

ARTICLE XX: ACCESS TO FACILITIES AND SERVICES

Section 1. Access to CBP facilities and services for communication among the Union, the bargaining unit and the Agency will facilitate labor-management relations, save time and energy, and produce more efficient and effective working relationships. **AGREED**

Section 2.A. Upon a Union request received by the Employer, normally no later than twenty-four (24) hours in advance, the Employer will provide meeting space, if available, in areas occupied by the Employer for meetings during non-duty hours. The Union will comply with all security, safety and housekeeping rules in effect at that time and place. **AGREED**

B. Any request for meeting space must contain the date, time, duration and purpose of the meeting and the estimated number of employees expected to attend.

AGREED

C. An NTEU National Representative, upon an approved request received by the Employer, normally no later than twenty-four (24) hours in advance, may visit non-work areas located on the Employer's premises to discuss appropriate Union business with bargaining unit employees during non-duty hours. Absent just cause, the Union's request will be approved. **AGREED**

D. Employees attending meetings under this Section will only do so during non-duty hours or while in a leave status. **AGREED**

Section 3. Mutually agreed upon space will be provided for the placement of ballot boxes provided by the Union to be used in conjunction with Chapter Officer elections governed by local by-laws. The Union will comply with security and housekeeping rules in effect at that time and place. No responsibility for the safety or security of the ballot boxes is assumed by the Employer. **AGREED**

Section 4.A. Upon reasonable advance request by the Union, the Employer will provide confidential meeting space during official hours of business, in areas occupied by the Employer. **AGREED**

B. In the event meeting space is not available, the Employer will make necessary arrangements to reserve meeting space as soon as it becomes available. **AGREED**

- C. Nothing in this Section will be construed as permitting meetings for the purpose of discussing internal Union business. **AGREED**

Section 5.A. For purposes of this Section, the term "official bulletin board" is defined as any physical bulletin board upon which the Employer posts notices to and for employees. **AGREED**

- B. The Employer will provide the Union with a reasonable amount of dedicated space on each official bulletin board for its exclusive use. In addition, and subject to applicable restrictions, the Employer will provide space for the Union to install one bulletin board, of reasonable size, per floor occupied by employees. The Union will pay for the boards and the cost of installation. The boards will be for the exclusive use of the Union. **AGREED**

Section 6.A. The Union may distribute material on the Employer's premises during non-duty hours (e.g., lunch hours) in non-work areas during scheduled work hours provided that the employees distributing and receiving the material are on their own time and provided that there is compliance with the Employer's security policies and practices. **AGREED**

Non-work areas are: cafeteria or any other commercial enterprises located on the Employer's premises (with approval of lessor or operating agency), space set aside as snack bar or break areas, and rest rooms, entrance ways, lobbies and parking lots. **AGREED**

- B. Material distributed by the Union in accordance with Section 6.A that does not libel or slander any individual, other labor organizations, government agencies, or activities of the Federal Government may be distributed, so long as it relates to working conditions or practices, or labor-management relations communications. **AGREED**
- C. All costs incidental to the preparation and/or distribution of Union materials under this Section will be borne by the Union. **AGREED**

Section 7.A. To promote the greatest, and most efficient, distribution of this Agreement, CBP will post the Agreement on its intranet and internet site. The posted Agreement will have hyperlink ability to assist in navigating through the articles. Once the Agreement is

posted, the Employer will immediately inform all employees of its availability and how to view its contents. **AGREED**

- B. CBP will also post on its intranet and internet, mid-term agreements entered into at the national level in addition to all Agency Directives, handbooks etc. that impact conditions of employment. **AGREED**

Section 8.A. The Union's use of Agency equipment, supplies, and/or media for communications concerning Employer-Union business is permitted when available. Examples of such communication media include U.S. Mail, fax machines, electronic mail, telephones, satellite facilities, video or teleconferencing, two-way radio, photocopiers, inter-office mail, physical and electronic bulletin boards. **AGREED**

- B. Communication by U.S. mail does not include the use of government paid postage. **AGREED**
- C. The Union may establish National and Chapter electronic bulletin boards for one-way communication designed to reach large numbers of employees. CBP will provide access for designated CBP employees to mainframe bulletin boards where available, for viewing NTEU information. **AGREED**
- D. The Union's use of Agency equipment or supplies for internal Union matters or business is strictly prohibited. **AGREED**
- E. Upon reasonable advance request, the Union will be allowed to use the Employer's audio visual equipment, if locally available, for use during new employee orientation presentations. **AGREED**
- F. The Employer will provide all employees, as practicable, with access to a CBP electronic mail system. Employees may exchange messages related to official Agency business and Employer-Union matters. **AGREED**
- G. All costs incidental to the use of such equipment will be borne by the Union. The Union will return any equipment used to the Employer in good condition promptly after being used. **AGREED**

Section 9. Upon receiving the geographic locations covered by each chapter from NTEU, the Employer will furnish to the Union, for its internal use only, a list which will contain the name, grade, position, title, branch, division, organizational office

and NTEU chapter of all employees in the bargaining unit. Additionally, the list will include information describing whether each employee is under FERS or CSRS and information about each employee's employment status (e.g., seasonal, intermittent, permanent part-time, permanent full-time, temporary, term, etc.). This list will be supplied within one month after this Agreement becomes effective and on February 1, May 1, August 1, and November 1 of each year thereafter.

Section 10. The Employer will provide upon request, two (2) four-drawer file cabinets, if available, to each NTEU Chapter which has not previously been provided with file cabinets by the Employer. **AGREED**

Section 11.A. Space availability and budget considerations permitting, as determined by the Employer, the Employer will make good faith efforts to provide lockable lockers for uniformed employees to be located near their work areas. In addition, the Employer will request that the General Services Administration furnish adequate locker space in new or replaced CBP facilities being constructed under their supervision, and also a like request will be made to authorities providing space to the Employer without charge. **AGREED**

B. Space availability and budget considerations permitting, as determined by the Employer, the Employer will, within its authority, make reasonable attempts to insure that adequate eating space, drinking fountains, sanitary facilities and vending machines are available at all permanent locations, which will be properly heated and ventilated. **AGREED**

C. Space availability and budget considerations permitting, as determined by the Employer, the Employer will, within its authority make reasonable attempts to insure that adequate lounges/break rooms are provided at all permanent locations. **AGREED**

Section 12. The Employer will list the name, office telephone number, home or Union office telephone number of each Chapter President and NTEU National Vice-Presidents (2) in the CBP telephone directory. **AGREED**

Section 13.A. At a minimum, the Employer will provide the Union with adequate office space and equipment at a CBP worksite or other approved facility, in accordance with government-wide regulations on space management. Upon the effective date of this Agreement local chapters may request to negotiate over office

space in accordance with Article __: Bargaining. Alternatively, the Union may choose to rent/lease its own commercial space. In the latter case, the leased space will be centrally located and readily accessible.

- B. Any space considered for availability must be in accordance with government-wide regulations on space management. However, at a minimum, any office provided will be equipped with a desk, four chairs, and a telephone. **AGREED**
- C. Based upon need, equipment and system availability and budget considerations, the Employer will make reasonable efforts to provide a Union office in Employer-controlled space, with a fax machine, computer and systems access. Alternatively, the Union may provide such equipment and access at their expense. **AGREED**
- D. Any disputes regarding CBP provided space and/or equipment availability may be referred to the appropriate Field Level Labor-Management Relations Committee. **AGREED**
- E. Nothing in this Subsection is intended to reduce the number of Chapter union offices in place as of the effective date of this Agreement. **AGREED**

Section 14. The Employer will make reasonable efforts to ensure that temperatures within CBP-occupied office space are adjusted, where possible, to the allowable limits prescribed by applicable law, regulation or directive. Where temperatures in CBP occupied office space consistently fail to meet the allowable limits referred to above, the Employer will make reasonable efforts to have the situation corrected. **AGREED**

Section 15. The Employer will provide the Union appropriate notice when a determination is made to acquire new or modify existing space and this decision may affect unit employee working conditions. The Employer will consider Union recommendations in making determinations related to space management. **AGREED**

Section 16. The Employer will promptly forward to the lessor substantiated complaints by employees alleging problems relating to space management outside the Employer's control. **AGREED**

Section 17. Employees will, in accordance with the provisions of the Public Transportation Incentive Program, be provided with the maximum allowable transportation subsidy they qualify for based on their commute. **AGREED**

Section 18.A. When the Employer possesses the authority to establish parking fees at duty locations, the Union will be provided notice and the parties will negotiate locally in accordance with Article __: Bargaining. **AGREED**

- B.** The Employer will establish a pre-tax dollar parking benefit program to be implemented within three (3) months of the effective date of this Agreement. **AGREED**

Section 19.A. To communicate with managers and employees on employee conditions of employment, the Employer will provide one "blackberry" (with necessary access codes) to those NTEU Chapters that have more than two-hundred and fifty (250) unit members, upon request.

- B.** Chapter officials using agency provided blackberries are responsible for operating the device in accordance with applicable CBP policy. **AGREED**
- C.** Communication with a blackberry in accordance with this section may not be used for any purpose other than labor-management relations. Chapter officials using a blackberry in accordance with the section are not entitled to increased forms of compensation, e.g., claims under FLSA. **AGREED**

Section 20. In the administration of this Article, no local NTEU Chapter will forfeit any rights, privileges, benefits or access to CBP facilities or services contained in any collective bargaining agreement between CBP and NTEU unless specifically in conflict with this Article. **AGREED**

Section 21. In the event that employees are prohibited from carrying a privately owned pager, cell phone or other wireless communication device to receive incoming calls or messages, the Employer will ensure that at least one manned telephone line is available at all Ports covered by such policy which is specifically and solely dedicated to receiving incoming emergency telephone calls to bargaining unit employees (in a manner consistent with 64 FLRA No. 70). For Ports with operational command centers that are staffed and answer calls during operational hours, the Employer may use existing

multipurpose phone lines at such centers for this purpose. For Ports without such command centers, the Employer will add a dedicated phone line for this purpose. CBP will implement internal procedures to ensure that impacted bargaining unit employees are immediately informed of the emergency telephone call. Port employees will be informed of the emergency telephone numbers and emergency notification procedures. **AGREED**

ARTICLE XX: ADVERSE ACTIONS

Section 1. This Article applies to employees who have completed their probationary or trial period. **AGREED**

Section 2. An adverse action for purposes of this Article is defined as a removal, suspension from duty and pay for more than fourteen (14) calendar days (including an indefinite suspension), reduction in grade, reduction in pay, or furlough of thirty (30) calendar days or less, unless excluded by law or government-wide regulation. **AGREED**

Section 3. Adverse actions taken against an employee will be for such cause as will promote the efficiency of the service. Adverse actions will be taken in a manner that is fair and impartial, and timely (i.e., so as not to create an unreasonable delay that materially prejudices the employee).

Section 4. Adverse action penalties will be imposed to correct behavior, teach the employee and others that certain actions are unacceptable for an employee of CBP, and to demonstrate and support the expected high standards of conduct for CBP. As such, adverse actions under this Article shall generally be progressive in nature, and will give appropriate consideration to the criteria contained in Appendix XX: Douglas Factors. **AGREED**

Section 5. Procedures for effecting adverse actions are as follows:

- A.** The employee will be given thirty (30) calendar days advance written notice stating the specific reason(s) for the proposed action. With the notice, the employee will be provided, to the extent such information exists and is related to the action, a copy of those portions of all written documents which contain information or evidence relied upon by the Employer as the basis for the action, those portions of written documents that are favorable to the employee, and the investigative report. In addition, in the event the Employer reviewed video or audio surveillance recordings in proposing the action, such recordings will be made available for review by the employee. **AGREED**
- B.** The employee will be given fourteen (14) calendar days from receipt of the notice and supporting material to present an oral and/or written reply to the proposed action. The employee will have the right to be represented by the Union, or by an

attorney or other representative of his own choosing in connection with the oral and/or written reply. Extensions of the reply period may be made by mutual agreement of the parties. All extensions granted will be confirmed in writing or electronic mail. **AGREED**

(1) Oral Replies:

- (a) Absent just cause, any request for an oral reply must be made within seven (7) calendar days of receipt of the notice of proposed action. **AGREED**
- (b) Upon request by either party, oral replies will be presented in person. By mutual agreement, oral replies may be provided by telephone or other technological means (including video teleconferencing). **AGREED**
- (c) Oral replies will generally be heard at or near the employee's duty location, and CBP will provide time and reimburse the employee and his or her Union representative to travel to and from the oral reply location. **AGREED**
- (d) In the event management elects to hold the oral reply at a location outside the employee's duty location, CBP will be responsible for all travel and per diem costs, as well as time for the employee and his or her Union representative to travel to and from the oral reply location. **AGREED**
- (e) To the maximum extent possible, NTEU will make a reasonable effort to designate a representative at or near the employee's work location to participate in oral replies. In the event NTEU elects to designate a representative outside of the geographical jurisdiction of the employee's NTEU Chapter, NTEU will be responsible for the travel and per diem expenses for its representative to attend the oral reply. **AGREED**
- (f) In the event the employee chooses anyone other than an NTEU representative, NTEU will be invited to the oral reply merely to observe. **AGREED**
- (g) **CBP will provide a summary or transcript of any oral reply made to the affected employee and/or his/her designated representative prior to the time a final decision is made. The employee and representative will be given a reasonable period, based on the length of the summary or transcript, to identify and submit corrections they feel are appropriate.**

The summary or transcript, including all submitted corrections will be provided to the deciding official before the final decision is made.

(2) Written Replies: Written replies must be received by the designated official prior to the end of the fifteen (15) calendar day notice period. **AGREED**

C. After receipt of the written and/or oral reply, and any corrections to the summary or transcript submitted by the employee or representative, the Employer will issue a final decision. In the event no written or oral reply is provided, the decision will be issued after the end of the fifteen (15) calendar day period. The final decision will advise the employee of the specific reasons(s) for the decision and of the right to grieve the action under the negotiated grievance procedure or appeal the action to the Merit Systems Protection Board (MSPB), but not both. **AGREED**

(1) An employee who elects to appeal an action to the MSPB may be represented by the Union, an attorney, or another representative of his/her choosing. **AGREED**

(2) An employee who elects to appeal an action through Article XX: Grievance Procedure may be represented only by the union. If the union appeals the action to arbitration, the employee may be represented only by the union. **AGREED**

D. In cases where an action is proposed for reasons of off-duty misconduct, the Agency's written notification provided for above will also contain a statement describing the nexus between the off-duty misconduct and the efficiency of the service. **AGREED**

Section 6. Suspensions taken under this Article will be served on consecutive days following the commencement of the suspension. To the maximum extent possible, effective dates for suspensions will be set so that the suspension is served across at least two (2) adjoining pay periods. **AGREED**

ARTICLE XX: ATTIRE AND APPEARANCE

The purpose of this Article is to clarify and/or supplement the Employer's policies and procedures related to attire and appearance for uniformed and non-uniformed bargaining unit employees.

Section 1. Uniformed Employees.

