consider individual requests from Air National Guard technicians for changes in rotation of work schedule on a three-month basis, considering mission, section assignments, occupational series, skills and abilities of the technicians involved. The decision about whether a technician's work schedule will be changed or rotated will be made by the chief of the activity, or his or her designee.

d. When a vacancy occurs on a shift after the initial assignment, employees from other shifts who volunteer will be considered. Employees may exchange shifts on a permanent or temporary basis if both agree to the exchange and management approves.

16.5 OVERTIME AND GRANTING COMPENSATORY TIME OFF:

a. **OVERTIME:** Overtime is necessary and proper work authorized by the supervisor in excess of the regular work schedule. Overtime can be earned in increments of 15 minutes and must be authorized by the second level supervisor.

(1) The employer and employees mutually agree that overtime within the bargaining unit will be kept to a minimum, consistent with mission and workload requirements as determined by the employer. The employer agrees that overtime work assignments shall be distributed equally as practicable on a rotating basis among all qualified employees within the trade, craft, or occupation in the organizational element for which overtime has been authorized. In no case will overtime work be assigned to any employee as a reward or punishment. Bargaining unit employees assigned to work overtime must be qualified to perform the overtime work in a safe, efficient, and expeditious manner.

(2) The employer agrees that overtime records shall be maintained on overtime performed, and that information on assignment of overtime shall be made available to the employee and his/her UNION representative upon request.

(3) The employer shall notify affected bargaining unit employees of the necessity to perform overtime work immediately after establishing firm overtime requirements. The employer will provide this notice at least three workdays prior to the scheduled period of overtime. However, the parties agree that emergency situations may preclude such advance notice of overtime work.

(4) A bargaining unit employee may decline a scheduled overtime assignment with reasonable justification and the employer determines that another qualified employee is available and willing to perform the work and that the full work requirements can be met.

(5) In cases of emergency, as determined by the employer, where bargaining unit employees are not informed of overtime assignments prior to the start of their tour of duty, and are expected to work more than two (2) hours beyond the end of their daily tour of duty, an opportunity to obtain food at their expense, and a non-paid thirty (30) minute lunch period to consume it at the work-site will be provided. The non-paid lunch period shall be free from all duty obligations, unless the nature of the work is such that it cannot be interrupted, in which case the employer will allow the food consumption to be on a work status basis.

(6) Work scheduled on holidays, when not meeting the definition of emergency, will require that notice be given to the employee at least thirty (30) days in advance, or immediately following notification of such requirement.

b. GRANTING COMPENSATORY TIME OFF: Compensatory time earned and credited to the technician's leave record will be scheduled and taken off within thirteen (13) pay periods from the pay period in which it was earned. There are no provisions for restoration of compensatory time. Supervisors and employees must take positive steps to ensure that accrued compensatory time is scheduled for use to avoid forfeitures.

16.6 REST PERIODS: Supervisors are encouraged to grant short rest periods during the daily tour, when such periods are beneficial or necessary. The policy adopted will be stated in writing, and the technicians will be advised accordingly.

a. Criteria for determining the policy are as follows:

- (1) Protection of technician's health by relief from hazardous work or that which requires continual or considerable physical exertion.
- (2) Reduction of accident rate by removal of fatigue potential.
- (3) Working in confined spaces or in areas where normal personal activities are restricted.
- (4) Increase in or maintenance of high quality or quantity production traceable to the rest period.

b. Rest periods granted in accordance with these provisions are considered duty time and are included in the daily tour of duty.

- (1) The rest period may not exceed fifteen (15) minutes during each four (4) hours of continuous work.
- (2) If the period from the beginning of the daily tour to the luncheon period is less than four (4) hours, a rest period should be granted only in unusual circumstances.
- (3) The rest period may not be a continuation of the lunch period.
- (4) Technicians in a position requiring extended periods at computers/terminals will be required to take a rest break away from his/her computer/terminal; such rest breaks will be for 10 minutes, every hour of work at the computer/terminal.

16.7 LUNCH PERIOD: All employees shall receive, at their discretion, a one-half to one hour lunch period, except in emergency situations. The lunch period will be approximately midway through the tour of duty. The employee shall be free to leave the worksite during this period.

16.8 CALL BACK: An employee will be granted a minimum of two (2) hours of overtime for each unscheduled call back period from the time the call is received on a day when work was not scheduled for him/her, or for which he/she is required to return to his/her place of employment, whether he/she works the two hours or not.

ARTICLE 17 - SAFETY AND HEALTH

17.1 GENERAL:

a. The employer shall institute an effective occupational safety and health program, meeting the requirements of the Occupational Safety and Health Act of 1970 (OSHA), and applicable regulations. UNION officials involved in activities or representation pursuant to this article shall be considered to be on official duty. Employees shall receive official time to participate in any activities under this article.

b. The UNION may be represented on the Air National Guard AFOSH Council and the Army National Guard State Safety Council by one member each. Selections of the UNION representative will be made by the respective chairman of the Council from the two persons nominated for each position by the UNION.

17.2 SAFETY INSPECTIONS: Qualified safety personnel will inspect all work places at least annually, upon request of a UNION official, to ensure compliance with Occupational Safety and Health guidance. A UNION representative

shall have the right to accompany in the inspection on official time. The UNION will be provided a copy of these inspection reports upon request.