- A. The Employer will maintain and make information readily available to employees regarding its uniform program. At a minimum, such information will identify the types of employees required to wear a uniform, describe the procedures for ordering and purchasing uniform and related gear and explain the Employer's uniform wear policies and appearance standards. **AGREED**
- B. The Employer's uniform program, including its wear policies and personal appearance standards will be established and maintained in a manner consistent with applicable law and regulation, as well as Federal Service Impasse Panel decisions not in conflict with this Article. **AGREED**
- C. Uniformed employees are responsible for reporting to his/her first assignment in a neat, clean and complete uniform. Uniforms must be free from tears, visible repairs or other highly visible blemishes. Only uniform items and related gear officially authorized through the Employer's uniform program are authorized for wear (including authorized optional items). An employee reporting to his/her first assignment in a soiled, torn, unkempt or incomplete uniform may be relieved from duty. **AGREED**
- D. **In order to address the extreme heat and humidity in certain work environments, employees will be permitted to wear cargo shorts authorized under the Employer's uniform program in all Class 3 environments. Nothing in this subsection is intended to alleviate an employee's responsibility to adhere and follow safety standards and requirements.**
- E. Uniformed employees are authorized to wear outerwear indoors with all classes of uniforms, except with the Class I Ceremonial uniform. The only outerwear items not authorized for wear indoors (with exceptions to when employees are transitioning from indoors to outdoors and vice versa) are the raincoat, trench coat and extreme cold weather parka. **AGREED**

- F. The Employer will permit uniformed employees who serve as union officials to wear a NTEU pin or identification tag, to be designed and paid for by the Union and subject to Agency review and approval of the design, on the CBP uniform. When worn, such pin or identification tag will be centered on the right breast pocket flap of the uniform shirt. **AGREED**
- G. The Employer will provide uniformed employees an annual allowance to be used toward the purchase of authorized uniform items and related gear. **AGREED**
- (1) For full-time CBP Officers, CBP Agriculture Specialists and Seized Property Specialists, the allowance provided under this subsection will be in the amount of \$1,000 for the first fiscal year the employee is required to wear a uniform and \$800 each fiscal year thereafter. **AGREED**
 - (2) For part-time CBP Officers and CBP Agriculture Specialists with regular schedules of twenty (20) hours or more per week, the allowance provided under this subsection will be in the amount of \$600 per fiscal year. **AGREED**
 - (3) For part-time CBP Officers and CBP Agriculture Specialists with regular schedules of less than twenty (20) hours per week, the allowance provided under this subsection will be in the amount of \$360 per fiscal year. **AGREED**
 - (4) For other authorized uniform positions, including CBP Technicians, the allowance provided under this subsection will be as follows: **AGREED**
 - (a) For full-time employees, \$800 the first fiscal year the employee is required to wear a uniform and \$640 each fiscal year thereafter. **AGREED**
 - (b) For part-time employees with regular work schedules of twenty (20) hours or more per week, \$600 per fiscal year. **AGREED**
 - (c) For part-time employees with regular work schedules of less than twenty (20) hours per week, seasonal employees and cooperative education/intern students, \$360 per fiscal year. **AGREED**
 - (5) **In the event the maximum annual uniform allowance permitted by law is increased, the Employer may increase the allowance provided to full-time CBP Officer, CBP Agriculture Specialists and Seized Property Specialists to the maximum amount, budget permitting. Allowances for part-time and "other authorized uniform positions" will be increased proportionately based on the allowances set forth above.**

- H. If an employee transfers into a uniformed position that is authorized a different class of uniform that was not authorized in the previous position, the employee will be provided an allowance adjustment of forty (40) percent of the ongoing allowance of the position to which they are transferred. **AGREED**
- I. The Employer will maintain a mechanism by which employee requests for waivers from the Employer's uniform wear policy and personal appearance standards for medical or religious reasons will be reviewed and addressed. Such requests and resulting responses will be in writing. During the period an employee request submitted under this subsection is pending review and response by the Employer, the employee will not be required to conform to the specific policy or standard for which the waiver was requested. The Employer will approve waivers in a fair and impartial manner. **AGREED**
- J. **Nothing will prohibit the Union (at the national level) from bringing problems and/or recommended changes to its uniform Program to the attention of the Employer (at the national level) at any time. Such matters will continue to be addressed in accordance with the parties' current tradition.**
- K. **Upon request by the Union (at the national level), the Employer will establish a working group consisting of at least two (2) agency and two (2) union representatives for the purpose of jointly researching and evaluating the feasibility of adding camel pack hydration system to the uniform program. The working group will consult with an appropriate CBP Safety and Health representative as needed, and compile its finding into a written report. At a minimum, the report will contain an analysis of potential health and safety hazards attributable to such items; whether they are permitted to be used by employees at other agencies performing similar functions in similar work environments; and if adding items is recommended, what specific type(s) are recommended and under what circumstances they should be permitted and/or prohibited. The report will be simultaneously provided to the Assistant Commissioner, Field Operations and the President, NTEU. Within sixty (60) calendar days of receipt of the report, the Assistant Commissioner (or his/her designee) will inform NTEU in writing whether the Employer intends to adopt and implement the working group's recommendations as reflected in the report. If not adopted in its entirety, the response will explain the basis for not adopting each portion of the recommendation, and what additional steps, if any, will be taken to further evaluate the feasibility of this uniform item.**

- L. In the event the Employer exercises its right to change, modify, amend, or alter its uniform program in a manner that affects bargaining unit employees, it will provide notice and the opportunity to bargain over such changes in accordance with law and Article __: Bargaining. **AGREED**

- M. When the Employer becomes aware that a uniformed employee, as a result of the performance of official duties, has been subjected to threats, harassment, or other conduct leading to a reasonable fear on the part of the employee for his/her safety (including the safety of his/her family), the Employer will: **AGREED**
 - (1) Promptly discuss the matter with the employee and authorize the use of a pseudonym for a period of not less than one hundred and twenty (120) days while the matter is being reviewed. At the end of this period, the Employer may extend the authorization for the use of the pseudonym in sixty (60) day increments pending the outcome of the review. **AGREED**

 - (2) Upon request and subject to applicable state law, rules and regulations, the Employer will provide the employee a letter supportive of an employee's request to his/her state Department of Motor Vehicles (DMV) for personal address confidentiality. **AGREED**

Section 2. Non-uniformed Employees.

- A. Non-uniformed employees will maintain a professional appearance, consistent with norms prevailing in the local community. Employees will be attired in a manner appropriate for their position and the duties being performed, such as office duty, court duty, field duty, rough duty or other assignments. **AGREED**

- B. Attire and/or personal appearances that create a real or potential health or safety hazard, interfere or are likely to interfere with the accomplishment of the Agency's mission by reducing an employee's ability to effectively deal or interact with either the public, fellow employees, governmental agencies or other organizational entities are prohibited. **AGREED**

- C. A weekly business-casual dress day, consistent with subsections A. and B., will continue to be extended to all non-uniformed employees. **AGREED**

- D. When required to perform work in rough duty situations, the Employer will provide non-uniformed employees with the necessary protective clothing. In such cases, the Employer will make a sufficient number of garments available for this

purpose, in a range of sizes. Maintenance costs for protective clothing owned by the Employer will be paid for by the Employer. Maintenance costs for protective clothing owned by the employee will be paid for by the employee. **AGREED**

- E.** The Employer will permit non-uniformed employees who serve as union officials to wear a NTEU pin or identification tag on their business attire, to be designed and paid for by the Union and subject to Agency review and approval of the design. **AGREED**

ARTICLE XX: AWARDS AND RECOGNITION

Section 1. Recognition of employee accomplishments is an important element in effective workforce management. In accordance with 5 C.F.R. § 451.102, an *award* is something bestowed or an action taken by the Employer to recognize and reward individual or team achievement that contributes to meeting organizational goals or improving the efficiency, effectiveness, and economy of the Government or is otherwise in the public interest. This Article contains the policy and procedures for distributing awards for the bargaining unit. **AGREED**

Section 2.A. The Agency retains the discretion to determine how much of its budget will be allocated for awards. Budget permitting, the Agency has determined that the amount of funds dedicated to a bargaining unit employee awards pool at a Port of Entry (or equivalent level) will normally be one (1) percent of the total annual bargaining unit salary (including base salary and locality pay). In the event the Agency (at the national level) determines its budget will not permit the dedication of this amount to the awards pool, it will notify and provide NTEU the opportunity to bargain (at the national level) in accordance with law and the procedures contained in Article __: Bargaining.

B. The Agency will ensure the percentage of funds dedicated to awards for the bargaining unit (calculated in terms of total annual bargaining unit salary) at a Port of Entry (or equivalent level) will be no less than the percentage of funds dedicated to the non-bargaining unit pool (calculated in terms of total annual non-bargaining unit salary). **AGREED**

C. The Agency will ensure that no less than eighty-five (85) percent of the annual bargaining unit award funding at a Port of Entry (or equivalent level) is made available for distribution as Superior Achievement Awards under Section 5 of this Article. The remainder shall be available for distribution as Other Awards under Section 6 of this Article. **AGREED**

D. Awards that provide monetary recognition will be in the form of a lump sum payment. **AGREED**

Section 3. No later than thirty (30) calendar days following the commencement of the first performance year in which this Article applies, the parties will publicize the procedures, appropriate forms, and time frames associated with this article to all employees. This includes the Agency conducting a formal discussion for unit employees

to receive additional information and raise questions. Union representation will be allowed to attend and participate in these discussions in accordance with the official time procedures contained in Article __: Official Time. **AGREED**

Section 4. Superior Achievement Awards.

A. Joint Awards Committees.

- (1) At the commencement of each performance year, the Port Director (or equivalent management official or designee) and the local NTEU Chapter President will establish a Joint Awards Committee (JAC). Such committees will be made up of three (3) representatives each from NTEU and CBP. Representatives are generally expected to serve on the JAC for the entire performance year. **AGREED**
- (2) Employees serving as union representatives on the JAC will do so while on official time in accordance with Article __: Official Time. **AGREED**
- (3) The JAC will be responsible for evaluating nominations for Superior Achievement Awards for bargaining unit employees and submitting recommendations for such awards to the designated management official for final approval. **AGREED**
- (4) The required quorum for any JAC meeting is two (2) representatives each from NTEU and CBP. **AGREED**
- (5) To ensure the JAC is prepared to execute its responsibilities under this Article, it will jointly review these procedures at the commencement of each meeting. **AGREED**
- (6) **JAC deliberations concerning awards nominations and recommendations will be considered confidential by both parties and as such, will not be publicized to the bargaining unit except as specifically provided for in this Article. This provision is not intended to prohibit either party from presenting evidence or providing testimony regarding the conduct of a JAC in a third party proceeding (e.g., arbitration, EEO complaint or Unfair Labor Practice Complaint) where such evidence or testimony is relevant or necessary to the adjudication of the case.**

- (7) JAC members may not participate in or be present during the deliberation of an award for which they are nominated or initiated the nomination.

AGREED

B. Award Nomination Procedures.

- (1) The Employer will establish, in collaboration with NTEU (at the national level), a standardized form on which award nominations will be submitted.

AGREED

- (2) To be eligible for consideration for an award under this process, employees nominated for either individual or group/team awards must have been rated Successful during their most recent annual proficiency rating, and the performance under consideration for recognition must have occurred during the performance rating cycle. Nominations for awards under this process will be submitted in the following ways: **AGREED**

(a) **Groups/Teams: may be nominated by agreement of the group/team's members; sponsor or supervisor of the group/team; and/or nominated by a CBP employee who uses or benefits from the group's/team's services or products.**

(b) **Individuals: may be nominated by a peer/co-worker; the employee him/her-self; a manager or supervisor; or by the other members of a group/team of which the individual is a member. **AGREED****

To ensure employee initiated nominations have been processed and forwarded to the JAC, employees may also provide a copy of submitted nominations to his/her Chapter President (or designee). Nothing in this provision is intended to prevent JAC consideration of an award nomination for which the Union was not provided a copy.

- (3) At the conclusion of each of the fiscal quarters, the Port Director (or equivalent management official or designee) will formally solicit nominations from employees and/or supervisors identifying award-worthy performance of a specific covered employee, group or team during that quarter. **AGREED**

- (4) Employees will be provided a minimum of fourteen (14) calendar days from the date of the solicitation announcement to submit award nominations to the nominated employee's supervisor. **AGREED**

- (5) Supervisors will review each nomination form received during the solicitation period and validate (and document on the form) the nominated employee's eligibility for an award, as well as the employee's performance of the activity identified in the nomination. The supervisor may also provide any additional information (s)he wishes the JAC to consider in the evaluation of the nomination. Completed nomination forms, including any nominations supervisors wish the JAC to consider will be submitted to the designated Joint Awards Committee members within fourteen (14) calendar days from the date of the end of the solicitation period.
- (6) Within fourteen (14) calendar days from the date of receipt of the award nominations, the JAC will meet for the purpose of evaluating the nomination and, using consensus decision making methods, making a written recommendation as to which nominees will receive awards under the criteria established in Section 5.C. of this Article. For the purpose of this submission all nominees for which a majority (i.e., more than fifty (50) percent) of the committee agrees should receive an award will be forwarded as an award recommendation.
- (7) When evaluating award nominations, the JAC will give deference to the supervisor's determination as to whether the employee is eligible for the award. **AGREED**
- (8) In accordance with applicable law, rule and regulation, employees may not receive awards under this process for the performance of union representational functions.
- (9) Within fourteen (14) calendar days of receiving the JAC recommendations, the official with award approval authority will consider the recommendations and accept, modify or reject them. If recommendations are rejected or modified, the approving official will provide the JAC with a reasonably detailed written explanation of the decision. The JAC may request reconsideration of rejected/modified recommendations by making a written request with a justification for reconsideration within seven (7) days of the receipt of the written explanation. A response on any request for reconsideration will be provided to the JAC no later than seven (7) days following receipt of the request. Final decisions rejecting or modifying JAC recommendations may be grieved at the final step of the negotiated grievance procedure as

described in Section __ of Article __: Grievance Procedure. Accepted recommendations (including no award) may not be grieved.

C. Evaluation of Award Nominations.

- (1) Absent the establishment of alternative criteria in accordance with subsection C.(2) of this Section, when the JAC determines a submitted nomination warrants the granting of an award, it will use the following table to determine the appropriate number of “shares” that will be awarded:

		<i>Extent of Impact</i>	
		<u>Limited:</u>	<u>Extended:</u>
<u>Value of Benefit</u>	<u>Illustrations:</u>	Affects the functions, mission, or personnel of one facility or field location, or an organizational element of headquarters.	Affects the functions, mission, or personnel of an entire field area or major office.
<u>Moderate:</u>	An activity or achievement that substantially surpasses established performance goals; a significant contribution to the accomplishment of the Agency goals; or behavior that exemplifies the Agency's core values.	1 Share	2 Shares
<u>Substantial:</u>	A reduction in unit costs based on such direct action as minimizing waste, highly expert and efficient performance of assigned tasks, improved utilization of manpower and facilities, or revised operating procedures, or unusual skill in the application of present procedures.	3 Shares	4 Shares

- (2) Port Directors (or equivalent management officials or designees) and Chapter Presidents are authorized to modify the award criteria identified in the above table by mutual agreement. “By mutual agreement” means that the parties do so voluntarily, and does not confer or infer any right or obligation to engage in bargaining, or to submit any disagreement over a proposed variation to grievance, arbitration or any other impasse dispute procedures. Such agreements must be placed in writing and signed by the parties prior to the commencement of the performance year. Such agreements are binding until such time as either party provides written notice to the other of its intent to withdraw. Withdrawals will be effective at the beginning of the performance year following receipt of the notice.

- (3) An employee or team may only receive one award under this process for a particular accomplishment. **AGREED**

D. Calculation and Distribution of Awards. At the end of the performance year, the Employer will use the following procedure to determine the amount of and distribute Superior Achievement Awards: **AGREED**

- (1) **The value of a share at a Port of Entry (or equivalent level) will be determined by dividing the bargaining unit awards pool for that Port of Entry (or equivalent level) by the total number of shares issued through the JAC process at that Port (or equivalent level).**

- (a) Employee awards at a Port of Entry (or equivalent level) will be calculated by multiplying the share value calculated in Section 5.D.(1) by the number of shares awarded to the employee through the JAC process. **AGREED**

1. **The maximum value of a share may not exceed an amount that would result in an employee receiving an award that exceeds the amount for which the Director of Field Operations (or equivalent management official) is authorized to grant (currently \$2,500.00). When this occurs, the value of a share will be adjusted to the amount that would result in the employee who was awarded the most shares receiving the maximum award amount. All awards will then be recalculated using this share value. Awards pool funds not expensed as a result of this adjustment will be available for distribution throughout the year to bargaining unit employees under Section 6 of this Article.**
2. The minimum value of a share may not be less than \$100.00. Should this occur, the number of awarded shares will be adjusted by the factor necessary to bring the value of a share to \$100.00. For example, if 200 shares were issued for an awards pool of \$10,000.00 (resulting in a share value of \$50.00), the number of shares awarded each employee would be multiplied by an adjustment factor of 0.5. In this scenario, an employee who received 10 shares would receive \$500.00 (10 shares X 0.5 X \$100 (minimum share value)). Following this adjustment, any employee who received a total of less than one (1) share will not receive an award. **AGREED**

- (b) **Absent circumstances beyond the control of the Employer (e.g., the agency's annual budget has not been approved), all awards issued**

under this process will be distributed within ninety (90) days of end of the performance cycle. In the event such circumstances occur, the Employer will notify the Union as soon as practicable.

- (c) Concurrent with their distribution, the Employer will locally post a list of all Superior Achievement Awards to include the name, position and description of performance prompting the award.