17.3 HEALTH AND SAFETY POLICIES:

- a. The employer will provide safe and sanitary working conditions and equipment in consonance with standards promulgated under the Occupational Safety and Health Act of 1970 (OSHA). In consonance with applicable rules and regulations, the employer shall post and keep posted a notice or notices informing employees of the protection and obligations provided for in the OSHA.**
- b. The employer will provide two (2) initial pairs of suitable safety footwear (hard toe, water proof, cleats, etc) at no charge to the employee; safety eye wear (goggles, face masks or glasses, etc) replaceable when the employees prescription changes; protective clothing; protective equipment and safety devices for employees engaged in activities requiring same in consonance with applicable directives. All personal protective equipment to be replaced on a fair wear and tear basis and/or as required. Cleaning and repair of issued safety and environmental clothing will be provided by the employer. Protective devices, when necessary and required by management, will be furnished and used by technicians as prescribed by regulation and directives. All personal protective equipment will be personally fitted on a case-by-case basis.**
- c. The employer recognizes the potential danger to health and safety and the possible resultant lost time and resources to the government of an unsafe work area. The employer agrees to work with the Safety Office to ensure that working areas are reasonably free of health hazards.**
- d. The employer will ensure that employees that are assigned machinery or equipment operation duties are properly trained so as to lessen the likelihood of injury to themselves or others.**
- e. The employer will ensure that employees work safely and employees will report any observed unsafe or unhealthy conditions to their immediate supervisor. Stewards and other representatives of the UNION, in the course of performing their normally assigned responsibilities, are encouraged to observe and report unsafe practices, equipment and conditions, as well as environmental conditions in their immediate areas which may represent health hazards. The employer assures that no degradation, restraint, interference, coercion, discrimination, or reprisal will be practiced as a result of an employee reporting an unsafe practice or condition.**
- f. An employee may decline to perform a work assignment when the employee has a reasonable belief that he/she is in imminent risk of death and he/she does not have sufficient time to seek redress through normal corrective procedures.**
- g. When an employee feels that he or she is subject to conditions so severe that even a short-term exposure to such conditions would be detrimental to health or safety, he or she will report the circumstances to the immediate supervisor and UNION official. The supervisor (or other management official) and UNION official (if available) will inspect the work area to ensure that it is safe before requiring the employee to carry out the work assignment. If any doubt regarding the safety of existing conditions is raised by either the supervisor or UNION official a ruling shall be obtained from the appropriate safety official. The supervisor shall grant the employee immediate relief from any unsafe or unhealthy circumstances, pending permanent resolution of the problem. When short-term exposure requires immediate solution and it is not possible to obtain employer concurrence beforehand, the employee will terminate his/her on-duty action and so notify the employer. Temporary assignments to other duties will be given by the employer. The employee may grieve the decision of the safety officer or within thirty (30) days of the incident at the formal stage of the negotiated grievance procedure.**
- h. The employer shall promptly abate all safety and health hazards that are reported by employees or found during inspections. When an imminent dangerous situation is discovered, it will be brought to the immediate attention of the supervisor in charge who will take prompt action to eliminate or reduce the hazard or cease operations and withdraw exposed personnel until such actions can be taken. Supervisors of work places where serious hazards are present will post a "Notice of Hazard" in the immediate area of the hazard to warn personnel in the area. The employer may enter into a contract with an outside agency to accomplish the work in a hazardous area or use only qualified in house personnel to perform the work.**

i. Appropriate Army or Air Force regulations regarding temporary modifications of uniform wear for weather conditions and safety considerations will be observed.

j. The Safety Office (ARMY) or the Safety Officer (AIR) or supervisor shall have the right to stop an act or action which is unsafe or unhealthy to the employee or other employees in a facility.

17.4 ON THE JOB INJURY OR ILLNESS: Employees will report to their supervisor immediately all injuries or illnesses which occur on the job.

a. In case of serious on-the-job injury or illness or death of an employee, the employee's supervisor shall notify the appropriate UNION steward as soon as possible.

b. The injured employee's supervisor (with the steward present if requested by employee) will, as soon as possible, explain to the employee his/her rights and options under the Federal Employees' Compensation Act; supply the employee with copies of the appropriate Office of Workers' Compensation Programs (OWCP) forms; and ensure that the forms are properly completed.

c. The employer shall process and promptly forward to OWCP, employee and employer documentation required when an employee sustains an on-the-job injury or contracts an occupational disease and elects to file a claim. The employer shall consult with the injured employee and UNION official, if employee requests in writing. The injured employee shall be supplied with a duplicate copy of the completed forms.

d. With management's approval, employees who are temporarily unable to perform their regular assigned duties because of illness or injury, but who are capable of returning to or remaining in a duty status, may be detailed to work assignments compatible with their physical condition or placed on leave. Every reasonable attempt will be made to accommodate these temporary situations. Such details will be documented IAW Article 13.3.

e. As soon as practicable after official notification to the nearest of kin, the employer shall notify the UNION of serious on-the-job illness, injury, or death of an employee in the unit so that the UNION may extend UNION benefits to which the employee and/or employee's family may be entitled.

f. In consonance with applicable rules and regulations, on-the-job accident and illness records shall be maintained and reported by the employer. (A copy of all such reports shall be provided to the UNION upon request).

17.5 The term "imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures. In the case of imminent danger situations, employees shall make reporting and abatement procedures. If the supervisor believes the condition or corrected condition does not pose an immediate danger, then the supervisor shall request an inspection by the appropriate state safety officer as well as contact the designated UNION representative. A UNION representative shall be afforded the opportunity to be present at the time inspection is made. If the state safety officer decides the condition does not pose an immediate danger, reports by the most expeditious means available, to his/her supervisor or the next higher level supervisor who is immediately available. The employee has the right to decline to perform his or her assigned tasks because of a reasonable belief that under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through normal hazard, the instruction to return to work shall be in writing and contain a statement declaring the area or assignment to be safe. Any refusal to perform such assignment after the state safety officer's decision or written instruction to return to work might be cause for discipline. It is also understood that at any time the management official finds there is an immediate danger, the employee will not be obligated to return to the assignment until the imminent danger is removed.

ARTICLE 18 - UNION DUES

18.1 AUTHORIZATION:

- a. UNION dues shall be deducted from the pay of all bargaining unit eligible technicians of the recognized unit, which excludes supervisors and managerial technicians, who voluntarily authorize such deductions. Any such authorization may not be revoked for a period of one (1) year.
- b. A technician may authorize an allotment for his pay to cover UNION dues provided he is a member of the UNION in good standing and his net salary, after other legal and required deductions, is regularly sufficient to cover the amount of the authorized allotments.

18.2 UNION RESPONSIBILITY: The UNION agrees:

- a. Local president or secretary-treasurer will certify on the Standard Form 1187 to the amount of the dues and UNION membership.
- b. Transmit the completed Standard Form 1187's to the Human Resources Office, 47 Bataan Blvd., Santa Fe, New Mexico 87508.
- c. To educate its members on the program for allotment for payment of dues and it's voluntary nature, and the uses and availability of the required forms.
- d. To notify the human resources officer within five (5) workdays when a UNION member is expelled, suspended, or for any reason ceases to be a member in good standing. The notice will be in writing, signed by the president or secretary-treasure of the UNION, and will specify the effective date membership will be terminated.

18.3 MANAGEMENT RESPONSIBILITY: Management agrees that:

- a. Payroll deductions for UNION dues will take effect the first full pay period after the receipt of Standard Form 1187 in Human Resources Office provided the Standard Form 1187 is received five (5) workdays prior to the beginning of the pay period; if not the deduction will begin the following pay period.
- b. The Human Resources Office will notify the UNION upon receipt of a revocation.
- c. When a technician is in a non-pay status for an entire pay period, no withholding will be made from future earnings to cover that pay period.
- d. The payroll offices will make the remittances for UNION dues. The employer may withhold funds for dental and for Industrial Pension Plan, after each pay period, so long as Defense Finance Administrative Services (DFAS) supports this UNION's request.

18.4 REVOCATION AND TERMINATION OF UNION DUES ALLOTMENTS:

- a. After a period of one (1) year, a member may voluntarily revoke his allotment for the payment of dues at any time by submitting SF 1188, "Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Labor Organization Dues," and submitting it to the HRO. When a member does not desire to use SF 1188, other written notification of revocation signed by the member will be accepted. After receipt of such notice, revocation in any case will not become effective until the first full pay period following the employee's allotment anniversary date.
- b. The allotment will be terminated when a technician leaves the recognized unit as the result of any type separation, transfer, promotion to supervisory position or other personnel action, except for temporary promotion or detail. The allotment will be terminated when a technician has been expelled or suspended from the UNION.
- c. Allotments of all members of the UNION automatically terminate upon loss of recognition of the UNION.

18.5 AMOUNT AND CHANGE OF UNION DUES: UNION dues are currently established at a bi-weekly pay period. Changes in the amount of dues to be withheld shall be accomplished by certification by the local UNION president by letter addressed to the Adjutant General, ATTN: Human Resources Office, 47 Bataan Blvd., Santa Fe, New Mexico 87508.

18.6 EFFECTIVE DATE OF WITHHOLDING ARTICLE: The article on withholding allotments for UNION dues will be effective the first pay period after this agreement is approved by the Department of Defense. All prior agreements on withholding of UNION dues are rescinded on that date.

ARTICLE 19 - FACILITIES

19.1 FACILITIES:

a. Upon request from the UNION, local National Guard officials may make available official space in facilities to the UNION for meetings during off duty hours. The UNION shall be responsible for the care and use of the space and that the space is left in the condition it was received.

(1) The UNION may store files and equipment at the following locations;

(a) ANG - At a place so designated by the air commander.

(b) ARNG - At a place so designated by the Facilities Management Office.

(2) The areas will be kept neat and orderly at all times. No personnel will work there on UNION business or on official time.

(3) The UNION agrees that the government or the New Mexico National Guard will not be held responsible for any loss or damage to any items or equipment stored on the ANG/ARNG premises. The UNION agrees if the space is needed for some official use, the UNION will move their equipment and files upon five (5) days notice to another agreed upon location.

b. Management will provide the UNION with office space in the following areas and the office space will be used in the following manner:

(1) One office will be provided to the UNION in the Santa Fe area and one office will be provided to the UNION at the Air Guard facility. The UNION may identify these offices as UNION offices and may use the offices to consult with bargaining unit members on representational matters, prepare or assist in preparation of grievances or appeals or other authorized functions.

(2) At facilities where there is no UNION office, management agrees to make a concerted effort to make space available to UNION officials for storage of UNION files and on an as needed basis to consult with bargaining unit members on representational matters and for confidential discussions between bargaining unit members and designated UNION representatives, when held in accordance with the terms of this agreement.

(3) If, through consultation with Local 1636 official(s) it is determined that a semi-private or private space is available and that a private space does not impinge on the mission, a third office will be provided at the MATES for representational duties. If a private space is not available, a joint-use area will be provided. Consideration of the UNION's need to consult with employees in a timely manner will be given when determination of what joint-use area will be provided is made.

(4) Each UNION office will be provided with a computer, printer, monitor, telephone line, a desk, at least two side chairs and a secretarial chair, one table, a lockable filing cabinet and necessary office equipment in order for the UNION to properly represent its members, if management determines that equipment is necessary and available.

19.2 SERVICES:

a. UNION officers and stewards will have access to use official phones for representational duties on the same basis as managers and supervisors. The UNION agrees to use the most economical system available to effectively communicate.

b. The UNION president and duly elected officials of the local shall be afforded reasonable use of computers as word processors, at their duty area, for representational duties, but at a priority behind official government use. Subject to management's approval, UNION officers and stewards shall be afforded reasonable FAX machine usage, where available, for other than representational duties, during non-duty hours and in non-secure areas. The UNION agrees to guard against excessive use or use by untrained personnel. The UNION shall provide its own disc and provide or replace paper from time to time.

c. Copies of new and/or revised AGONM technician personnel regulations and changes will be furnished to the UNION. Copies will be in the form of paper or electronic mail. If paper copies are furnished, the total quantity will not exceed two copies, one copy to the UNION president and one copy to the executive vice-president.

19.3 BULLETIN BOARDS: Official bulletin boards which are located at or near the worksites of bargaining unit employees shall be available for use by the UNION in accordance with applicable regulations. Any information posted by the UNION will not violate any law or applicable regulation, or contain libelous material. Any informational matters displayed will clearly indicate whether the information relates to current law or regulation, as contrasted with proposed or introduced law or regulation. The UNION will be solely responsible for all posted material in terms of accuracy and adherence to ethical standards; will ensure that material is kept current; and will maintain its designated bulletin board space in a neat and orderly manner. The space authorized for the UNION's use will be clearly marked with the words "L.I.U.N.A., Local 1636," by L.I.U.N.A.

19.4 PROVISIONS: Only the services and facilities authorized in this article will be provided to the UNION, unless otherwise agreed upon.

19.5 SMOKING/NON-SMOKING AREAS: Smoking/non-smoking areas for all indoor facilities shall be as established by law or regulations for state or federal facilities, as the case may be.

ARTICLE 20 - MISCELLANEOUS PROVISIONS

20.1 PERSONNEL INFORMATION: Management will keep technicians informed of all conditions of employment by letter, memorandum, circular, regulation, job announcements or by informal meetings.

20.2 ORIENTATION OF NEW BARGAINING UNIT EMPLOYEES:

a. All new employees shall be informed by the employer that L.I.U.N.A. Local 1636 is the exclusive representative of employees in the unit. The UNION shall be notified by the Human Resources Office regarding name and place of employment of all new employees and given an opportunity as in Section 20.2 b.

b. Representatives of the UNION shall be afforded a reasonable amount of time, normally not to exceed 15 minutes, to speak at orientation of new employees, to provide such employees with an introduction to the purposes and goals of the UNION.

20.3 TEMPORARY DUTY TRAVEL:

a. **Assignment of Quarters:** When a military technician is performing temporary duty at DoD installations, government quarters will be assigned based upon the military grade of the technician, utilizing the criteria in AR 210-16, AFR 90-9, NGR 90-1, VOL II JTR, or as may be prescribed by Defense Appropriations Acts.

b. **Use Of Quarters:** Use of available adequate government quarters is not mandatory, however, when the quarters are not used, the payment of the quarters portion of the per diem or actual expense allowances may not normally be made.

c. Transportation: Government vehicles will be used for official government business. If private vehicles are authorized for use for official business, payment will be made in accordance with the Joint Travel Regulation VOL II. Arrangements for travel will be made prior to commencement of travel.

d. Temporary duty performed in support of special field training exercises with military unit:

(1) Technician employees, traveling under technician travel orders, who as part of their assigned duties, accompany military units on contingency exercises in the field are not authorized per diem when furnished rations in kind, including field rations and billets at no cost. This pertains even if only a tent is provided for billeting and the technician chooses not to utilize the rations and billeting provided.

(2) A contingency exercise is a military maneuver or simulated wartime operation involving planning, preparation, and execution. These exercises include CPX's, MOBEX, REFORGER, RED FLAG, AT, FTTD, and drill when performed under field duty conditions.

(3) Technician travel orders will state that no per diem is payable, rations and billeting to be furnished at no cost. (This does not preclude reimbursement for occasional meals or quarters necessarily procured during the temporary duty assignment).

e. PRESCRIBED RATE:

(1) Employees who are assigned to support, operate, control, observe, or advise a military function, operation or mission, who remain in civilian technician status, will be paid travel expenses and per diem at the rate prescribed by Joint Travel Regulations VOL II.