Section 5.A. Other Awards. Awards under this section are designed to permit managers to quickly recognize one-time and short-term efforts of employees or groups/teams that result in service of an exceptionally high quality or quantity. Examples of such efforts include situations where employees or groups/teams: **AGREED**

- (1) Produce exceptionally high quality work under tight deadlines; **AGREED**
- (2) Produce added or emergency assignments in addition to their regular duties; **AGREED**
- (3) Demonstrate exceptional courtesy or responsiveness in dealing with customers or colleagues; or **AGREED**
- (4) Exercise extraordinary initiative or creativity in addressing a critical need or difficult problem. **AGREED**

B. These awards may be recognized in one or a combination of the following:

- (1) Special Act Cash Award: Monetary award for satisfying the criteria in Section 6.A. **AGREED**
- (2) Time-Off Recognition: Time-Off recognition is time off work without charge to leave. **AGREED**
- (3) Non-Traditional Awards. Non-traditional awards include items with the CBP seal, logo or another specially designed inscription related to the CBP mission/work, ranging from those approved and conferred by the Commissioner to smaller recognition items such as paperweights. In addition, supervisors have the authority to give other non-traditional awards such as theater tickets or merchandise up to \$100.00 per award item, but no more than a total of \$400.00 per employee per calendar year. **AGREED**

- C. Agency managers have the discretion to grant awards under this section without conducting a formal nomination process. However, when management grants an award under this section, the awardee(s) will be notified of the management official granting the award and a brief description of the basis for the award. Furthermore, when granting a Special Act Cash Award under subsection B.(1) above, employees may request and Agency managers will consider providing the award in the form of time off under subsection B.(2) in an amount with a cost equivalent to but not more than the dollar value of the award. Agency managers will exercise their discretion to approve such requests in a fair and equitable manner. **AGREED**

Section 6. Quality Step Increases (QSIs). QSIs increase an employee's basic rate of pay from one step in the grade to the next higher step. Management will grant these increases responsibly, judiciously and in accordance with regulation and policy, with awareness of their long-term financial impact on budgets. In order to be eligible for a QSI all of the following criteria must be met:

- A. Employee receives a "successful" rating of record; **AGREED**
- B. Employee demonstrates performance significantly above that expected for the position as determined by the following criteria:
- (1) Displays outstanding performance to meet organizational goals or improves the efficiency, effectiveness, and economy of the Government;
 - (2) Excels in all critical performance areas as documented by specific examples; and
 - (3) Exhibits timeliness in performance;
- C. Employee must not have received a QSI in last fifty-two (52) weeks; and **AGREED**
- D. Employee level of exceptional performance is expected to continue in the future. **AGREED**

Section 7. Foreign Language Awards Program.

- A. The Memorandum of Understanding addressing the Employer's Foreign Language

Awards Program (FLAP), as ordered by the Federal Service Impasses Panel on April 11, 2008 is contained in Appendix XX. This program exists separate and apart from the award system(s) described in this Article. **AGREED**

- B. The Employer will incorporate the use of Voice Recognition System testing technology into its FLAP for additional languages (e.g., Dutch and Arabic) to the extent the testing technology becomes available, is validated as meeting the Employer's needs, and is cost effective. The Union may request that the Employer evaluate such technology at any time. **AGREED**

Note: These procedures will be added to the parties' existing contract article titled "Bid, Rotation and Placement" and the necessary formatting changes made to incorporate this Part. **Agreed**

PART B: BID & ROTATION AND WORK PREFERENCES FOR POSITIONS OTHER THAN CBP OFFICERS AND CBP AGRICULTURE SPECIALISTS.

Agreed

To increase the variety in work assignments, this Part describes bid and rotation and work preference procedures for positions other than CBP Officers and Agriculture Specialists.

Agreed

Section 1. Definitions.

- A. *Covered employees* include those employees, unless otherwise indicated, who have obtained the journeyman level in their respective occupation prior to the bid announcement date for the annual bid cycle, and are not the subject of any pending performance or disciplinary action, or the subject of an allegation of misconduct, that may prevent the performance of the full scope of required duties. Employees on a temporary light duty assignment may participate in the bid process, provided the Agency possesses evidence that the employee will no longer be on light duty at the time of placement.**
- B. *Work unit* is the term used to refer to a specific commodity team, trade team, entry branch, or similar organizational unit. **Agreed****
- C. *Bid* is the term used to refer to an individual's request to be assigned to a specific work unit. Similarly, bidding refers to the process of submitting a request for assignment to a specific work unit. Such a bid constitutes an employee commitment to be assigned to that requested work unit in the event (s)he is selected in accordance with these policies and procedures. **Agreed****
- D. *Rotation* refers to a change in an employee's assignment immediately following the bidding process. **Agreed****
- E. *Mutual agreement* refers to the ability of the local parties (e.g., a NTEU Chapter President and Port Director, or designees) to vary from the procedures set forth in this policy only if both parties agree to do so voluntarily. A "by mutual agreement" provision does not confer or infer any right or obligation to engage in**

bargaining, or to submit any disagreement over a proposed variation to grievance, arbitration or any other impasse dispute procedures. Such agreements must be placed in writing and signed by the parties, and will be binding until such time as either party provides written notice to the other of its intent to withdraw.

Withdrawals will be effective at the beginning of the next bid cycle following receipt of the notice. **Agreed**

F. **Qualifications** refer to the knowledge, skills and abilities the Agency has determined necessary for particular assignments and for the composition of particular work units. Such qualifications will be uniformly applied, and limited to those established consistent with law and regulation. **Agreed**

G. **Seniority** will be determined by:

(1) The total time an employee has served in his or her series (e.g., 1889 or 1894). Time served as an Import Specialist or Entry Specialist on a less than full time basis will be credited for seniority purposes on a pro rated basis. **Agreed**

(2) In the event it is necessary to resolve ties after step (1), the total time assigned to the position at the current duty location. **Agreed**

(3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e., Service Computation Date) will be used. **Agreed**

Section 2. Import Specialist & Entry Specialist Policies.

A. Unless the parties mutually agree to another procedure(s) at the local level, this procedure will serve as the default bid and rotation process for covered Import Specialists and Entry Specialists. An election not to conduct any bid and rotation for covered employees may be made by mutual agreement. **Agreed**

B. Management will solicit annual bids and rotate at least one associate per four (4) or five (5) person work unit, and at least two (2) associates per six (6), seven (7), or eight (8) person work unit. Locations that do not have more than one (1) work unit will not have a bid and rotation process. **Agreed**

C. Management may limit the number of rotations to less than that prescribed in Subsection B above when it determines such limits are needed based on operational and mission requirements. In such circumstances, management will inform the local NTEU chapter prior to the solicitation for employee bids and take

the necessary steps to permit the rotation of employees in accordance with this Article by the next bid cycle. **Agreed**

- D. Management may, at its discretion, increase the number of rotation opportunities to more than that prescribed in Subsection B above, after informing and upon request, consulting with the local NTEU chapter. **Agreed**
- E. In processing bids under these procedures, management is responsible for ensuring employees are assigned to a particular work unit so as to ensure continuity of, and to prevent unnecessary disruption to, Agency operations. This responsibility includes determining the appropriate numbers, types and grades of employees with specific skill sets needing to be assigned or retained within a particular work unit or assignment. Nothing in this Article is intended to create a work unit based solely on grade. **Agreed**
- F. Import Specialists and Entry Specialists rotating to a new team will be provided a reasonable amount of training determined necessary by the supervisor. Safety equipment and protective devices shall be provided to Import Specialists as required and prescribed by applicable regulations, directives and provisions of this Agreement. **Agreed**
- G. Import Specialists and Entry Specialists selected for assignments pursuant to these procedures will, absent just cause, perform the work assigned for a minimum of three (3) years after which they will be eligible to participate in the next bid cycle. **Agreed**
- H. Import Specialists and Entry Specialists selected for assignment pursuant to these procedures will be expected to conform to the work schedule requirements and practices of the new work unit to which they are assigned. As tours of duty (including Alternative Work Schedules (AWS)) are established for and tied to specific work units, the placement of an employee may necessitate the change of the employee's schedule (including from an AWS to a regular schedule) if so required to be consistent with work unit's negotiated agreements, established scheduling procedures and practices. **Agreed**
- I. Import Specialists and Entry Specialists may not receive reimbursement for any travel or relocation costs associated with assignments made under these procedures. **Agreed**
- J. Import Specialists and Entry Specialists that are reassigned to another duty location during the bid cycle will be placed at management's discretion. Those

employees will be eligible during the next bidding process if they meet the definition of covered employees. **Agreed**

Section 3. Import Specialist & Entry Specialist Procedures.

- A. On or about September 1st of each year, duty locations will make available to Import Specialists and Entry Specialists the work units and number of positions available for bidding. Management's advertisement will also include a brief description of the work unit, necessary qualifications, as well as the tour(s) of duty available. **Agreed**
- B. Within ten (10) work days of advertising available bids, covered employees will submit a number of bids equal to the number of work units at their location in priority order to their supervisor. Included with the bids, the employee will self-certify his/her seniority. By mutual agreement, the parties may extend or adopt a longer bidding period. **Agreed**
- C. For the purpose of providing transparency of process, local bid and rotation committees, consisting of at least two (2) representatives each from NTEU and CBP management shall process employee submissions. By mutual agreement, the committee may be a different size. To ensure the committee is prepared to implement these procedures each year, it will review the procedures and the employee bids prior to processing submissions. **Agreed**
- D. Upon request by the committee, an employee may be required to provide proof of his/her seniority. Requests will be made only when necessary, as determined by at least one (1) member of the committee. In the event proof is not provided, the employee's bid request will be removed from consideration. **Agreed**
- E. Absent just cause, bids will be granted in qualified seniority order for the first bid cycle conducted after the effective date of this Agreement. When processing a bid, the employee will be placed in his/her highest priority bid where there is a vacancy. **Agreed**
- F. During the second bid cycle after the effective date of this Agreement, employees who participate in the first cycle will be ineligible. The remaining most senior employees will have their bids processed by the Committee. **Agreed**
- G. During the third cycle after the effective date of this Agreement, employees who participate in the first and second cycle will be ineligible. The remaining most

senior employees will have their bids processed by the Committee. The next years bid cycle will restart with the employees whose bids were granted in Subsection E. **Agreed**

- H. During any bid cycle when the most senior employee bids to remain assigned to their current work unit, the next most senior covered employee will have their bid processed by the Committee until a vacancy (if any) exists. **Agreed**

Section 4. Senior Import Specialist Policies.

- A. Unless the parties mutually agree to another procedure(s) at the local level, this procedure will serve as the default bid and rotation process for covered Senior Import Specialists. An election not to conduct any bid and rotation for covered employees may be made by mutual agreement. **Agreed**
- B. Management will solicit annual bids from all Senior Import Specialists (GS-1889-12) who have worked on their respective work unit for at least four (4) years. Rotation and placement onto other available work units will be determined by seniority. Locations that do not have more than one (1) work unit will not have a bid and rotation process for Senior Import Specialists.**
- C. Management may limit the number of rotations to less than that prescribed in Subsection A above when it determines such limits are needed based on operational and mission requirements. In such circumstances, management will inform the local NTEU chapter prior to the solicitation for employee bids and take the necessary steps to permit the rotation of employees in accordance with this Article by the next bid cycle. **Agreed**
- D. Management may, at its discretion, increase the number of rotation opportunities to more than that prescribed in subsection A. above, after informing and upon request, consulting with the local NTEU chapter. **Agreed**
- E. In processing bids under these procedures, management is responsible for ensuring employees are assigned to a particular work unit so as to ensure continuity of, and to prevent unnecessary disruption to, Agency operations. This responsibility includes determining the appropriate numbers, types and grades of employees with specific skill sets needing to be assigned or retained within a particular work unit or assignment. **Agreed**

- F. Senior Import Specialists rotating to a new team will be provided a reasonable amount of training determined necessary by the supervisor. Safety equipment and protective devices shall be provided to Import Specialists as required and prescribed by applicable regulations, directives and provisions of this Agreement. **Agreed**

- G. Senior Import Specialists selected for assignments pursuant to these procedures will, absent just cause, perform the work assigned for a minimum of four (4) years after which they will be eligible to participate in the next bid cycle.

- H. Senior Import Specialists selected for assignment pursuant to these procedures will be expected to conform to the work schedule requirements and practices of the new work unit to which they are assigned. As tours of duty (including Alternative Work Schedules (AWS)) are established for and tied to specific work units, the placement of an employee may necessitate the change of the employee's schedule (including from an AWS to a regular schedule) if so required to be consistent with work unit's negotiated agreements, established scheduling procedures and practices. **Agreed**

- I. Senior Import Specialists may not receive reimbursement for any travel or relocation costs associated with assignments made under these procedures. **Agreed**

- J. Senior Import Specialists that are reassigned to another duty location during the bid cycle will be placed at management's discretion. Those employees will be eligible during the next bidding process if they meet the definition of covered employees. **Agreed**

Section 5. Senior Import Specialist Procedures.

- A. On or about October 1st of each year, duty locations will make available to Senior Import Specialists the work units (i.e., teams) and number of positions available for bidding. Management's advertisement will also include a brief description of the work unit, necessary qualifications, as well as the tour(s) of duty available. **Agreed**

- B. Within ten (10) work days of advertising available bids, covered employees will submit a number of bids equal to the number of work units at their location in priority order to their supervisor. Included with the bids, the employee will self-

certify his/her seniority. By mutual agreement, the parties may extend or adopt a longer bidding period. **Agreed**

- C. For the purpose of providing transparency of process, local bid and rotation committees, consisting of at least two (2) representatives each from NTEU and CBP management shall process employee submissions. By mutual agreement, the committee may be a different size. To ensure the committee is prepared to implement these procedures each year, it will review the procedures and the employee bids prior to processing submissions. **Agreed**
- D. Upon request by the committee, an employee may be required to provide proof of his/her seniority. Requests will be made only when necessary, as determined by at least one (1) member of the committee. In the event proof is not provided, the employee's bid request will be removed from consideration. **Agreed**
- E. Absent just cause, bids will be granted in qualified seniority order for the first bid cycle conducted after the effective date of this Agreement. When processing a bid, the employee will be placed in his/her highest priority bid where there is a vacancy. **Agreed**
- F. During the second bid cycle after the effective date of this Agreement, employees who participate in the first cycle will be ineligible. The remaining most senior employees will have their bids processed by the Committee. **Agreed**
- G. During the third cycle after the effective date of this Agreement, employees who participate in the first and second cycle will be ineligible. The remaining most senior employees will have their bids processed by the Committee. **Agreed**
- H. **During the fourth cycle after the effective date of this Agreement, employees who participate in the first, second, and third cycles will be ineligible. The remaining most senior employees will have their bids processed by the Committee.**
- I. The next years bid cycle will restart with the employees whose bids were granted in Subsection E. **Agreed**
- J. During any bid cycle when the most senior employee bids to remain assigned to their current work unit, the next most senior covered employee will have their bid processed by the Committee until a vacancy (if any) exists. **Agreed**

Section 6. Absent unusual circumstances, CBP will announce and implement bid and rotation results within thirty (30) calendar days of the close of the employee bid submission period. **Agreed**

Section 7. By mutual agreement, the parties may establish a different method for determining which covered employee is affected by the placement of a more senior qualified covered employee bidding to the work unit (e.g., first in – first out). Any such agreement must be made prior to, and publicized concurrently with the bid announcement postings. **Agreed**

Section 8. All Other Positions.

- A. On at least an annual basis (normally an employee's annual proficiency review meeting) all other non-uniformed employees will be permitted to express a preference for routine work assignments, e.g., audits, accounts, or branches, for management's consideration. In the event a preference cannot be accommodated, management will meet with a requesting employee and explain the decision(s) not to accommodate the preference and discuss potential alternatives. Upon request from an employee, management will provide a written explanation as to why a work preference couldn't be accommodated. **Agreed**
- B. Upon mutual agreement of the local parties, other bid and rotation procedures may be created for bargaining unit positions other than CBP Officer, CBP Agriculture Specialist, Import Specialist and Entry Specialist. **Agreed**
- C. However, those locations operating under existing practices will continue on those practices to the extent that they comply with the provisions of this Article and changes are implemented in accordance with law and this Agreement. **Agreed**

ARTICLE XX: DISCIPLINARY ACTIONS

Section 1. This Article applies to bargaining unit employees who have completed their probationary or trial period. **AGREED**

Section 2. A disciplinary action for purposes of this Article is defined as a written reprimand or a suspension from duty and pay of fourteen (14) calendar days or less. **AGREED**

Section 3. Disciplinary actions taken against an employee will be for such cause as will promote the efficiency of the service. Discipline will be taken in a manner that is fair and impartial, and timely (i.e., so as not to create an unreasonable delay that materially prejudices the employee).

Section 4. Disciplinary penalties will be imposed to correct behavior, teach the employee and others that certain actions are unacceptable for an employee of CBP, and to demonstrate and support the expected high standards of conduct for CBP. As such, discipline under this article will be taken with a progressive or corrective (rather than punitive) approach, and will give appropriate consideration to the criteria contained in Appendix XX: Douglas Factors. **AGREED**

Section 5. Procedures for effecting disciplinary actions are as follows:

A. Letters of Reprimand: A letter of reprimand will state the reason(s) for its issuance and inform the employee of the right to grieve under the contractual grievance procedures. A letter of reprimand will remain in the employee's Official Personnel Folder (OPF) for a period of eighteen (18) months, unless management exercises its discretion to remove it earlier. In the event the Employer exercises this discretion (either independently or upon request by the employee or Union) it will inform the appropriate Union representative. **AGREED**

B. Suspensions of Fourteen (14) Days or Less:

(1) The employee will be given fifteen (15) calendar days advance written notice stating the specific reason(s) for the proposed suspension. With the notice, the employee will be provided, to the extent such information exists and is related

to the action, a copy of those portions of all written documents which contain information or evidence relied upon by the Employer as the basis for the action, those portions of written documents that are favorable to the employee, and the investigative report. In addition, in the event the Employer reviewed video or audio surveillance recordings in proposing the action, such recordings will be made available for review by the employee. **AGREED**

- (2) The employee will be given fourteen (14) calendar days from receipt of the notice of suspension and supporting material to present an oral and/or written reply to the proposed suspension. The employee will have the right to be represented by the Union, or by an attorney or other representative of his own choosing in connection with the oral and/or written reply. Extensions of the reply period may be made by mutual agreement of the parties. All extensions granted will be confirmed in writing or electronic mail. **AGREED**

(a) Oral Replies:

1. Absent just cause, any request for an oral reply must be made within seven (7) calendar days of receipt of the notice of suspension.
AGREED
2. Upon request by either party, oral replies will be presented in person. By mutual agreement, oral replies may be provided by telephone or other technological means (including video conferencing).
AGREED
3. Oral replies will generally be heard at or near the employee's duty location, and CBP will provide time and reimburse the employee and his or her union representative to travel to and from the oral reply location. **AGREED**
4. In the event management elects to hold the oral reply at a location outside the employee's duty location, CBP will be responsible for all travel and per diem costs, as well as time for the employee and his or her Union representative to travel to and from the oral reply location.
AGREED
5. To the maximum extent possible, NTEU will make a reasonable effort to designate a representative at or near the employee's work location to participate in oral replies. In the event NTEU elects to designate a representative outside of the geographical jurisdiction of the employee's

NTEU Chapter, NTEU will be responsible for the travel and per diem expenses for its representative to attend the oral reply. **AGREED**

6. In the event the employee chooses anyone other than an NTEU representative, NTEU will be invited to the oral reply merely to observe. **AGREED**
7. **CBP will provide a summary or transcript of any oral reply made to the affected employee and/or his/her designated representative prior to the time a final decision is made. The employee and representative will be given a reasonable period, based on the length of the summary or transcript, to identify and submit corrections they feel are appropriate. The summary or transcript, including all submitted corrections will be provided to the deciding official before the final decision is made.**

(b) Written Replies: Written replies must be received by the designated official prior to the end of the fifteen (15) calendar day notice period. **AGREED**

- (3) After receipt of the written and/or oral reply, and any corrections to the summary or transcript submitted by the employee or representative, the Agency will issue a final decision. In the event no written or oral reply is provided, the decision will be issued after the end of the fifteen (15) calendar day period. The final decision will advise the employee of the specific reason(s) for the decision and of the right to grieve the action under the negotiated grievance procedure. **AGREED**
- (4) In cases where a suspension is proposed for reasons of off-duty misconduct, the Agency's written notification provided for above will also contain a statement describing the nexus between the off-duty misconduct and the efficiency of the service. **AGREED**

Section 6. In cases where suspensions without pay for periods of fourteen (14) days or less are proposed (for purposes other than an emergency suspension related to an adverse action) and it is the first instance of a proposed action for misconduct by the employee, the employee, the Union and the deciding official may agree that alternative remediation in lieu of suspension (or part of it) is appropriate. **AGREED**

- A. The alternative remediations covered by the provisions of this article include, but are not necessarily limited to, referrals to the Employee Assistance Program,

election for counseling/training, changes in assigned duties, disqualification for a particular assignment, community service, leave without pay, donation of annual leave to a leave transfer program, combination of leave without pay and community service, combination of reduced suspension and community service and divestment by the employee of any conflict of interest. **AGREED**

- B.** After receipt of a letter proposing a suspension of fourteen (14) days or less, either party may request a meeting to discuss alternative remediation. Any meeting will be attended by the employee, a union and management representative, and the deciding official (or designee). The deciding official (or designee) must attend in person if in the commuting area. Otherwise, the deciding official can participate by telephone. An equal number of additional Agency and Union representatives may also attend with the intent to limit the number of attendees to those necessary to make a decision. This discussion will occur prior to the presentation of the oral reply. **AGREED**
- C.** In the event a meeting is not requested in Subsection B., in order to promote awareness and use of alternative remediation, the employee (and his/her representative) and the management official receiving the oral reply in Section 5.B.(2)(a) above will discuss whether alternative remediation is appropriate. This discussion will occur prior to the presentation of the oral reply. **AGREED**
- D.** Employees shall not be required to admit misconduct until complete agreement is reached to utilize alternative remediation. If agreement is reached, alternative remediation will be implemented as described in subsection E., below. If no agreement is reached, no inference of misconduct can be drawn from the request for an alternative remediation meeting. Further, no part of the discussions, deliberations, offers or recommendations generated at any step of the alternative remediation process will be used in any way by either party. **AGREED**
- E.** All such alternative remediations shall be set forth in a letter that contains the following: **AGREED**

 - (1) An accurate and full description of the employee's misconduct; **AGREED**
 - (2) The employee's admission of having engaged in the misconduct; **AGREED**
 - (3) The employee's promise to correct the inappropriate behavior; **AGREED**
 - (4) Descriptions of the specific suspension that would have been called for and the specific alternative remediation; **AGREED**

(5) Acknowledgment that the letter will be retained by the Employer for a period not to exceed two (2) years to support possible future remediation based on new acts of misconduct committed by the employee during that period; **AGREED**

(6) The specific remedial action that will be imposed if the employee fails to comply with the terms of the alternative remediation letter (remedial action may be less than that originally proposed); **AGREED**

(7) A waiver of the employee's appeal and/or dispute resolution rights; **AGREED**

(8) A statement that the agreement was voluntarily entered into by the employee, the Union and the Employer; and **AGREED**

(9) Signatures of the employee, the deciding official, and the Union and management representatives. **AGREED**

F. Actions taken based on the Employer's allegation of non-compliance with an alternative remediation letter may be grieved under the negotiated grievance procedure. **AGREED**

Section 7. Suspensions taken under this article will be served on consecutive days following the commencement of the suspension. To the maximum extent possible, effective dates for suspension of ten (10) to fourteen (14) days will be set so that the suspension is served across two adjoining pay periods, and the suspension does not cover more than five (5) regular duty days in either pay period. **AGREED**

ARTICLE XX: DURATION

Section 1.A. This Agreement will be considered executed when no further action is necessary to finalize the agreement, e.g., the date last chief negotiator signs the signature page or initials the last article in dispute, or when a decision from the Federal Service Impasses Panel is considered final and binding, whichever is sooner.

- B.** The Agreement will then be submitted for Agency Head approval the day after NTEU notifies the Agency's chief negotiator of ratification by the NTEU membership.
- C.** If the Union fails to ratify the Agreement or the Agency Head disapproves any provision of the Agreement, the parties will return to the bargaining table and use the same ground rules practices used to negotiate this Agreement.
- D.** However, if the Agreement is disapproved and challenged through the Federal Labor Relations Authority (FLRA) negotiability appeal process, the Agreement will not go into effect until the date the FLRA decision is final and binding so long as the FLRA has upheld the validity of the negotiated language and ordered the Agency Head to rescind its disapproval. By mutual agreement, the parties may explore severing disapproved provisions and proceeding with effecting the Agreement.
- E.** This Agreement will become effective ninety (90) days after obtaining agency head approval pursuant to 5 U.S.C. §7114 (c). **AGREED**

Section 2.A. This Agreement will remain in effect for three (3) years, unless modified in accordance with this Article.

- B.** Upon expiration, this Agreement will remain in effect for yearly periods thereafter unless either party serves the other party with a written notice of the desire to renegotiate the Agreement during a window period beginning four months (4) months prior to the expiration date and ending two (2) months prior thereto. **AGREED**

Section 3. Nothing prohibits the parties from modifying or extending this Agreement by written mutual agreement. **AGREED**

ARTICLE XX: EMPLOYEE RIGHTS

Section 1. Employees covered by this Agreement shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided in the Civil Service Reform Act of 1978, such rights include the right: **AGREED**

B. To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the Executive Branch of the Government, the Congress or other appropriate authorities; and **AGREED**

C. To engage in collective bargaining with respect to conditions of employment through the Union as provided by law and this Agreement.
AGREED

Section 2. Nothing in this Agreement shall require an employee to become 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 deduction.
AGREED

Section 3. Each employee covered by this Agreement has the right to be represented by the Union without discrimination and without regard to labor organization membership subject to the Union's right to refuse to represent the employees described in Section 4 of Article __: Union Rights. **AGREED**

Section 4.A. Employees and Agency managers shall conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day to day working relationships. **AGREED**

B. Any discussions with individual employees concerning counseling, evaluations, workload review, or disciplinary actions will be conducted so as to insure the privacy of the employee. **AGREED**

Section 5.A. When an employee is ordered by a supervisor to perform any action and the employee believes the order is a violation of law, the employee may do any or all of the following: **AGREED**

- (1) Give the supervisor a written statement expressing the employee's objection to the order; **AGREED**
- (2) Use the Internal Affairs hotline to report the alleged violation; **AGREED**
- (3) Verbally inform the supervisor of his concerns. **AGREED**

B. Any such action by the employee must not interfere with his carrying out any lawful order. Failure to carry out a lawful order may result in disciplinary action. The supervisor shall assume full responsibility for the decision, but not for the employee's execution of the order. **AGREED**

Section 6. Except in the case of a grievance or other negotiated appeal provisions contained in this Agreement, nothing shall be construed to preclude an employee from: **AGREED**

- A.** Being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any dispute or appeal action; or **AGREED**
- B.** Exercising dispute or appellate rights established by law, rule, or regulation. **AGREED**

Section 7. An employee covered by this Agreement may, without fear of penalty or reprisal, engage in the disclosure of information which the employee reasonably believes evidences: **AGREED**

- A.** A violation of any law, rule, or regulation; or **AGREED**
- B.** Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs. **AGREED**

Section 8. Consistent with the procedures contained in Article ___: Investigations, an employee has the right to representation by the Union at any examination conducted by a representative of the Agency in connection with an investigation if: **AGREED**

- (1) The employee reasonably believes that the examination may result in disciplinary action against the employee; and **AGREED**
- (2) The employee requests representation. **AGREED**

Section 9.A. An employee will be notified of a written complaint received by management. A complaint for the purpose of this section is defined as a written statement, including any oral complaints reduced to writing by the Agency, by an identified complainant indicating dissatisfaction with an employee by reason of conduct, appearance or carelessness or propriety of an action taken by the employee. **AGREED**

- B.** Notification shall be provided by management as soon as practicable, normally within three business days, following the receipt of the complaint. Upon request, the employee shall be furnished with a copy of the complaint; or if the complaint involves more than one employee, that portion of the complaint related to the requesting employee. A copy of a written response by management will be furnished to the employee upon written request by the employee. **AGREED**
- C.** The Agency will afford the employee a reasonable period of time in which to prepare and give to the Employer a response to the complaint, which will be considered before the Employer responds to the complainant. Upon request, the Employer will advise the employee of its response by providing a copy or summary. **AGREED**

Section 10.A. The Agency has determined that the review of audio and video recordings is designed to reveal deviations from standards and unsafe conditions and practices so that appropriate corrective actions can be taken. Accordingly, audio and video recording devices will be used to augment the Agency's surveillance capabilities for port perimeters, secured areas and for interactions between employees and the public. Any Agency operated audio and video recording will be conducted in accordance with law, rule and/or regulations. **AGREED**

- B.** Unless the Agency has an internal investigative interest, Agency operated audio and video recordings are not intended to capture employee actions while in non-

work areas. A non-work area includes bathrooms, break rooms, parking lots or other areas where official duties are not performed. Although not the intended purpose of the Agency's audio and video surveillance systems, nothing in this Section is intended to prohibit the Agency from proposing action against an employee in the event a recording captures potential misconduct in a non work area. In the event the Agency determines to operate audio and video recordings in non-work areas, it will notify NTEU and provide it the opportunity to bargain, as appropriate. **AGREED**

- C. In the event an audio or video recording is relied upon by the Agency when proposing a discipline or adverse action, the employee will be provided such recording and the opportunity to respond in accordance with Articles _ & _ : Discipline & Adverse Actions.**

Section 11. At the completion of a sworn affidavit at the conclusion of an investigative interview, subjects are allowed to review their answers and to make any changes they deem are required. This opportunity to review includes the ability to listen to a portion of or the entire recording to verify answers before executing the affidavit. Employees have the ability to secure a NTEU representative to participate in all phases of the investigative interview in accordance with Section 6 of Article _ : Investigations.