(2) The regular working hours of employees may be adjusted to correspond to the normal duty hours of the military unit being supported for the duration of the assignment. Time worked in excess of the regularly scheduled duty day may be claimed as compensatory time worked.

20.4 ENVIRONMENTAL DIFFERENTIAL PAY:

a. An Environmental Differential Pay (EDP) Committee will be appointed by the adjutant general for the purpose of reviewing and making recommendations to the adjutant general of situations and conditions which may form a basis for entitlement to EDP. The committee will include a representative of the UNION.

b. The UNION and the employer agree that the Environmental Differential Pay Program will recognize and compensate New Mexico National Guard wage technicians who are exposed to hazards, physical hardships and working conditions of an unusually severe nature as authorized under applicable directives.

20.5 TRAVEL ORDERS: All temporary duty travel will be authorized or confirmed by issuance of official travel orders as directed by TAG or his designee. Travel orders will be requested ten (10) days prior to the performance of travel unless an urgent or unusual situation prevents prior issuance.

20.6 POSITION DESCRIPTION:

a. Each employee is entitled to a complete and accurate position description, which shall be reviewed annually by the employee and work supervisor. The term "performs other duties as assigned" means duties related to an employee's basic work assignment.

b. Any employee in the unit who feels that he/she is performing duties outside the scope of the position, or that the position is inaccurately described or classified, may request, through the immediate supervisor, that the position be reviewed. In conducting such reviews, the reviewer will consider the employee's written or oral comments. If the employee is not satisfied with the results of such a review, he/she shall be furnished information on grievance and/or appeal rights and procedures. If the employee disagrees with the grade, series, or title of his/her position description, the employee may file a classification appeal through the agency or directly to OPM. In order to file a classification appeal, the employee and the supervisor must certify that the contents of the position are correct. If the employee contends that he/she is performing duties other than as designated on the position description and the

job audit is not to his/her satisfaction, the employee may grieve to have the position description duties match his/her actual duties. Once the PD has been corrected, the employee may proceed with a classification appeal.

20.7 INCENTIVE AWARDS PROGRAM:

- a. Management agrees that the UNION will have one fully participating representative, or an alternate, on the Incentive Awards Committee when considering bargaining unit members.**
- b. Management will notify the UNION representative of the scheduled meetings. Management will encourage the awarding of incentive awards for deserving employees. Technicians may recommend deserving employees to the appropriate supervisor.**
- c. Management will provide to the UNION president or designee a listing of all bargaining unit employees who have received incentive awards at the end of each fiscal year, showing name and position, including work area. This information will be kept confidential by the UNION as a routine user under the Privacy Act.**

20.8 CONTRACTING OUT: The employer agrees that any contracting out of work normally performed by bargaining unit employees will be in accordance with applicable laws. The UNION will be notified as soon as possible of any plans to contract out bargaining unit employee work.

20.9 TECHNICIAN ASSISTANCE PROGRAM (TAP):

a. PURPOSE: The Technician Assistance Program is established to provide counseling, referral services, and other assistance to all technicians to aid them in solving personal problems having an impact on job performance. Any use of this program is strictly voluntary on the part of the technician and confidential in accordance with TPR 792.

b. POLICY:

(1) The New Mexico National Guard is concerned with the accomplishment of the National Guard objectives and the need to maintain technician morale and productivity. The New Mexico National Guard is concerned with a technicians behavior only if their actions interfere with the efficient and safe performance of assigned duties; reduce the dependability of the technician; reflect discredit on the National Guard; or adversely affect other technicians.

(2) The New Mexico National Guard recognizes that alcoholism and drug abuse are preventable and treatable illnesses. Technicians having such illnesses will receive the same consideration and assistance that is presently extended to technicians having other illnesses. The National Guard does not condone illegal drug activity. When there is good reason to believe criminal conduct is directed towards or potentially harmful to the person or property of others, management's first obligation is to those persons or properties, and then to the technician(s) involved. Technicians having a substance abuse problem will be dealt with by use of disciplinary or non-disciplinary procedures as appropriate. However, if a technician's performance or conduct continues to be unacceptable, and if the technician refuses to accept assistance or seek counseling through this program, appropriate corrective action, which may include disciplinary action, will be taken as warranted solely on the basis of unsatisfactory job performance or conduct.

(3) No technician will have his/her job security or promotional opportunities jeopardized by requesting counseling or referral assistance except as limited by Title II, Section 201(c)(2); Public Law 91-616, Section 413(c)(2); Public Law 92-255 and AR 600-300 or AFR 40-202 as they relate to sensitive positions. Medical counseling records will be preserved in the same manner as all other medical records.

(4) Sick leave (or other appropriate leave if requested by the technician) may be granted for the purpose of treatment or rehabilitation. Technicians, who suspect they may have an alcoholism or drug abuse problem, even in the early stages, are encouraged to seek counseling and information on an entirely confidential basis by contacting the State TAP Coordinator.

c. ASSISTANCE PRIOR TO ADVERSE ACTIONS:

- (1) In order to afford reasonable accommodation to a technician who is handicapped by alcoholism or drugs, the employer will offer the technician rehabilitative assistance before initiating any adverse action for continuing misconduct problems related to alcoholism or drug use.**
- (2) In offering rehabilitative assistance, the manager or supervisor need not confront the technician with the belief that the technician has an alcohol or drug problem; but he must do more than simply suggest participation in a rehabilitative program. He must make the technician aware in general terms that he suspects the technician has a problem affecting his conduct, and recommend that the technician participate in a rehabilitative or counseling program available to him under the Technician Assistance Program.**
- (3) When the technician refuses to seek counseling, or if there is no improvement after affording rehabilitative opportunity, management may proceed with the action.**
- (4) No employee acknowledging a drug/alcohol related problem resulting in unsatisfactory performance shall be terminated without first having the opportunity to avail himself/herself of professional help. Successful progress, as determined by a counselor in a rehabilitative program, shall be viewed favorable in consideration of disciplinary action against an employee.**
- (5) UNION representation may be present at any discussion of the worker's progress in treatment, if requested by the employee.**

d. CONFIDENTIALITY: The confidential nature of medical records of employees with medical/behavioral problems shall be maintained. Neither counselors nor any management official shall reveal the name of the person voluntarily seeking assistance without the employee's written consent or as prescribed by law. Access to medical records is on a need to know basis, and normally first line supervisors do not have that information.

e. PUBLICITY: Management shall post its written policy on the program, news about the program, and assurances of confidentiality for participants on official bulletin boards. The UNION agrees to publicize this program through its channels.

f. UNION PARTICIPATION:

- (1) The employer agrees to negotiate with the UNION in policy formulation, any proposed local changes or recommendations relative to the program.**
- (2) UNION officials involved in activities or representation pursuant to this article shall be on official time.**
- (3) The program activities shall be an item on the regularly scheduled meetings of the UNION and management.**

20.10 PHYSICAL FITNESS: UNION and management agree that physical fitness is a personal responsibility. The AG's policy on physical fitness will be followed.

20.11 FURLOUGHS: In the event of furloughs, management and the UNION agree to work cooperatively toward minimizing the impact on all technicians.

20.12 TOOLS: Management agrees to furnish tools that employees are required to use.

20.13 BREAK/LUNCH AREAS: After considering mission requirements, management will make reasonable efforts to provide space, as available, for suitable break/lunch areas.

20.14 OTHER DUTIES AS ASSIGNED:

a. The primary reason for requiring the statement "Performs other duties as assigned" on all position descriptions is to establish the principle that the assignment of duties to employees is not limited by the contents of the position description. Supervisors, as agents of management, are expected to assign other duties as necessary whenever in their judgment the circumstances warrant such action. The objective is to avoid and eliminate the assignment of unrelated incidental duties to positions whenever possible through improved position structuring.

b. USOPM and NGB have emphasized that position descriptions "reflect" rather than "prescribe" the duties supervisors and managers assign to employees. Within the scope of their delegated authority, supervisors have the right to make work assignments to subordinates. Good personnel management prescribes that assignment should be reasonably related to the employee's position and qualifications. It is perfectly reasonable, for example, for a supervisor to assign a clerk-typist the duty of delivering copies of a letter to other offices in the same building even if the employee's position description does not include the statement "delivers copies of letters to other offices." On the other hand, it would obviously be unreasonable for the supervisor to direct the clerk-typist to solve a complex engineering problem, or conduct financial audits.

c. In emergency situations, of course, duties which might not be reasonably related to an employee's position may have to be assigned.

d. Also, there are some situations where what might be considered unrelated duties are normally assigned, e.g., skilled mechanics may, in the normal course of their days work clean up their immediate area.

e. Keep in mind that what may be an acceptable practice in one situation may be unacceptable in another. The assignment of janitorial work to a skilled technician as an incidental duty would normally be unacceptable, but at a small isolated area, it might be the only logical thing to do. If any "other duties" should be assigned with such frequency as to become regularly assigned and they meet the definition of major duties, the position description should be revised. Supervisors should avoid, insofar as possible, assigning additional or incidental duties to employees which are inappropriate to their positions and qualifications.

f. The inclusion of the phrase "performs other duties as assigned" in each position description is a mandatory requirement.

g. During periods when the employee is required to accomplish military related duties, all customary and regulatory military safety (Army National Guard or Air National Guard) precautions will be utilized as appropriate for the military related duty to be accomplished by the employee in accordance with Article 17.3. When in field conditions, water and shelter are prime considerations. Wet bulb safety consideration will be observed. Time to consume lunch will be allowed in accordance with Article 16.7.

ARTICLE 21 - LEAVE AND ABSENCE

21.1 LEAVE AND ABSENCE: Leave will be administered on a uniform and equitable basis, within the scope of applicable laws and regulations. In granting leave, consideration must be given to the needs of the National Guard and the welfare of the technicians.

21.2 ANNUAL LEAVE: Annual leave is a benefit as provided by law and accrues automatically. Annual leave, which will be earned during the leave year, is advanced to Army National Guard technicians leave account at the beginning of the year. Air National Guard technicians accrue and are credited annual leave each pay period. With supervisor's approval, annual leave may be advanced in accordance with applicable regulations and law. Annual leave may be granted to the maximum amount accumulated or advanced. Supervisors have the responsibility to decide when annual leave may be taken. The decision will generally be made based on mission requirements and on the desires of the technician. Annual leave will be approved unless it adversely affects the capability to perform the mission. Supervisors will encourage technicians to schedule their annual leave so as to prevent unintended loss of annual leave at the end of the leave year. In the event that two or more leave requests are submitted for the same day(s) and all requests can not be granted, the request(s) submitted earliest will have priority. In the event that two or more annual leave requests are made simultaneously, the technician with the oldest Service Computation Date (Leave) will have priority. Annual leave may be used by a technician in lieu of sick leave if requested by the technician and approved prior to charging the absence to sick leave. Such substitution must be made before the time the annual leave otherwise would have been forfeited.

21.3 SICK LEAVE CONTROLS: A technician who becomes ill, or is injured is responsible for notifying his/her supervisor as soon as he/she is able to do so. An employee must call his/her supervisor within one hour of the start of the workday and make request for sick leave. Leave for prearranged examinations and treatments should always be requested in advance. Normally sick leave of no more than three (3) consecutive workdays may be approved verbally. A medical certificate and OPM Form 71 will be required under the following conditions:

- a. For absences in excess of three (3) work days upon request of the appropriate supervisor.
- b. Whenever the supervisor believes that sick leave is being abused the technician will be advised in writing the reason for suspected abuse, and that an OPM Form 71, certified by a physician or other medical provider, will be required to support any future sick leave of any amount until such time as the supervisor feels that the situation has been resolved, but not longer than six months unless there has been further suspected abuse. Management may ask the UNION to join the efforts to alleviate this problem.

21.4 ADVANCING SICK LEAVE: Sick leave, not to exceed 240 hours, (30 days), may be advanced to a technician when supported by a medical certificate describing the illness or injury and the anticipated time of disability. Such requests will be forwarded through channels to TAG. Advance sick leave will not be granted unless all available sick leave will be exhausted before advancement, and annual leave, that otherwise would be forfeited, is used and if there is reasonable assurance the technician will return to duty to earn and repay advanced credits.

21.5 COURT LEAVE: An employee is entitled to court leave during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve as a juror or as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party. For purpose of this article “judicial proceeding” means any action, suit, or other proceeding of a judicial nature, but does not include an administrative hearing.

21.6 EXCUSED ABSENCE: An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. While excused absence is ordinarily authorized on an individual basis, groups of technicians may be excused under certain conditions when authorized or approved by TAG.

- a. **TARDINESS AND BRIEF ABSENCE:** Brief absences from duty of less than an hour and tardiness may be excused when the reasons are justifiable to the supervisor. When not justifiable, the absence must be charged to an appropriate leave account. If leave is charged, the technician will not be required to work during leave period, and the supervisor will inform the technician accordingly.
- b. **BLOOD DONATIONS:** A technician who makes a blood donation (without monetary compensation) will be excused immediately following the donation for a reasonable time for recuperation (maximum 4 hours). Blood donations should be scheduled by the supervisor so as to minimize the disruption of the work force and ensure continuity of essential functions. The excused absence is for the recovery of health of the technician and will not be carried forward or granted on another day.
- c. **VOTING AND REGISTRATION:** It is the employers' policy to excuse technicians for a reasonable time, when practicable to do so without seriously interfering with operations, to vote or register in any elections or in referendums on a civic matter in their community. Generally, a technician is excused from duty so as to permit him to report to work three (3) hours after the polls open or to leave work three (3) hours before polls close, whichever results in the lesser amount of time off. Under unusual circumstances, a technician can be excused up to a full day.
- d. **CONFERENCE OR CONVENTIONS:** A technician may be excused to attend a conference or convention when in the best interest of the National Guard and when approved by TAG.
- e. **GROUP DISMISSAL:** The closing of an activity for brief periods is within the administrative authority of the adjutant general.