Section 12. When the Employer exercises its legal right to search an employee's possessions at the work site (e.g., desk, locker, car, clothing, etc.) in a non-criminal matter, the employee and his representative will be allowed to be present during the search. If the employee and his representative are not present at the work site, the search will be delayed until such time as they are both available unless such delay impedes the purpose for which the search is conducted. **AGREED**

Section 13.A. Participation in the Combined Federal Campaign, United States Bond Drives, Blood Donor Drives and other worthy programs will be on a voluntary basis. **AGREED**

- B. Contributions for gifts for supervisors, management officials or fellow employees will be strictly voluntary. **AGREED****

Section 14. The Employer will ensure that a copy of Article XX (Investigations) is included in all orientation materials provided to newly hired employees. **AGREED**

Section 15.A. In consideration of an employee's right to privacy, any requested medical information will be kept in confidential files separate from an individual's personnel file. **AGREED**

B. Employees will normally provide appropriately requested medical information to the requesting official who will ensure the information is protected in accordance with Subsection A. As an exception, in the event an employee has a reasonable privacy concern related to providing detailed medical information (*e.g.*, information that includes a doctor's prognosis and diagnosis) directly to the requesting official, upon employee request, the Employer will make alternative arrangements for the employee to deliver the required information directly to a medically certified Agency representative. The employee acknowledges the granting of such a request may result in a delay in the benefit sought by the employee. **AGREED**

C. In the event a medically certified Agency representative provides medical information to CBP management officials for the purpose of making an informed management decision, the non-medically certified CBP management officials will only review applicable summary medical information in which they have an appropriate need to know. **AGREED**

ARTICLE XX: EQUAL EMPLOYMENT OPPORTUNITY

Section 1.A. The Employer will provide equal opportunity in employment for all qualified persons and will prohibit discrimination in employment because of race, color, religion, sex, national origin, age, or disability, or reprisal for filing a claim on one of these bases, except where required by statute or pursuant to bona fide occupational qualifications. **AGREED**

B. The Union agrees that in carrying out its representational activities, the Union will not engage in any discrimination against any employee because of race, color religion, sex, national origin, age, disability, or reprisal, except where required by statute or pursuant to bona fide occupational qualifications. **AGREED**

C. The Employer in the employment context and the Union in carrying out its representational activities, as applicable, agree not to discriminate because of marital status, political affiliation, sexual orientation, parental status or protected genetic information. **AGREED**

Section 2.A. The Union recognizes that the development of diversity/inclusion, civil rights and civil liberties programs, including Equal Employment Opportunity (EEO) programs, are management functions for which management is fully responsible. **AGREED**

B. The Employer shall make available to employees a copy of the regulations, directives and policies it issues to carry out its programs regarding civil rights and civil liberties. **AGREED**

Section 3. Where the development and implementation of diversity/inclusion, civil rights and civil liberties plans and programs involve changes in personnel policies, practices, or working conditions, the Employer will fulfill its bargaining obligations with the Union in accordance with 5 U.S.C. Chapter 71, and Article __: Bargaining. **AGREED**

Section 4. Nothing in this Agreement shall preclude the Employer from dealing directly with civil rights organizations, special emphasis committees, affinity groups, or any other organization not qualified as a labor organization, on diversity/inclusion, civil rights and civil liberties matters or policies involving unit employees so long as such dealings do not detract from or violate the rights of the Union under applicable laws or this Agreement, or assume the character of formal consultation on matters of general employee-management policy affecting the bargaining unit. **AGREED**

Section 5.A. Any employee who believes that he or she has been discriminated against on any of the grounds set forth in Section 1.A. of this Article may file one of the following:

- (1) A grievance pursuant to the provisions of Section 6 of this Article (hereinafter "an EEO grievance"); **AGREED**
 - (2) An appeal to the Merit Systems Protection Board (MSPB) where an action is otherwise appealable to the Board and the employee alleges that the basis for the action was discrimination prohibited by Section 1.A. of this Article; or **AGREED**
 - (3) A statutory EEO complaint pursuant to Equal Employment Opportunity Commission (EEOC) regulation 29 C.F.R § 1614 (statutory process); or **AGREED**
 - (4) An appeal to the EEOC where there is an allegation of discrimination prohibited by Section 1.A. of this Article but no otherwise appealable action and the employee has already received a Final Agency Decision. **AGREED**
- B.** An employee who believes (s)he has been discriminated against on any grounds set forth in subsection 1.C. of this Article may file a grievance under the procedures contained in Article __: Grievance Procedure (**AGREED**), or if appropriate a **Complaint of Possible Prohibited Personnel Practice with the office of Special Counsel, but not both.**
- C.** **The selection of the grievance procedure contained in this Article to process an EEO grievance involving discrimination as described in Section 1.A. shall in no manner prejudice the right of an aggrieved employee to request the MSPB to review the final decision in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the EEOC to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Commission.**
- D.** Appeals to the EEOC or the MSPB shall be filed pursuant to such regulations as the Commission or the Board may prescribe. **AGREED**

Section 6. EEO Complaint and Negotiated EEO Grievance Procedures.

A. Pre-Complaint/Pre-Grievance Stage.

- (1) An employee who believes (s)he has been illegally discriminated against by the Employer on the bases identified in Section 1.A. of this Article must contact an Diversity and Civil Rights (DCR) Officer within forty-five (45) calendar days of the date of the alleged discriminatory act or, in the case of a personnel action, within forty-five (45) calendar days of the effective date of the personnel action. **AGREED**
- (2) **The DCR Officer will counsel the employee in accordance with 29 C.F.R. § 1614 and applicable EEOC directives (e.g., MD-110).**
- (3) **Upon request by the employee, the Union, and/or the Employer, mediation will be used in an attempt to foster a voluntary resolution of the case. To increase the likelihood of success of the mediation process, the Employer and the Union will insure the representatives it designates to participate in the mediation possess a reasonable level of authority to resolve the case. Where mediation is used, the pre-complaint/pre-grievance counseling period will be extended for a period of not more than sixty (60) calendar days.**
- (4) **If the parties are unable to resolve the case during the thirty (30) calendar day counseling period, or ninety (90) day calendar period where mediation is used, the counselor will conduct a final interview at which time the employee may elect to withdraw the case, or request a Notice of Right to File a Formal Discrimination Complaint (NORTF). When a NORTF is requested, it will explain the employee's right to file under the Negotiated EEO Grievance Procedure (NEGP) or statutory complaint process, within fifteen (15) calendar days of receipt of the NORTF. The employee will be required to sign for receipt of the NORTF.**

B. Employee Election.

- (1) **Upon the conclusion of the final interview and in accordance with 5 U.S.C. § 7121 and 29 C.F.R. § 1614 Subpart D, the employee has the right to file an EEO grievance under the procedures of this Article or a formal discrimination complaint under the statutory procedures (but not both) within fifteen (15) calendar days of receipt of the NORTF.**

- (2) An employee shall be deemed to have exercised his/her option under this Section at such time as the employee first timely files a formal EEO complaint under the statutory procedure or timely files an EEO grievance in accordance with the provisions of this Article.

C. Negotiated EEO Grievance Procedure.

- (1) At the conclusion of the pre-complaint stage, an employee may initiate an EEO grievance by submitting a grievance in accordance with Section 15.B. (Formal Submission Step) of Article __: Grievance Procedure within fifteen (15) calendar days of receipt of the NORTF. In addition to the requirements of that Section, the employee's submission must contain a formal allegation of discrimination (including identification of the alleged discriminatory act or personnel action, the specific bases of discrimination alleged (i.e., race, color, religion, sex, national origin, age, or disability, or reprisal as described in Section 1.A), along with a copy of the NORTF.
- (2) A copy of the grievance, along with related information from the employee (or his/her representative) must be concurrently served on the Executive Director, Office of Diversity and Civil Rights (DCR) or his/her designee. Upon receipt of the grievance, the Executive Director, DCR (or his/her designee) will provide a copy of the counselor's report to the employee (or his/her representative) and the management official to which the grievance was filed under Section 6.B.(1).
- (3) The EEO Grievance (including any non-EEO claims arising from the same act or personnel action) will be processed from the Formal Submission Step forward in accordance with Article __: Grievance Procedure, including through Arbitration in accordance with Article __: Arbitration.
- (4) In the event the Union invokes Arbitration of an EEO Grievance under this Article, in addition to the requirements of Article __: Arbitration, the following requirements will apply:
 - (a) Any arbitrator selected must possess relevant experience in civil rights and/or EEO law.
 - (b) In the event the EEO grievance alleges discrimination and a non-EEO based claim, the Arbitrator will hear and rule on both issues.

- (c) **During the hearing and in his/her decision, the Arbitrator will follow and be bound by applicable laws, rules, regulations and case law precedent.**
- (d) **In addition to the involved parties, a copy of the arbitrator's award will be served to the Executive Director, DCR (or his/her designee).**
- (e) **Final Agency Decision.**
 - 1. **Within fifteen (15) calendar days of receipt of the arbitrator's award, the Executive Director, DCR (or his/her designee) will issue a Final Agency Decision regarding claims of discrimination identified in Section 1.A., by accepting, amending or rejecting the award based on the following:**
 - a. **The award will be accepted if it is not contrary to law, rule or regulation.**
 - b. **Where a portion of the award is contrary to law, rule or regulation, the award will be amended so that it is compliant with the appropriate law, rule or regulation.**
 - c. **Where the award cannot be amended, the award will be rejected.**
 - 2. **Whenever an arbitrator's award is amended or rejected, the Final Agency Decision will contain an explanation of the reasons why the arbitrator's decision violates law.**
 - 3. **The Final Agency Decision will contain a statement of appeal rights, including the union's right to appeal under 29 C.F.R. § 1614 Subpart D.**
 - 4. **Where an arbitrator's decision addresses both EEO and non-EEO claims arising from the same act or personnel action, the above subsections regarding the Final Agency Decision will only apply to the EEO based claims.**

D. Statutory EEO Complaints.

- (1) **At the conclusion of the pre-complaint stage, an employee may initiate a formal EEO Complaint under the statutory procedures within fifteen (15) calendar days of receipt of the Notice of Right to File Discrimination Complaint.**
- (2) **The Employer will process EEO Complaints under the statutory EEO process in accordance with applicable laws, rules, regulations and EEOC Directives (e.g., MD-110).**

Section 7. Nothing in this article precludes the settlement or resolution of an EEO Grievance or EEO Complaint at any time in the process. **AGREED**

Section 8.A. At any stage in the processing of an EEO Grievance or Complaint, the employee shall have the right to be accompanied, represented and advised by a Union representative. **AGREED**

B. The employee shall also have the right to present the EEO Grievance or Complaint without representation. **AGREED**

C. If the employee elects to pursue an EEO Grievance or Complaint elects to process the grievance without representation, the Union shall have the right to notice and to be present at any meeting between management and the employee concerning the grievance. **AGREED**

Section 9. If at any stage of the EEO Grievance or statutory Complaint process, the Employer determines to make changes to resolve the complaint with respect to personnel policies and practices or matters affecting the general working conditions of unit employees, the Union will be afforded reasonable notification and ample opportunity to negotiate the matter prior to implementation of such changes in accordance with 5 U.S.C. Chapter 71 and Article __: Bargaining. **AGREED**

Section 10. Following adjudication under the EEO Grievance or statutory Complaint procedure, the decision will generally affect the complainant alone. However, when a formal discussion is held by the Employer with the complainant and/or the complainant's representative for the purpose of implementing a decision which impacts on employees in

the bargaining unit, the Union will be given an opportunity to be represented at the meeting. **AGREED**

Section 11. The names and contact information for DCR Officers, as well as a DCR staffing chart (chain of command) will continue to be maintained on CBPnet. **AGREED**

Section 12. The Employer will provide the Union summary statistical data of competitive promotion actions, awards (special act and performance) and disciplinary actions (adverse and non-adverse) of agency employees by race, national origin, sex and disability for all occupations and for each AC Office. Data for each category will be provided no less than every other year, but not necessarily for all categories during the same year. In addition, the Employer will provide the Union with copies of all annual reports provided to the White House, Department of Homeland Security, Office of Personnel Management and EEOC.

Section 13. The Employer is committed to providing reasonable accommodation to employees in order to ensure that qualified individuals with disabilities enjoy full access to equal employment opportunity, to the extent a particular accommodation does not impose an undue hardship on the Employer, consistent with applicable law.

ARTICLE XX: USE OF FORCE & FIREARMS

Section 1.A. Determinations as to when, where, under what circumstances, and which employees shall be authorized or required to carry firearms and/or other weapons are reserved solely to the Employer subject to agreements negotiated with NTEU and applicable law. **AGREED**

B. The CBP Use of Force Policy Handbook (Handbook) and the accompanying “Agreement between U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU)” dated _____ sets forth the Agency’s use of force policy in addition to the terms of this Article. The Handbook and the Agreement can be found at (insert web hyperlink). **AGREED**

C. Any firearms policies or regulations issued by the Agency during the life of this Agreement that apply to bargaining unit employees, shall conform to applicable laws, regulations and the provisions of this Agreement and, in addition to any changes to the Handbook, shall be subject to the bargaining rights and procedures contained in Article XX: Bargaining. Employees will be notified of, and have access to, all negotiated agreements resulting from future use of force policy changes. **AGREED**

Section 2. CBP will provide legal support, to the extent authorized by federal law, for CBP officers involved in civil or criminal actions as a result of performing duties under this policy, provided that the officer acted in good faith and with a reasonable belief in the lawfulness of his actions. **AGREED**

Section 3. No employee will be subject to conditions hazardous to his health in the course of training and qualification in the use of firearms and other weapons. **AGREED**

Section 4. Authorized officers, i.e. those authorized to carry a firearm, have the ability to forward questions regarding Use of Force policy directly to the Use of Force Policy Division for a response. **AGREED**

Section 5. Authorized officers who have successfully qualified may carry their weapons to and from their residences and may make reasonable stops between their residence and work. In order to assist with their compliance, authorized officers will be provided sufficient training regarding off-duty carry of CBP issued weapons. **AGREED**

Section 6. The Agency will provide managers and supervisors with additional guidance that will assist them in making swift and appropriate determinations in the weapon removal process, e.g., not every violation under the table of offenses may prompt the removal of a firearm. **AGREED**

Section 7.A. The Agreement between U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU) dated August of 2006 addressing a due process procedure for CBP Officers, to include Seized Property Specialists, will continue to apply. **AGREED**

B. The authorized officer's nexus letter will be modified to include an area for the Agency to provide the nexus for the firearm removal in situations that were previously identified as "other." **AGREED**

C. The authorized officer's investigation status letter will be expanded to include an estimated time frame for completion. **AGREED**

D. An authorized officer's firearm removal nexus letter and subsequent investigation status letter(s) will also include the statement: "A COPY OF THIS LETTER MAY, AT YOUR OPTION, BE FURNISHED TO YOUR NTEU REPRESENTATIVE." **AGREED**

Section 8. In the event the Agency restricts an authorized officer's off-duty carriage authority for cause, the provisions of the "due process" Agreement referenced in Section 7 above will be followed. **AGREED**

Section 9. In the event an authorized officer has temporarily had their authority to carry a firearm rescinded, the officer will be assigned duties that do not require the carriage of a firearm until the officer's situation is resolved. During this time, the Agency will make a reasonable effort to assign these officers to duties that may provide for overtime compensation. **AGREED**

Section 10. In the event an officer can no longer demonstrate the proficiency necessary to maintain the authority to carry a firearm, the Agency will consider the employee for other positions for which the employee is qualified prior to taking any other

administrative action. This provision is not intended to replace or conflict with established reasonable accommodation procedures. **AGREED**

Section 11. Absent other outstanding misconduct issues, an authorized officer who has had a domestic violence conviction (i.e. Lautenberg Amendment) expunged will be treated as if the conviction had never occurred, e.g. the authorized officer will be permitted to carry a firearm in accordance with the provisions of the Handbook. **AGREED**

Section 12. If a bargaining unit authorized officer is to be interviewed by any representative of the Agency concerning their involvement in a use of deadly force incident, the authorized officer shall be advised of their right to an NTEU representative, pursuant to the terms of Article 22: Investigations. The interview will not be held until the authorized officer has had a reasonable opportunity to regain their composure and to secure NTEU representation. **AGREED**

Section 13. Authorized officers involved in a use of deadly force incident will be strongly encouraged to receive immediate medical attention. **AGREED**

Section 14.A. In accordance with Chapter 6 of the Use of Force Handbook, the Agency has determined that while performing official duties, authorized officers who carry firearms are required to be trained in both and carry at least one approved intermediate force device (i.e. OC spray or a CSB). **AGREED**

B. Those authorized officers in the field who have previously been certified to carry OC Spray by either CBP, the former United States Customs Services, the former Immigration and Naturalization Service or the former Border Patrol, regardless of whether or not such certification required an OC spray exposure, will be permitted to continue the carry of OC as an intermediate weapon. **AGREED**

C. Those authorized officers in the field who have never been previously certified to carry OC spray, and voluntarily choose to carry OC spray as an intermediate force option, must successfully complete the OC spray exposure exercise. **AGREED**

D. All authorized officers attending basic training must successfully complete the OC spray exposure exercise during their initial certification. **AGREED**

E. Re-certification in the use of OC spray will not require an OC spray exposure.

AGREED

F. No pregnant authorized officer will be required to undergo an OC spray exposure.

AGREED

Section 15.A. In accordance with the *Handbook*, the Agency has determined a minimum of eight (8) hours of use of force training will be conducted each qualification period. This will include four (4) hours for firearms training and recertification and four (4) hours for intermediate force training and recertification. **AGREED**

B. Eight (8) hours of remedial training will be provided to those failing to qualify with a firearm. **AGREED**

C. Eight (8) hours of remedial training will be provided to those failing to qualify with an intermediate device. **AGREED**

D. Upon request, CBP will provide NTEU an annual report containing data which reflects the number of Form CA-1 "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" filings that involved employee injuries during firearms and intermediate force training.