21.7 LEAVE WITHOUT PAY (LWOP):

a. LWOP is a temporary non-pay status and absence from duty granted upon the technician's request. It does not include days on which the technician is not scheduled for work. The permissive nature of leave without pay distinguishes it from absence without leave, which is a non-pay status resulting from a determination not to grant any type leave (including LWOP) for a period of absence for which a technician did not obtain advance authorization or for which his request for leave on the basis of alleged sickness has been denied.

b. **AUTHORIZING LEAVE WITHOUT PAY:** The granting of leave without pay is a matter of administrative discretion of TAG. Technicians, with the exceptions listed below, cannot demand that they be granted leave without pay as a matter of right. Exceptions to this policy are disabled veterans needing medical treatment and dual status technicians desiring leave without pay for military training duties. Approval of leave without pay will be made only after considering the value to the National Guard or the serious needs of the individual concerned. Approval of extended periods of leave without pay may be considered in the following situations:

(1) Education, which would result in increased job proficiency and/or ability that would not otherwise be authorized on official time.

(2) Recovery from illness or disability, not of a permanent or disqualifying nature, when immediate return of the technician to duty would impair his health or jeopardize the health of other technicians.

(3) To provide the retention of a qualified technician on the employed rolls pending final action on claim for employment-connected disability or disability retirement. It is the policy of the employer not to grant leave without pay in excess of one (1) year, except in unusual circumstances or in the furtherance of a program of interest to the government. Leave without pay of less than thirty (30) days may be approved by the technician's supervisor; however, the Human Resources Office must be advised of all leave without pay regardless of the length. Leave without pay in excess of thirty (30) days must be approved by the employer.

21.8 COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES:

a. An employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in overtime work for the time lost for meeting those religious requirements.

b. To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of an agency's mission, the agency shall in each instance afford the employee the opportunity to work compensatory overtime. The agency shall in each instance grant compensatory overtime and grant compensatory time-off to an employee requesting such time off for religious observance when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek.

c. For the purpose stated in (b) above, the employee may work such compensatory overtime before the grant of compensatory time off. Compensatory overtime shall be credited to an employee on an hour-for-hour basis. Appropriate records will be kept of compensatory overtime earned and used IAW AGONM TPR 630.

d. An agency is expected to accommodate an employee's request to work compensatory overtime. If no productive overtime is available to be worked by the employee at such time as he or she may initially request, alternative times should be arranged for the performance of compensatory overtime work.

21.9 WAGE SURVEYS:

a. The employer recognizes the value of the contributions that can be made by its employees in conducting wage surveys, and will continue to seek the benefits which accrue from keeping the employees informed on wage matters.

b. The employer agrees to notify the UNION promptly after receipt of a notification of a pending wage survey from DoD.

c. The HRO will give due consideration to recommendations made by the UNION, when selecting UNION members who have job experience and who meet the necessary qualifications as data collectors. Data collectors will be on official duty status.

ARTICLE 22 - PERFORMANCE STANDARDS AND EVALUATIONS

22.1 AUTHORITY: The performance appraisal system shall incorporate all requirements of National Guard Bureau Technician Personnel Regulation 430 and this article.

22.2 DEVELOPMENT OF PERFORMANCE STANDARDS AND CRITICAL ELEMENTS: The development of performance standards and identification of critical elements will be a joint effort between the employee and his/her supervisor. These elements should be applied in a fair and equitable manner and consistent with the position description of the job. Employees and the supervisors shall meet at least once a year to discuss the performance standards and critical elements to be applicable for the coming rating year. The standards and identified critical elements shall be put in writing and signed by the employee and supervisor. Further amendments may be made during the rating year and these amendments shall be noted with the parties' signatures. If there is no agreement on the standards or critical elements, the supervisor will decide.

22.3 OFFICIAL APPRAISAL: To have an objective appraisal, the employee will work for the appraiser not less than 120 days. When this is not the case, an officially approved performance appraisal on file will be the one used.

22.4 APPLICATION: The appraisals given employees by their supervisor shall be objective and the critical elements and performance standards shall be fairly and equitably applied. If the employee believes the above criteria have not been met, he/she may grieve through the negotiated grievance procedure. All appraisals shall be prepared in accordance with the following:

- a. The supervisor will discuss the employee's job performance with the employee in private surroundings at least twice annually or more often as required. Performance will be appraised on a continuing basis and technicians will be kept abreast as to how their performance compares to the established performance standards.
- b. If the supervisor has identified shortcomings in the employee's performance, the employee shall be notified when the problem is perceived. The supervisor will suggest ways for the employee to improve the quantity and quality of work in order to more satisfactorily perform duties at expected levels.
- c. The annual performance appraisal will be in written form. All performance appraisals will be reviewed and approved by a rating official. A follow-up discussion between the employee and the rating official may be held prior to final approval of the evaluation.

22.5 WITHIN GRADE INCREASES:

a. Prior to the date an employee is eligible for a within grade increase, the immediate supervisor will review the work of the employee. When a supervisor's review leads to the conclusion that the employee's work is not at an acceptable level of competence, the supervisor will notify the employee in writing at least sixty (60) days before the employee is eligible for the within grade increase, the following:

- (1) An explanation of those aspects of performance in which the employee's service falls below an acceptable level.
- (2) Advice as to what the employee must do to bring his/her performance up to the acceptable level.
- (3) A statement that his/her performance may be determined as being at an unacceptable level unless improvement to an acceptable level is shown.
- (4) A statement that he/she has a period of at least sixty (60) calendar days in which to bring his/her performance up to an acceptable level as outlined in the Performance Improvement Plan.

b. If the employee's performance becomes acceptable within the performance improvement period, the within grade increase may be granted. If the employee's performance has not improved, the supervisor will notify the employee in writing that the within grade increase will not be granted and will inform the employee of his/her right to file a timely grievance.

c. The procedures outlined for granting or withholding a within grade increase will also apply to upward mobility promotions or the upgrading of employees in positions with known promotion potential.

ARTICLE 23 - UNACCEPTABLE PERFORMANCE AND APPRAISAL APPEALS

23.1 UNACCEPTABLE PERFORMANCE:

a. **Actions Based On Unacceptable Performance:** Technicians will be periodically reminded of the critical job elements and expected performance standards for their positions, and will be informed when their performance is unacceptable in any element of the job. Technicians will be assisted in improving areas of unacceptable performance by counseling, increased supervisory assistance, additional training, etc. Before initiating an action to reduce in grade or remove a technician based on unacceptable performance, consideration will be given to reassignment to another position for which the supervisor feels the technician is qualified. However, if the technician's performance in any critical element continues to be unacceptable following efforts by the supervisor or manager to improve performance, the technician must be reduced in grade (demoted) or removed from employment. No action based on unacceptable performance may be taken until critical job elements and performance standards have been identified in writing, the technician has been given a copy of these standards, and the technician has been given an opportunity to improve his/her performance.

b. **Requirements:** An action to reduce in grade or remove from employment may be initiated anytime by the technician's supervisor if the technician's performance continues to be unacceptable in one or more critical job elements despite previous counseling and responsible training efforts by the supervisor. The supervisor does not need to wait until the end of the appraisal period to initiate these actions. A technician against whom such an action is planned is entitled to:

- (1) A minimum thirty (30) day advance written notice of the actions to be taken (reduction in grade or removal), which identifies the critical job element(s) and instances of unacceptable performance on which the action is based. This advance written notice must be concurred by an official who is in a higher position than the immediate supervisor. (This requirement does not apply when the action is being taken by the state adjutant general). This is not a proposed notice, but is to be considered as a final notice of the action to be taken because before this final step the technician would have been given adequate assistance and time to improve performance.
- (2) An opportunity to answer orally or in writing to the supervisor or appeal to the State Review and Appeals Board. At the discretion of the state, the effective date of separation or a reduction in grade may be extended awaiting final decision of the Board.
- (3) If a technician submits a request to his/her supervisor to change an unacceptable performance appraisal, the supervisor will carefully review this information and advise the technician in writing whether the unacceptable performance appraisal is sustained or will be changed. A request submitted to the State Review and Appeals Board will be handled in accordance with instructions in Article 23.3.

c. **Unacceptable Performance Related to Alcohol or Drug Abuse:** Unacceptable performance related to alcoholism or drug abuse must be handled first in accordance with TPS 792-2, and AGONM TPR 792, and Article 20.9.

d. **Records:**

- (1) **Action Taken:** When such an action is taken against a technician all relevant documentation will be placed in an envelope and filed in the technician's OPF.
- (2) **Action Not Taken:** When an action is not taken, all documentation relating to the unacceptable performance appraisal will be assembled and placed in an envelope and filed in the technician's OPF. If the technician's performance continues to be acceptable for a period of one year from the date the original action

was initiated, the contents of the entire envelope must be destroyed and all entries or other notations of unacceptable performance must be removed from all records.

e. The employer will consider deferring the action based on unacceptable performance for those individuals who provide written medical certification of disability and have filed for disability retirement.

23.2 PERFORMANCE APPRAISAL APPEALS: Bargaining unit employees may pursue performance appraisals not acceptable to them through the appellate procedure provided in AGONM TPR 430.

23.3 FILING AN APPEAL:

a. **Performance Appraisal Review and Appeal Board:** The adjutant general will establish, as necessary, a performance appraisal review and appeals board consisting of at least three members to provide an impartial review on performance appraisal appeals. Members serving on this board should not be in the chain of command of the technician who is filing the appeal and should not be in a lower graded position than the technician appealing. The technician is entitled to representation during the board process.

b. **When To File An Appeal:** A technician desiring to file an appeal of a performance appraisal, other than for unacceptable performance, may file an appeal to the State Review and Appeals Board no later than thirty (30) calendar days after the technician receives the appraisal. An appeal based on an unacceptable performance must be filed within the thirty (30) day advance written notice period outlined in AGONM TPR 430.

c. In reviewing performance appraisal appeals including unacceptable performance, the Board by majority vote will recommend to the adjutant general to change the appraisal as requested by the technician or sustain the appraisal without change. When reviewing unacceptable performance appraisals, the board will only be concerned with the unacceptable appraisal. The adjutant general will make the final decision. All members of the Board must be present at all times during the hearings, and must participate in deciding on a recommendation. A technician has no appeal rights beyond the state adjutant general.

d. **Appeal Processing:** An appeal to the Board is submitted to the chairperson. The written request should be in a letter format and should contain the following information:

- (1) Name of the technician.
- (2) Organization.
- (3) The appraisal being appealed.
- (4) Why the appraisal should be changed.
- (5) Date notice received.

Note: When all the necessary information is not available, the technician should submit what is available, and state why the other information is not available. The Board will immediately send one copy of the appeal request to the HRO. Address the request to:

**Chairman
New Mexico National Guard Review and Appeals Board
ATTN: NMAG-HR
47 Bataan Blvd.
Santa Fe, New Mexico 87508**

e. **Board Procedures:** During the proceedings, the Board may admit testimony from the technician or the technician's immediate supervisor. Within fifteen (15) calendar days, the board will review and submit their recommendations directly to the adjutant general with an information copy to the HRO. The technician and the technician's representative (if desired by the technician), and the representative of the adjutant general will submit information the Board deems pertinent. Such information may be presented orally, by

presentation of witnesses or in writing. In the submission of evidence both oral and written may be submitted to reach a decision, as long as the technician, the technician's representative, and the representative of the adjutant general are given the opportunity to hear, examine, and reply to the information submitted by the other parties, and are given the opportunity to question the witnesses. If any of these individuals are absent during the oral presentation, the absentee(s) must be furnished in writing any evidence admitted during their absence. The Board may not use any written information to render a recommendation until the technician, the technician's representative (if any), and the representative of the adjutant general have had an opportunity to examine and reply to it. Board members must serve as impartial judges and review each case objectively. They must give consideration to the merits of each case and secure all necessary information. The Board may not receive or consider information not directly related to the matter being considered.

ARTICLE 24 - LABOR/MANAGEMENT COUNCIL

24.1 UNION and management will jointly comprise a Labor/Management Council to address issues of concern to either party. This council will consist of members of both management and labor as follows:

L.I.U.N.A. Local 1636

President
Executive Vice President
Vice President

NMNG Management

Human Resources Officer
Command Administrative Officer (Army)
Air Commander (Air)

24.2 This Council will meet in response to a call by either management or UNION to consider any item of concern inclusive of all New Mexico National Guard technicians. The Council will be empowered by the agency and UNION to implement consensus based solutions to issues brought before the Council. Any issues before the Council changing the negotiated collective bargaining agreement shall pass through both UNION ratification and DoD approval procedures. The labor relations specialist will act as secretary to the Council. Agenda items for the Council will be forwarded to the LRS who will then schedule the meeting dates of the Council. The agenda will be free form and based upon interests submitted to the LRS. The Council will be chaired on a rotating basis among council members, alternating between UNION and management. The chair will preside through the currently scheduled meeting, and a new chair will be elected by the Council for the following meeting.

24.3 The Labor/Management Council may be supported by working groups made up of subject-matter-experts and members from both labor and management, agreed upon by the Council. The Council will provide the charter for any formed working groups. The charter will specify the tasking, time constraints and goals to be presented as a finished product to the Council for consideration. Staff support for the Council will be coordinated by the LRS.