Section 16.A. In addition to quarterly qualifications, as well as unusual circumstances, authorized officers will be provided with sufficient materials to clean and maintain their Agency-issued or Agency-authorized firearms on duty time in accordance with established guidelines and legally implemented procedures. **AGREED**

B. Upon request by a local NTEU chapter, CBP will consult with the Chapter concerning the cleaning and maintenance of authorized firearms. **AGREED**

Section 17. As a general rule, any required proficiency training, demonstration or qualification will be held during the authorized officer's normal tour of duty. If the authorized officer's normal tour of duty does not coincide with the scheduled training, demonstration or qualification, the Agency will modify the work schedule seven (7) days in advance of the administrative workweek, absent an authorized officer's voluntary agreement to do otherwise. **AGREED**

Section 18. The Agency will ensure medical personnel are available (either in person or by phone) when conducting use of force training exercises, including training concerning OC spray. **AGREED**

Section 19. Basic first aid training will be made available to Range Officers to enable them to provide emergency first aid until a more qualified medical technician is available. **AGREED**

Section 20. In accordance with the provisions of Chapter 9 Section E "CBP Authorized Competitive Shooting Teams" of the Use of Force Handbook, upon written approval from the Agency, duty time will be authorized for officers participating in authorized firearms competitions as Agency representatives. **AGREED**

Section 21. To assist authorized officers when applying for concealed weapon permits pursuant to Public Law 108-277, 18 USC 926B, the Agency will issue guidance to authorized officers once finalized. Once the guidance is finalized, NTEU will be provided a copy. **AGREED**

Section 22. Nothing in this Agreement or CBP policies and regulations shall be construed as interfering with the right of an employee as a private citizen to carry a privately-owned weapon in an off-duty status in accordance with applicable state or local law. **AGREED**

Section 23. Firearms instructors will be selected in accordance with the parties' Bid, Rotation and Placement Agreement. In locations that do not consider Firearms Instructors as included in a "work unit", existing selection procedures for the collateral duty will continue to apply. **AGREED**

Section 24.A. It is important that CBP appropriately determine whether an officer should have the authority to carry a firearm and that where CBP conducts investigations that involve the revocation of that authority, they will be flagged for priority over other investigations and conducted in an expeditious manner consistent with Section 24.D. **AGREED**

- B.** To increase oversight and attempt to expedite the investigations referenced in Section 24.A., the Office of Field Operations will inform (on a quarterly basis) the CBP office that is conducting the investigation, e.g., the Office of Internal Affairs, of those authorized officers who have had their weapon removed and are pending an administrative investigation. In return, the Office of Internal Affairs, or applicable office, will provide the Office of Field Operations a status of the individual investigations and an estimated time frame for completion. **AGREED**

The removal of firearm carriage authority pursuant to Section 2 of the Handbook does not prohibit the return of the firearm pursuant to the procedures set forth in Section 24.C. below. **AGREED**

- C.** (1) At least once a quarter, the Office of Field Operations will use the data assembled in Section 24.B. to review each revocation and reevaluate if an officer's firearm can be returned. In the event management determines there is no longer a nexus between the alleged conduct and the threat to the safety of the officer or others, the firearm will be returned as soon as practicable. **AGREED**

(2) An impacted employee's investigation status letter will be amended to inform the employee that although the firearm will not be returned at that time, the revocation will be re-evaluated at the next quarterly review. **AGREED**

- D.** Investigations involving the revocation of firearm carriage authority will not be confined to any time frame, will not require investigations to be concluded prematurely and will not take priority over all other CBP investigations. **AGREED**

- E.** In the event the firearm has not been returned pursuant to Section 24.C. above, once an investigation has been completed and the Agency has not proposed terminating the employee, the firearm will normally be provided back to the employee within ten (10) calendar days of the decision not to terminate the employee's employment unless there is a reasonable belief that returning the firearm may jeopardize the safety of employee(s), CBP operations, or the traveling public. It is understood that CBP has determined that an employee will have their firearm and credentials removed while serving any suspension. **AGREED**

- F.** In the event either party requests to reopen the Use of Force Handbook mid-term agreement, or NTEU requests information in order to make a determination whether or not to reopen this Agreement, the following cumulative report will be provided to NTEU with an appropriate employee identifier, that will include:

- CBP investigating unit;
- The reason supporting the removal of the firearm;
- The date the investigation was opened;
- The status of the investigation e.g. on-going, completed;
- The expected time frame for the completion of the investigation.

Nothing in this provision waives NTEU's right to request additional information pursuant to applicable law. **AGREED**

- G.** In the event a decision to revoke firearm carriage authority is found to be improper, in whole or in part, any remedy may include reimbursing the employee for appropriate back pay, in accordance with the provisions of law, e.g. the Back Pay Act. **AGREED**

Section 25.A. Off-duty storage for Agency-issued firearms at the discretion of armed employees, including overnight storage, shall be permitted only at facilities the CBP determines currently have storage available that is adequately secure. **AGREED**

- B.** Where CBP determines that a facility has adequately secure storage, but the facility does not have the capacity to fully accommodate employee interest in off-duty storage, employee requests for off-duty storage of their weapons shall be granted in the following order: **AGREED**

- 1) Authorized officers experiencing significant hardships will be provided off-duty storage. **AGREED**
- 2) Remaining off-duty storage at a duty location will be open to authorized officers for discretionary use with priority granted on the basis of seniority service at the post of duty. **AGREED**
- 3) This language is not intended to diminish the availability of secured storage provided under current practice at individual facilities. **AGREED**

- C.** To ensure that new or retrofitted facilities will have adequate off-duty firearms storage (i.e., storage to accommodate at least 25 percent of armed employees), CBP will add on-site storage capability to the technical design standards. Once a new facility is scheduled for construction or an existing location is scheduled for

retrofitting, CBP will inform NTEU in accordance with existing Agreements and practices. **AGREED**

- D. Either party may reopen the provisions concerning off-duty storage of firearms after the policy has been in effect for 1 year. In preparation for reopener bargaining, the parties shall jointly determine employee interest in off-duty firearm storage. Thereafter, the provisions, including any modifications thereto, shall remain in effect concurrently with the master collective-bargaining agreement. **AGREED**

Section 26.A. If a pregnant employee authorized to carry firearms in the course of her duties wishes to perform the full range of duties envisioned in the position to which she is assigned, the Employer may request a medical certificate stating that the employee is physically capable of performing the full range of duties. **AGREED**

- B. Employees who elect to perform the full range of duties must qualify in accordance with appropriate firearms policy. **AGREED**
- C. Light duty for a temporary period will be considered for a pregnant officer or for an officer returning to work after an injury, pregnancy or illness, provided that such work is available and the assignment will not unduly disrupt the work unit's operation. In such cases, the officer must provide a medical certificate indicating that the officer should work restrictively and that full recovery is expected. **AGREED**

Section 27. In accordance with 29 CFR 1614.704, employees with certified disabilities who are in positions requiring the carry of a weapon may be eligible for reasonable accommodation, as long as the accommodation does not constitute an undue hardship to the Employer. Employees who believe they may be eligible for reasonable accommodation should contact an EEO Counselor and/or the Union.

Section 28.A. The parties nationally will establish a joint-working group to address firearms-related issues. **AGREED**

- B. The parties agree that the potential use of tactical suspenders by CBP Officers will be the first issue to be explored by the joint-working group. At a minimum, the joint-working group will address the feasibility of tactical

suspenders as a tool in the different work environments of CBP, as well as the different brands and types of tactical suspenders used in law enforcement.

ARTICLE XX: HOLIDAYS AND RELIGIOUS OBSERVANCES

This Article describes the policies and procedures by which employees will be scheduled (or released) and compensated for Holidays and/or Religious Observances. **AGREED**

Section 1. *Holiday* means any day designed as a holiday by a Federal statute or declared by an Executive Order. For reference, Federal holidays (and the date on which they fall) are:

- (1) New Year's Day (January 1st);
- (2) Birthday of Martin Luther King, Jr. (third Monday in January);
- (3) Washington's Birthday (third Monday in February);
- (4) Memorial Day (last Monday in May);
- (5) Independence Day (July 4th);
- (6) Labor Day (first Monday in September);
- (7) Columbus Day (second Monday in October);
- (8) Veterans Day (November 11th);
- (9) Thanksgiving Day (fourth Thursday in November);
- (10) Christmas Day (December 25th);
- (11) Inauguration Day (January 20th of each fourth year after 1965 for employees whose duty locations are in the District of Columbia, or Montgomery and Prince George counties in Maryland, or Arlington and Fairfax counties in Virginia, or in the cities of Alexandria and Falls Church in Virginia); and
- (12) Any other day designated by Federal statute or declared by an Executive Order.

AGREED

Section 2. General Policies.

- A. A full-time employee who is not required to work on a holiday will receive his/her basic rate of pay for all of the non-overtime hours (s)he would otherwise work on that day. **AGREED**
- B. A part-time employee is entitled to a holiday when the holiday falls on a day (s)he is regularly scheduled to work. A part-time employee who is excused from work on a holiday will receive their basic rate of pay for the hours they are regularly scheduled to work on that day. **AGREED**
- C. If a holiday falls on an employee's regular day off and the employee is called in to work overtime on that day, (s)he is entitled to pay at the overtime rate for all hours

worked on the holiday and not holiday premium pay. Employees performing non-overtime work on their "in lieu" of holiday will receive holiday premium pay.

AGREED

D. For the purpose of this Article, *seniority* will be determined by: **AGREED**

- (1) The total time an employee has served in his or her occupation (e.g., CBP Officer, CBP Agriculture Specialist, Import Specialist, etc.), including time in an equivalent position (e.g., Customs and Immigration Inspectors for CBP Officers and PPQ Officers for CBP Agriculture Specialists) at the employee's heritage agency. For seniority purposes, Customs Canine Enforcement Officer, Immigration Inspector (Canine) or PPQ Officer (Canine) is considered creditable equivalent heritage agency time to the CBP Officer and CBP Agriculture Specialist positions, respectively. **AGREED**
- (2) In the event it is necessary to resolve ties after step (1), the total time an employee has served in CBP and heritage agency, regardless of position, will be used. **AGREED**
- (3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e., SCD) will be used. **AGREED**
- (4) In the event it is necessary to resolve ties after step (3), they will be resolved by coin flip. **AGREED**

Less than full-time employment will be credited for seniority purposes in accordance with the above on a pro rated basis. **AGREED**

Section 3. Holiday Observances and Compensation.

A. COPRA Covered Employees. Employees covered by the Customs Officer Pay Reform Act (COPRA) will observe holidays and be provided holiday premium pay in accordance with 19 C.F.R. § 24.16 and this Section (provided for informational purposes). **AGREED**

- (1) Premium pay differentials may only be paid for non-overtime work performed on holidays, Sundays, or, at night (work performed, in whole or in part, between the hours of 3:00 p.m. and 8:00 a.m.). An employee shall receive payment for only one of the differentials for any one given period of work.

The order of precedence for the payment of premium pay differentials is holiday, Sunday, and night work. **AGREED**

- (2) An employee who performs any regularly-scheduled work on a holiday will receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to one-hundred (100) percent of that base rate. Holiday differential premium pay will be paid only for time worked. Intermittent employees are not entitled to holiday differential. **AGREED**
- (3) When a holiday is designated by a calendar date, the holiday will be observed on that date regardless of Saturdays and Sundays. Employees who perform regularly-scheduled, non-overtime, tours of duty on those days will be paid the holiday differential. Holidays not designated by a specific calendar date, shall be observed on that date, and employee who perform regularly-scheduled, non-overtime, work on those days will be paid the holiday differential. **AGREED**
- (4) Inauguration Day is a legal public holiday for the purpose of COPRA. Employees whose duty locations are in the District of Columbia, or Montgomery and Prince George counties in Maryland, or Arlington and Fairfax counties in Virginia, or in the cities of Alexandria and Falls Church in Virginia, who perform regularly scheduled, non-overtime, work on that day shall be paid the holiday differential. When Inauguration Day falls on a Sunday, the next succeeding day selected for the public observance of the inauguration of the President is the legal public holiday. **AGREED**
- (5) If a legal holiday falls on an employee's regularly-scheduled day off, the employee shall receive a holiday "in lieu of" that day. Holidays "in lieu of" shall not be granted for Inauguration Day. An employee who works on an "in lieu of" holiday shall be paid the holiday differential. **AGREED**
 - (a) **In the event the Employer determines more than one "in lieu of" holiday will be made available to Employees within a particular work unit or group, the parties may, by mutual agreement, establish local (i.e., Port, Division or equivalent level) procedures by which employees the available "in lieu of" holidays are scheduled.**
 1. **For the purpose of this subsection, mutual agreement refers to the ability of the local parties to establish procedures only if both parties agree to do so voluntarily. It does not confer or infer any right or obligation to engage in bargaining, or to submit any**

disagreement over a proposed variation to grievance, arbitration or any other impasse dispute process.

- 2. Local procedures adopted through mutual agreement may not conflict with law, rule, regulation or the terms of this Agreement.**
- 3. Any local mutual agreement reached under this subsection must be placed in writing and signed by the parties, and will be binding until such time as either party provides written notice to the other of its intent to withdraw. Withdrawals will be effective at the beginning of the annual leave request cycle (established under Section 2.C. of Article XX: Leave and Excusal) following receipt of the notice.**

(b) Absent the establishment of local procedures under Section 3.B.(5)(a) of this Article, the Employer will use the following procedure when scheduling employees for “in lieu of” holidays.

- 1. If the Employer determines more than one “in lieu of” holiday will be made available for employees within a particular work unit or group, it will solicit employee preferences from within that work unit or group.**
- 2. In the event a greater number of employees express a preference for a specific “in lieu of” holiday than are permitted, employee preferences will be granted in seniority order. Employees who do not receive their preference will be assigned an “in lieu of” holiday by management in a fair and impartial manner.**

(c) In scheduling “in lieu of” holidays in accordance with the procedures of this subsection, management is responsible for ensuring employees are scheduled so as to ensure continuity of, and to prevent unnecessary disruption to Agency operations. This responsibility includes determining the appropriate numbers, types and grades of employees it needs to retain on an available “in lieu of” holiday.

(6) If an employee is assigned to a regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the twenty-four (24) hour calendar day of a holiday – for example, a tour of duty starting at 8 p.m. on a Monday holiday following a scheduled day off on Sunday and ending at 4 a.m. on Tuesday - the employee shall receive the holiday differential (up to eight (8)

hours) for work performed during that shift. If the employee is assigned more than one regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the twenty-four (24) hour calendar day of a holiday – for example, a tour of duty starting at 8 p.m. on the Wednesday before a Thursday holiday and ending at 4 a.m. on Friday - the management official in charge of assigning work shall designate one of the tours of duty as the employee's holiday shift and the employee will receive holiday differential (up to eight (8) hours) for work performed during the entire period of the designated holiday shift. The employee will not receive holiday differential for any of the work performed on the tour of duty which has not been designated as the holiday shift but will be eligible for Sunday or night differential as appropriate.

AGREED

(7) Employees who are regularly scheduled, but not required, to work on a holiday shall receive their hourly rate of base pay for that eight (8) hour tour plus any Sunday or night differential they would have received had the day not been designated as a holiday. To receive holiday pay under this paragraph, the employee must be in a pay status (at work or on paid leave) either the last work day before the holiday or the first work day following the holiday. **AGREED**

(8) An employee who works only a portion of a regularly-scheduled, non-overtime, holiday shift will be paid the holiday differential for the actual hours worked and the appropriate differential (Sunday or night) for the remaining portion of the shift such employee was not required to work. The night differential premium pay shall be calculated based on the rate applicable to the entire shift. **AGREED**

B. Employees Not Covered by COPRA. Employees not covered by COPRA will observe holidays and provided holiday premium pay in accordance with 5 C.F.R. § 550, as appropriate. This includes: **AGREED**

(1) An employee who is required to work during non-overtime hours on a holiday will receive his/her rate of basic pay, plus holiday premium pay at a rate equal to his or her rate of basic pay, for each hour of holiday work. **AGREED**

(2) An employee who is required to perform any work during non-overtime holiday hours is entitled to a minimum of two (2) hours of holiday premium pay. **AGREED**

(3) In the event a holiday is observed on a full-time employee's regular day off, the employee will normally be provided an "in lieu of" holiday on the

employee's regularly scheduled non-overtime work day immediately preceding the holiday. The exception is when the holiday falls on the first regular day off of the employee's administrative work week, in which case the employee will be provided an "in lieu of" holiday on the following work day. **AGREED**

- (4) In accordance with 5 C.F.R. § 610.405, part-time employees are not entitled to an "in lieu of" holiday when a holiday falls on a non-work day. **AGREED**

Section 4. Holiday Scheduling.

A. Where employees are regularly scheduled to work on holidays (e.g., operational personnel at the Ports of Entry), the parties may, by mutual agreement, establish a local (i.e., Port, Division, or equivalent level) procedure by which the Employer will excuse employees from working on such holidays.