24.4 UNION and management will jointly comprise a Labor/Management Committee to address component specific issues. The committee will consist of members of both management and labor as follows:

Air Committee

Senior Labor official (Air)
Air Commander (Air)

Army Committee

Command Administrative Officer (Army)
Senior Labor official (Army)

24.5 The committee will meet on a regularly scheduled basis, mutually agreed upon by the members.

GLOSSARY OF TERMS

The following definitions of terms used in this agreement shall apply. Agency, employer and management are used synonymously in this agreement.

Adequate Government Quarters:	Officer, senior enlisted and enlisted barracks in which living accommodations assigned an individual meet the common and minimum space standards of adequacy for occupancy established in agency regulations and as designated by the installation commander.
Adverse Action:	Removal; suspension; reduction in grade or compensation; or furlough without pay for misconduct, nonperformance, or incompetence. The Adjutant General of New Mexico is the final appeal authority in such actions.
Amendments:	Modifications of the Basic Agreement to add, to delete from, or change portions, sections or articles of the Agreement.
Area vice-president:	A UNION officer next in rank to the president/executive vice-president.
Authority:	The Federal Labor Relations Authority.
Available Government Quarters:	Fulfill the adequacy definition. Be open for occupancy upon arrival of employee at the TDY station.
Civil Service Reform Act of 1978	Public Law 95-454 (Currently Chapter 71, Title 5, United States Code.)
Code of Federal Regulations (CFR)	The official Office of Personnel Management publication of personnel regulations and instructions for federal agencies based on 5 USC.
Collective Bargaining:	"Collective bargaining" means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.
Collective Bargaining Agreement:	An agreement entered into as a result of collective bargaining pursuant to the provisions of Chapter 71, Title 5, United States Code.
Conditions of Employment:	"Conditions of Employment" means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions,

except that such term does not include policies, practices, and matters.

(a) relating to political activities prohibited under Subchapter III of Chapter 73 of PL95-454.

(b) relating to the classification of any position; or

(c) to the extent such matters are specifically provided for by Federal statute;

Confidential Employee:

"Confidential Employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

Detail:

Any temporary assignment to meet emergencies or situations occasioned by abnormal work load, changes in mission or organization, or absences of personnel.

Disciplinary Action:

Management-initiated actions designed to correct or punish employee behavior.

Emergency:

An emergency situation is one that imposes immediate and unforeseen work requirements for the New Mexico National Guard as a result of natural phenomena, civil disturbance, or other circumstances beyond management's reasonable control or ability to anticipate. This definition is not intended to restrict the agency in reasonably determining when an emergency exists.

Employee:

"Employee" means an individual

(a) employed in an agency; or

(b) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority: but does not include -

(i) an alien or non-citizen of the United States who occupies a position outside the United States:

(ii) A member of the uniformed services;

(iii) A supervisor or a management official;

(iv) An officer or employee in the foreign service of the United States employed in the Department of the State, the Agency for International Communication Agency; or

(v) Any person who participates in a strike in violation of Section 7311 of this title.

Employer:

Employer means the Adjutant General for the State of New Mexico or his designated full time representative in the Human Resources Office.

Exclusive Representative:

The labor organization which is certified as the exclusive representative of employees in an appropriate unit pursuant to Section 7111 of the Civil Service Reform Act of 1978.

Federal Mediation and Conciliation Service:

A U.S. Government agency which provides service, and assistance, through mediation, to agency and exclusive representation in the resolution of negotiation impasses.

Grievance:

"Grievance" means any complaints:

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

(b) by any labor organization concerning any matter relating to the employment of the employee; or

(c) by any employee, labor organization, or agency concerning:

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

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

Grievance Deciding Official:

(1) Army - the Command Administrative Officer.

(2) Air - the Air Commander.

Impasse:

The inability of representatives of the employer and the UNION to arrive at a mutual agreeable decision concerning negotiable matters through the negotiation process.

Impact Bargaining:

Negotiations over procedures used to implement and ease management's rights decision which will impact on an employees' or group of employees; condition(s) of employment.

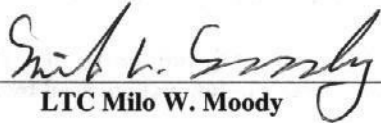
Labor Organization:	An organization composed in whole or in part of employees, in which employees participate and pay dues, and which has a purpose in dealing with an agency concerning grievances and conditions of employment.
Local Bargaining Unit and UNION:	Both terms are used synonymously in the agreement.
Management Official:	"Management Official" means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.
Mid-contract Bargaining:	Negotiations over management-or UNION initiated changes in conditions of work not covered by the collective bargaining agreement. This bargaining may consist of negotiations over the decision to change a policy or the "impact" the decision will have concerning a management's rights area. Impact bargaining is one form of mid-contract bargaining.
Negotiations as appropriate:	Negotiate on the issue or the procedures or appropriate arrangements of the decision.
Negotiability Dispute:	Dispute over whether or not an issue is negotiable within the scope of bargaining established in Chapter 71, 5 USC. Such disputes are resolved by the FLRA. The agency must demonstrate, if it asserts non-negotiability due to one of its own regulations, that there is a compelling need for such regulation. Section 7117 of the Act provides for the system of resolution.
Negotiable/Negotiation:	Any matter for which negotiability bar, meeting the compelling need criteria, has not been established by the agency or agency national subdivision.
Official Time:	All time negotiated between the UNION and management in accordance with 5 USC 7131 that grants employees time to perform representational functions while otherwise in duty status without charge to leave or loss of pay.
Activity:	Activity is an administrative or support office such as the USPFO or CSMS, or an action.
Panel:	The Federal Service Impasses Panel is an independent entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives and renders final decisions.

President:	A UNION officer elected or appointed to preside over an organized body of persons which is UNION L.I.U.N.A. Local 1636.
Regulation:	Published regulations of the National Guard Bureau, Departments of the Army and Air Force Department of Defense, Department of Labor, Office of Personnel Management, and Executive Orders.
Supervisor:	"Supervisor" means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.
Supplement:	Additional articles, negotiated during the term of the Basic Agreement, to cover matters not covered by the Basic Agreement.
UNION Official and/or UNION Representative:	Any accredited International Representative of the UNION including member of the L.I.U.N.A. National Guard General Council, the duty elected or appointed officials of the Local, including stewards.

IN WITNESS WHEREOF the parties hereto have entered into this agreement on the 8 January 2008, subject to review and approval by the Department of Defense.

FOR THE EMPLOYER:

FOR THE UNION:


LTC Milo W. Moody

Chairperson, Negotiating Team

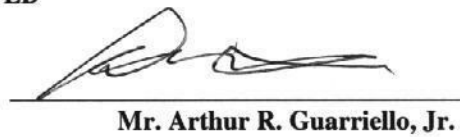

Mr. Arthur R. Guarriello, Jr.

Chairperson, Negotiating Team


BG Kenny C. Montoya

The Adjutant General

APPROVED


Mr. Arthur R. Guarriello, Jr.

UNION President, L.I.U.N.A. Local 1636