- (1) **For the purpose of this subsection, mutual agreement refers to the ability of the local parties to establish procedures only if both parties agree to do so voluntarily. It does not confer or infer any right or obligation to engage in bargaining, or to submit any disagreement over a proposed variation to grievance, arbitration or any other impasse dispute process.**
- (2) **Local procedures adopted through mutual agreement may not conflict with law, rule, regulation or the terms of this Agreement.**
- (3) **Any local mutual agreement reached under this subsection must be placed in writing and signed by the parties, and will be binding until such time as either party provides written notice to the other of its intent to withdraw. Withdrawals will be effective at the beginning of the annual leave request cycle (established under Section 2.C. of Article XX: Leave and Excusal) following receipt of the notice.**

B. Absent the existence of an agreement under Section 4.A. of this Article, the Employer will use the following procedure when excusing employees from work on a holiday: **AGREED**

- (1) **If the Employer determines that more than one (1) employee is excusable from within the work group from which the excusal is to be made, management will solicit volunteers from within that work group. **AGREED****
- (2) **In the event:**

- (a) More excusable employees volunteer than are required, excusals will be granted in seniority order. **AGREED**
 - (b) Too few excusable employees volunteer, employees will be excused in inverse seniority order. **AGREED**
- C.** Where employees are not regularly scheduled to work on a holiday and the employer determines more than one (1) employee is qualified and eligible from within the work group from which the holiday assignment is to be made, management will solicit volunteers from within the work group from which the selection is to be made. In the event: **AGREED**
- (2) More qualified employees volunteer than are required, selections for assignments will be made in seniority order. **AGREED**
 - (3) Too few qualified employees volunteer, assignments will be made in inverse seniority order. **AGREED**
- D.** Employees will be assigned to work holidays in a manner that does not conflict with applicable compensation cap or annuity integrity requirements and procedures. **AGREED**

Section 5. Religious Observances.

- A.** An employee whose personal religious beliefs require the abstention from work during certain periods of time may request annual leave, Leave Without Pay (LWOP) or elect to engage in overtime work for time lost for meeting those religious requirements in accordance with applicable law and government-wide rules, regulations and the policies and procedures contained in this Section. **AGREED**
- (1) Requests for annual leave or LWOP for such purpose will be considered and approved in accordance with the procedures contained in Article XX: Leave and Excusal. **AGREED**
 - (2) To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of its mission, the Employer shall in each instance afford the employee the opportunity to work compensatory overtime and shall in each instance grant compensatory time off to an employee

requesting such time off for religious observances when the employee's personal religious beliefs require that the employer abstain from work during certain periods of the workday or workweek. **AGREED**

(3) For the purpose stated in subsection A.(2) of this Section, the employee may work such compensatory overtime before or after the grant of compensatory time off. A grant of compensatory time off shall be repaid by the appropriate amount of compensatory overtime work within five (5) pay periods of its use. Time not repaid will be charged to the employee's annual leave account at the end of the fifth (5th) pay period by amending the time card(s) as appropriate. Compensatory time off under this Section may be earned and used in quarter-hour increments. **AGREED**

(4) If at the time requested, no productive work is available for the employee to perform on compensatory overtime, alternative times will be arranged by the Employer in accordance with law and government-wide rules and regulations. **AGREED**

(5) The premium pay provisions for overtime work do not apply to compensatory overtime work performed under this Section. **AGREED**

B. The Employer will make a reasonable effort to approve all requests made under this Section. **Where mission requirements prevent the Employer from approving all requests, the parties may, by mutual agreement, establish local procedures by which requests will be approved. Absent the existence of such an agreement, the Employer will approve requests within each work unit in seniority order.**

ARTICLE XX: LEAVE AND EXCUSAL

The purpose of this Article is to establish the policy and procedures by which employees request and management reviews and considers leave and excusal. **AGREED**

Section 1. General Policies.

- A. Leave and excused absences may be requested, approved and used in quarter-hour increments. **AGREED**

- B. Leave and excused absences will be requested as far in advance as possible through the use of an Office of Personnel Management (OPM) Form SF-71, "Request for Leave or Approved Absence" (or equivalent). Requests submitted through the Customs Overtime Scheduling System (COSS) meet this requirement. Emergency requests for leave may be made telephonically to the designated management official, and will be followed up with a formal request upon the employee's return as appropriate. **AGREED**

- C. In the event an unforeseen emergency arises that prompts an employee to request unscheduled leave, such leave will be requested as follows: **AGREED**
 - (1) If the emergency arises while the employee is at work, the employee will notify the Employer of the nature of the emergency, the anticipated extent of his/her absence, and seek the Employer's approval for the appropriate type of leave. **AGREED**

 - (2) If the emergency arises when the employee is not at work, and the need to take leave would prevent the employee from reporting to work as scheduled, the employee must notify his/her supervisor (or designated alternate) at the earliest available opportunity, but absent just cause, no later than one (1) hour after the time in which the employee is schedule to report for duty. At the time the emergency request for leave is made, the supervisor (or designated alternate) will advise the employee as to whether the request for leave is approved (including provisional approvals subject to follow-up documentation when appropriate). If the supervisor (or designated alternate) is not available, the employee must leave a message with a telephone number where (s)he can be reached. **AGREED**

 - (3) If the emergency extends beyond the period for which leave was originally requested, the employee must again notify the Employer and request additional leave. **AGREED**

- D. The Employer will review, consider and approve employee requests for leave and excused absence in a fair and impartial manner. **AGREED**
- E. If any request for leave or excused absence is denied, the Employer will provide the employee with an explanation for the denial upon request. **AGREED**

Section 2. Annual Leave.

- A. The entire leave year will be available for annual leave requests, and the Employer will allow each employee to schedule annual leave as (s)he desires, subject to approval by the appropriate official based on workload and staffing needs. This includes approving annual leave requests in a manner that permits each employee, if (s)he wishes, to request at least one (1) period of two (2) consecutive weeks of annual leave each leave year. **AGREED**
- B. When making annual leave requests in advance, employees will not be required to provide details as to the specific reason, and may give a reason of "personal business" if asked by the Employer. **AGREED**
- C. Local Annual Leave Procedures.

(1) Upon the effective date of this Agreement and at any time thereafter, the Employer and the Union may, by mutual agreement, adopt a local annual leave procedure.

(a) The scope of such mutual agreements may include:

- 1. The time periods in which employees within appropriate work units or groups will compete for available leave periods; **AGREED**
- 2. The dates for submission of leave requests; **AGREED**
- 3. The posting of leave schedules; and/or **AGREED**
- 4. The criteria, priorities and/or the methods for resolving conflicts between leave requests among employees competing for available leave periods within an organizational segment. **AGREED**

(b) Mutual agreement refers to the ability of the local parties to establish procedures only if both parties agree to do so voluntarily. It does not

confer or infer any right or obligation to engage in bargaining, or to submit any disagreement over a proposed variation to grievance, arbitration or any other impasse dispute process.

- (c) Local annual leave procedures adopted through mutual agreement may not conflict with law, rule, regulation or the terms of this Agreement.
 - (d) Any local mutual agreement reached under this subsection must be placed in writing and signed by the parties, and will be binding until such time as either party provides written notice to the other of its intent to withdraw. Withdrawals will be effective at the beginning of the annual leave request cycle following receipt of the notice.
- (2) Absent the establishment of a local procedure under Section 2.C.(1) of this Article, the following will serve as the default procedure:
- (a) Request Solicitation Period. When the Employer determines scheduling requirements or complexities (e.g., at a Port of Entry) necessitate or make it efficient to use a yearly process by which employees within a particular work unit or organizational subcomponent request and compete for available annual leave periods (i.e., in one and two week blocks), the following procedure will be used:
 - 1. No later than October 15th of each year, the Employer will solicit employee requests for annual leave for the upcoming leave (calendar) year. The solicitation period will be no less than fourteen (14) calendar days. By mutual agreement between the Employer and the union, the Employer may solicit requests and schedule leave on a fiscal year instead of a leave (calendar) year basis. In such cases, the solicitation will occur no later than August 15th of each year.
 - 2. Following the close of the solicitation period, the Employer will review and approve the requests in accordance with Section 2.A. of this Article. In the event a greater number of requests are submitted for a given period than can be approved, the Employer will approve requests in seniority order. For purposes of this subsection, seniority will be determined by:

- a. **The total time an employee has served in his or her occupation (e.g., CBP Officer, CBP Agriculture Specialist, Import Specialist, etc.), including time in an equivalent position (e.g., Customs and Immigration Inspectors for CBP Officers and PPQ Officers for CBP Agriculture Specialists) at the employee's heritage agency. For seniority purposes, Customs Canine Enforcement Officer, Immigration Inspector (Canine) or PPQ Officer (Canine) is considered creditable equivalent heritage agency time to the CBP Officer and CBP Agriculture Specialist positions, respectively.**
- b. **In the event it is necessary to resolve ties after step (a), the total time an employee has served in CBP and heritage agency, regardless of position, will be used.**
- c. **In the event it is necessary to resolve ties after step (c), the total time in Federal government service (i.e., SCD) will be used.**
- d. **If a conflict still remains, the conflict will be resolved by coin flip.**

Less than full-time employment will be credited for seniority purposes in accordance with the above on a pro rated basis.

3. **The Employer will post or otherwise make available the resulting list of approved requests for the upcoming leave year to employees no later than December 15th (or October 1st if fiscal years are used).**

(b) Ad/Hoc Leave Requests. The Employer will review and approve leave requests it receives throughout the leave year in accordance with Section 2.A. of this Article. If the Employer is presented with a greater number of unprocessed requests for a given day or period than can be approved, the Employer will approve requests in seniority order (using the seniority rules contained in Section 2.C.(2)(a)2. of this Article).

- D. Should the Employer find it necessary to cancel previously approved leave, it will inform the employee as soon as the reason is known to the Employer. The reasons for canceling leave will be provided in writing for all leave that was requested in writing. Employee requests for rescheduling approved leave which has been canceled, shall be processed in accordance with this Article. **AGREED****

- E. To the extent it has not otherwise been requested and approved, an employee with use or lose annual leave (as reflected in the Leave and Earnings Statement provided by the Employer) will submit annual leave requests for the balance of the leave year before September 1st of each year. **AGREED**
- F. Annual leave requested and approved in writing before November 15th of each year and subsequently cancelled by management and forfeited by the employee may be restored when: **AGREED**
- (1) Exigencies of public business existed that were of such importance and duration as to prevent the use of annual leave that was scheduled in advance before the end of the leave year; **AGREED**
 - (2) The employee experienced a period of sickness that interfered with the usage of scheduled annual leave, and occurred or continued so late in the leave year that annual leave could not have been rescheduled to avoid forfeiture; or **AGREED**
 - (3) The forfeiture was caused by an administrative error on the part of the Employer. **AGREED**
- G. The Employer will inform employees of the procedure by which forfeited annual leave may be restored each leave year. **AGREED**
- H. Advanced Annual Leave. Requests for advanced annual leave may be made by an employee and will be evaluated by the Employer in accordance with the terms of this Article when: **AGREED**
- (1) The employee is eligible to earn annual leave; **AGREED**
 - (2) The employee has served more than ninety (90) days in his appointment; **AGREED**
 - (3) The employee is not under leave restriction; **AGREED**
 - (4) The employee makes the request in writing (i.e., memo) and provides a rationale for the request; **AGREED**
 - (5) The employee does not request more advanced annual leave than would be earned during the remainder of the year; and **AGREED**

- (6) The liquidation of the advance may be anticipated by subsequent accruals of the leave or recovery of the value of the advanced leave (e.g., by withholding salary or other funds due to the employee, etc.) in the event of the employee's separation. **AGREED**

If an employee's request for advanced annual leave is denied, the employee will be provided written notification of the denial. **AGREED**

Section 3. Sick Leave.

- A. Sick leave may be requested by employees for personal medical needs, to provide care for a family member, to make arrangements for and attend the funeral of a family member, to care for a family member with a serious health condition, and for adoption-related purposes. **AGREED**
- B. The Employer will approve employee requests for sick leave for purposes and in amounts as required by applicable law, rule and regulation. **AGREED**
- C. When an employee knows in advance that sick leave will be required, (s)he will request sick leave at the time the necessity for the leave is determined. **AGREED**
- D. The employee is responsible for contacting his/her supervisor (or designated alternate) about the need for unscheduled sick leave as soon as possible, but, absent just cause, no later than one (1) hour after the time in which the employee is scheduled to report for duty. If the supervisor is not available, the employee must leave a message with a telephone number where (s)he can be reached. Upon return to duty, the employee will follow up on the request by making the necessary written submission(s). **AGREED**
- E. Supporting Documentation.
- (1) **Regardless of the duration of the absence, the Employer may consider an employee's certification as to the reason for his/her absence as administratively acceptable evidence of the need to use sick leave. However, for an absence in excess of three (3) work days, or when determined necessary by the Employer (e.g., when there exists reasonable grounds to suspect the employee of leave abuse), the Employer may also require a medical certificate, or other administratively acceptable evidence as to the reason for the absence.**

(2) "Medical certificate" means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination or treatment, or to the period of incapacitation while the patient was receiving professional treatment. **AGREED**

(3) When requested, employees will provide such evidence within fifteen (15) calendar days from the date of the request, absent just cause. **AGREED**

F. Upon request by the employee, an approved absence which would otherwise be chargeable to sick leave will normally be changed to annual leave if the request is made at the time the request for approval of the leave is submitted.

G. Advance Sick Leave. Requests for advanced sick leave may be made by an employee and will be evaluated and approved by the Employer in accordance with the terms of this Article when: **AGREED**

(1) The employee is eligible to earn sick leave; **AGREED**

(2) Advanced sick leave is required by the exigencies of the situation for a serious disability or ailment of the employee or a family member, or for purposes related to the adoption of a child. **AGREED**

(3) The employee makes the request in writing (i.e., memo) and supports the request with a medical certificate; **AGREED**

(4) The Employer has a reasonable expectation that (s)he will return to duty and repayment can reasonably be expected; **AGREED**

(5) The employee is not currently under leave restriction; and **AGREED**

(6) The total amount advanced to the employee does not exceed two hundred and forty (240) hours. **AGREED**

H. The Employer will comply with the requirements of Section XX of Article XX: Employee Rights regarding the handling and protection of medical information provided by employees under this Section. **AGREED**

Section 4. Leave Without Pay.

- A. Leave Without Pay (LWOP) is an employee requested and Employer approved temporary absence from duty in a non-pay status. Absent just cause, all LWOP must be requested and approved in advance. **AGREED**
- B. As LWOP can impact various employee benefits and other personnel actions, the Employer will ensure information is readily available for employees on such impacts. In addition, a representative of the Employer will be available to discuss such impacts with an employee who is contemplating making an LWOP request. **AGREED**
- C. In accordance with applicable law, rule and regulation, the Employer must approve LWOP in following specific circumstances: **AGREED**
- (1) Family and Medical Leave Act of 1993 (FMLA) requests under Section 5 of this Article; **AGREED**
 - (2) Entitlements under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA); **AGREED**
 - (3) Requests from an employee who is a disabled veteran and presents an official statement from a medical authority that medical treatment is required in connection with the disability (provided prior notice of the period during which absence for treatment will occur is given to the Employer); and **AGREED**
 - (4) Employees who are in receipt of compensation from the Department of Labor for work-related injuries or occupational diseases may not be in a pay status, and therefore must be carried in a LWOP status. **AGREED**
- D. **In the following circumstances, requests for LWOP may be made by an employee and will be evaluated by the Employer in accordance with the terms of this Article:**
- (1) To serve as the elected National President or Executive Vice President of the NTEU, or to serve full-time in an appointive position of the Union; **AGREED**
 - (2) To attend school for one (1) year in full-time study when: the study is related to the employee's position; the employee has worked for CBP for at least five (5) years; the employee is performing at least at the acceptable level; and the

employee agrees to return to CBP upon completion of the study period;
AGREED

(3) For a period of up to six (6) months when an employee has an illness or injury that would otherwise be covered by sick leave, the employee's annual and sick leave has been exhausted, and the employee agrees to return to CBP at the conclusion of the LWOP period. The amount of LWOP granted will be only what is necessary, and when combined with leave approved under another provision of this Article for the same purpose, the total absence may not exceed six (6) months.

E. In all other cases, the Employer will appropriately consider and approve employee requests for LWOP. In granting requests, the Employer will consider whether the value to the government, the public good, or the needs of the employee are sufficient to offset the administrative inconvenience and the cost of granting the request. Such factors as increased job ability, protection or improvement of an employee's health, job performance, and retention of a desired employee may be considered. In addition, the Employer should have a reasonable expectation that the employee will return to duty at the end of the LWOP (except in cases where an employee is relocating). **AGREED**

F. Approved LWOP may be retroactively changed to annual leave if: **AGREED**

(1) Due to an administrative error or misunderstanding, the employee was not aware that (s)he had an annual leave balance or that annual leave could have been used; or **AGREED**

(2) The employee is accepted into the Voluntary Leave Transfer Program and donated leave is available. **AGREED**

G. An employee who returns to duty after a period of LWOP of forty-five (45) calendar days or less will be returned to the same position, or if not available a similar position, held at the employee's post of duty prior to the period of LWOP. **AGREED**

H. An employee who returns to duty after a period of LWOP of more than forty-five (45) days will be returned to the same position, or if not available a similar position, held at the employee's post of duty prior to the period of LWOP; or, if not available, placed in a like position in the commuting area. **AGREED**

Section 5. Family and Medical Leave Act (FMLA).

- A. The Family and Medical Leave Act (FMLA) entitles eligible employees (see 5 CFR § 630) to take leave without pay (LWOP), or to substitute appropriate accrued paid leave, for up to a total of twelve (12) administrative work weeks during a twelve (12) month period for the following reasons: **AGREED**
- (1) Birth of a son or daughter of the employee and the care of such son or daughter; **AGREED**
 - (2) Placement of a son or daughter with the employee for adoption or foster care; **AGREED**
 - (3) Care of an employee's spouse, child under eighteen (18) years of age, or parent, who has a serious health condition; or **AGREED**
 - (4) Serious health condition of the employee that makes him/her unable to perform the essential functions of his/her position. **AGREED**
- B. In accordance with Section 585(b) of Public Law 10-181, a Federal employee who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) of a covered service member with a serious injury or illness (incurred in the line of duty while on active duty in the Armed Forces) and provides care for such service member is entitled to entitled to: **AGREED**
- (1) Up to twenty-six (26) weeks of unpaid military family leave during a twelve (12) month period to care for the service member. **AGREED**
 - (2) If eligible for military FMLA leave under this subsection and regular FMLA under subsection A. above, a combined total of no more than twenty-six (26) weeks of all FMLA leave during a single twelve (12) month period. For example, if on January 1st an employee (who also takes care of a covered service member) takes six (6) weeks of regular FMLA for the birth of a child, the six (6) weeks of regular FMLA is subtracted from the combined twenty-six (26) week entitlement, leaving the employee with twenty (20) weeks of military family leave available to be requested through December 31st of that year. **AGREED**
- C. The twelve (12) month period begins on the date the employee first takes leave under FMLA. **AGREED**

- D. A “serious health condition” means an illness, injury, impairment or physical or mental condition that involves: **AGREED**
- (1) A period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice or medical care facility; **AGREED**
 - (2) A condition that results in incapacity requiring an absence of more than three (3) consecutive calendar days involving continuing treatment by a health care provider; or **AGREED**
 - (3) Continuing treatment/supervision by a health care provider for a chronic or long-term condition that, if not treated, would likely result in incapacity of more than three (3) consecutive calendar days. **AGREED**
- E. Requests for FMLA leave must be accompanied (or followed up by) administratively acceptable medical documentation from a qualified health care provider supporting the request. Department of Labor Form WH-380, “Certification of Health Care Provider” satisfies this requirement.
- F. A “health care provider” is a licensed Doctor of Medicine or Doctor of Osteopathy; a health care provider recognized by the Federal Employees Health Benefits Program; a Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or a Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner. **AGREED**
- G. The Employer will protect and handle any medical information by the employee in accordance with Section XX of Article XX: Employee Rights. **AGREED**
- H. When possible, a requesting employee must provide notice of his/her intent to take FMLA leave not less than thirty (30) calendar days before the leave is to begin. When not possible, the employee will provide notice as soon as practicable. **AGREED**
- I. Requesting employees must submit the necessary supporting medical documentation no later than fifteen (15) calendar days after the request for FMLA leave is submitted. If, due to circumstances beyond the employee’s control, the medical certification is not available within the fifteen (15) calendar day period, the employee must submit it no later than thirty (30) calendar days after the request for FMLA leave. The employee’s supervisor may waive the requirement

for an additional medical certificate in a subsequent twelve (12) month period if the FMLA leave is for the same chronic or continuing health condition. **AGREED**

- J.** FMLA leave under subsections A.(1) and (2) of this Section may be taken on an intermittent basis if the employee so requests, and the employee's supervisor reasonably determines that such a schedule will not adversely impact the accomplishment of the mission. FMLA leave under subsections A.(3) and (4) of this Section may be taken on an intermittent basis or on a reduced leave schedule (employee's usual number of hours of regularly scheduled work per day is reduced), only when medically necessary to care for a seriously ill family member or for the serious health condition of the employee. **AGREED**

- K.** An employee may elect to substitute annual leave and/or sick leave, consistent with applicable law and regulations for using annual or sick leave, for any FMLA LWOP. An employee who elects to substitute paid leave for FMLA leave must notify his/her supervisor of that election prior to the date the FMLA leave begins. **AGREED**

- L.** Upon returning from FMLA leave, an employee will be returned to the same position, or if not available, an equivalent position with equivalent benefits, pay, status and other terms and conditions of employment. An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee on unpaid FMLA leave may pay the employee share of the premiums on a current basis or pay upon return to work. **AGREED**

Section 6. Leave for Maternity or Paternity Purposes.

- A.** Employees may request, and the Employer will evaluate and approve leave for maternity and paternity (including adoption) purposes, in accordance with the terms of this Article.

- B.** Requests under this Section may be for a period of up to six (6) months, and include a combination of sick leave, annual leave, and LWOP (including under FMLA) in accordance with the corresponding Sections contained in this Article.

- C.** Nothing in this Section requires an employee to exhaust accrued annual and/or sick leave prior to requesting LWOP under this Section.

Section 7. Military Leave.

- A. Military leave is absence from duty from the employee's civilian position without loss of pay (including pay for regularly scheduled overtime) to perform military duty. **AGREED**

- B. In accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), an employee performing service with the uniformed services will be permitted, upon request, to use military leave or accrued annual leave during such service. **AGREED**

- C. In order to be entitled to military leave, an employee must be:
 - (1) A member of a Reserve component of the Armed Forces or the National Guard; **AGREED**

 - (2) A full-time, part-time or indefinite employee who does not have an intermittent work schedule; and **AGREED**

 - (3) Serving in an appointment that is not limited to one (1) year or less. **AGREED**

- D. Eligible employees accrue fifteen (15) calendar days (i.e., 120 hours) of military leave per fiscal year for active duty, active duty training, inactive duty training and funeral honors duty. An employee may carry over a maximum of fifteen (15) days into the next fiscal year. **AGREED**

- E. Eligible employees may accrue an additional twenty-two (22) work days (i.e., 176 hours) of military leave per calendar year for emergency duty as ordered by the President or a State governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property, or when performing full-time military service as a result of a call or order to active duty in support of a contingency operation. **AGREED**

- F. In accordance with 5 U.S.C. § 6323 (c), members of the National Guard of the district of Columbia are provided unlimited military leave for certain types of duty ordered or authorized under Title 39 of the District of Columbia Code. **AGREED**

- G. In accordance with 5 U.S.C. § 6323 (d), Reserve and National Guard Technicians only are entitled to forty-four (44) work days (i.e., 352 hours) of military leave in a calendar year for duties overseas under certain conditions. This entitlement is in

addition to the entitlement to fifteen (15) days of military leave under 5 U.S.C. § 6323 (a) and Section 7.D. of this Article. **AGREED**

- H. Whenever possible, employees must submit requests for military leave in advance, which will be accompanied by a copy of the military orders (if available) or a copy of the weekend drill schedule. **AGREED**
- I. The minimum charge for military leave is one (1) hour. An employee may be charged military leave only for hours that the employee otherwise would have worked and received pay. Time taken on a work day for traveling to the military training location cannot be charged to military leave unless the military orders encompass the required travel time. **AGREED**
- J. Holidays and non-duty weekends are not charged against military leave. **AGREED**
- K. Military leave does not have to be exhausted prior to using other appropriate types of leave (i.e., annual leave or LWOP) to perform military duty, and may be intermingled with other leave. In accordance with 5 C.F.R. § 353.208, an employee may request, and the Employer will approve, the use of accrued annual leave, previously earned compensatory time off, previously earned credit hours, or LWOP intermittently when (s)he is activated into military service. **AGREED**
- L. An employee's civilian pay will remain the same for periods of military leave under 5 U.S.C. § 6323 (a) and Section 7.D. of this Article, including any premium pay (except Sunday premium pay) an employee would have received if not on military leave. For military leave under 5 U.S.C. § 6323 (b) and (c), and Sections 7.E. and F. of this Article, the employee's civilian pay is reduced by the amount of military pay for the days of military leave. However, an employee may choose not to take military leave and instead take annual leave in order to retain both civilian and military pay. **AGREED**
- M. Federal civilian employees returning from a qualifying deployment for at least forty-two (42) consecutive days on active military duty in support of the Global War on Terrorism (GWOT), will receive five (5) days of uncharged leave (excused absence) only once in a 12-month period. A qualifying deployment is any military service in connection with Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or other military operations subsequently established under Executive Order 13223. **AGREED**

Section 8. Court Leave.

- A. Court leave is an approved absence from duty without loss of pay or charge to an employee's accrued leave to perform jury duty in a Federal, state or municipal court or to serve as a witness for the United States, the District of Columbia, or a state or local government. **AGREED**
- B. Court leave must be requested and approved in advance, and the request must be accompanied by the summons, court order, subpoena or other official request. **AGREED**
- C. Court leave will be granted for absences during an employee's regularly scheduled tour of duty, including regularly scheduled overtime. It can be granted only for those days and hours the employee would otherwise be in a pay status. **AGREED**
- D. Employees assigned to night shifts or standby tours of duty are granted court leave comparable with employees assigned to regular day shift work. Since jury or witness duty generally requires an employee's presence in court during daytime hours, an employee who is scheduled to work at night will be granted court leave during the day on which the night shift begins or ends. **AGREED**
- E. If an employee's absence is properly chargeable to court leave, the employee may not elect to have the absence charged to annual leave. If an employee is on annual leave when called for jury duty or witness service, court leave will be substituted. **AGREED**
- F. When an employee on court leave is excused or discharged by the court, the employee must return to duty unless doing so would be impractical. An employee excused or discharged by the court for a substantial portion of a work day is not entitled to court leave, but must report for duty (or request appropriate leave). As a general rule, an employee will contact his/her supervisor to determine if (s)he should report for duty. **AGREED**
- G. Once the employee has completed his/her jury or witness service, (s)he must submit a certificate of attendance, signed by a clerk of the court or other appropriate official to his/her supervisor for retention with timekeeping records. Such certificates should identify fees and expenses allowances provided. **AGREED**
- H. Since court leave permits an employee to fulfill his/her obligation to the court without any loss of pay, the employee is responsible for collecting lost wage

compensation provided by the applicable jurisdiction and forwarding it to the National Finance Center (Payroll Branch, P.O. Box 68903, Indianapolis, Indiana 46268). Such compensation must be delivered by money order or personal check. In the event the employee fails to collect fees payable or waives payment of such fees, an equivalent amount will be withheld from his/her salary. Full-time employees may retain fees for compensation paid for jury service on holidays and other non-workdays. **AGREED**

- I. Employees may keep any expense fees they receive while on court leave. **AGREED**

Section 9: Home Leave.

- A. Home leave is a period of approved absence with pay authorized by 5 U.S.C. § 6305 for employees stationed abroad. **AGREED**
- B. Employees serving outside the United States who meet the requirements of 5 U.S.C. § 6304 (b) for the accumulation of a maximum of forty-five (45) days (i.e., 360 hours) of annual leave are eligible for home leave. **AGREED**
- C. Home leave will accrue and be granted in accordance with applicable law, rule, regulation and this Agreement. **AGREED**
- D. Home leave for eligible employees at Preclearance stations accrues at the rate of five (5) days per twelve (12) months of service. Home leave accrues without limit. **AGREED**
- E. The Employer will exercise its right to approve home leave in a fair and impartial manner when the employee has completed a basic service period of twenty-four (24) months of continuous service abroad and the employee has been selected to return for at least a twelve (12) month assignment. **AGREED**
- F. Home leave may be used only in the United States, the Commonwealth of Puerto Rico, or a territory or possession of the United States. **AGREED**
- G. Request for home leave will be made when the employee submits his/her request for an additional assignment outside the United States. **AGREED**
- H. Subject to approval by the appropriate official, based on workload and staffing needs, home leave will be used within the ninety (90) days after the employee

becomes eligible under Section 9.D. of this Article. Requests for extensions will be considered by the Employer on a case-by-case basis. However, the ninety (90) day period will be extended when the home leave request is disapproved by the Employer because of operational or mission requirements. **AGREED**

- I. Home leave will generally be requested to be taken in blocks of ten (10) days. However, employees who have accrued additional home leave may request the extension of their home leave period to the extent such leave is available. **AGREED**
- J. Nothing in this Section prohibits an employee from requesting annual leave in combination with home leave. **AGREED**

Section 10: Excused Absences.

- A. Excused absence, often referred to as “administrative leave,” is an authorized absence from duty without loss of pay or charge against leave. **AGREED**
- B. An employee may be excused from duty when the absence is not specifically prohibited by law, and is: **AGREED**
 - (1) Directly related to CBP’s mission; **AGREED**
 - (2) Officially sponsored or sanctioned by CBP; **AGREED**
 - (3) Determined to enhance the professional development or skills of an employee in his/her current position; or **AGREED**
 - (4) Brief and is determined to be in the interest of CBP. **AGREED**
- C. Absent just cause, the Employer will approve employee requests for excused absence in the following circumstances: **AGREED**
 - (1) Voting. In the event polls are not open at least three (3) hours before or after an employee’s regularly scheduled hours of work, excused absence at either the beginning or end of the daily tour of duty, depending on which requires less excused absence. In those rare circumstances where an employee’s voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the amount of excused absence may be increased to the amount necessary, but not more than one (1) day. Upon employee

request, time needed in excess of one day may be charged to annual leave (or LWOP if annual leave is exhausted). **AGREED**

- (2) Blood Donations. To give blood or platelet donations to an officially authorized blood bank, or in emergencies transfusions to individuals, for the period it takes to make the donation or transfusion and recover, not to exceed four (4) hours. In addition, the employee will be granted excused absence for reasonable travel time to/from the donation/transfusion location. Should the employee desire or need additional time, (s)he may request accrued annual leave, sick leave, compensatory time, credit hours or LWOP. This subsection does not cover an employee who gives blood for his or her personal use or receives compensation for donations. **AGREED**
- (3) Civil Defense Activities. Up to five (5) workdays per calendar year to participate as a volunteer in emergency rescue/protective work or to participate in a federally recognized civil defense program. Emergency situations include, but are not limited to, extreme weather conditions or disasters such as fire, flood or other natural phenomena, and search operations. At the conclusion of the employee's participation in the emergency work or civil defense program, (s)he must provide acceptable evidence certifying his/her attendance through the excused absence period. **AGREED**
- (4) Internal Examinations. To take examinations related to employment with CBP, e.g., examinations to establish an employee's qualifications for promotion in CBP. **AGREED**
- (5) External Examinations. To take examinations which are directly related to the employee's current or prospective duties within CBP (e.g., CPA exam for accountants, bar exam for attorneys), including travel to and attendance at an oral interview required as a prerequisite to the grant of a professional license. The time authorized under this provision is limited to a single examination for any one (1) employee. **AGREED**
- (6) Employee Interviews. To attend interviews or testing when competing for positions within CBP. **AGREED**
- (7) Hazardous Weather Conditions. When the Employer determines it is necessary to close a post of duty because of hazardous weather or emergency conditions, or when such conditions prevent an employee from reporting to work when the post of duty is not closed. In the latter circumstance, in order

to be granted excused absence, the employee must provide the Employer with evidence that (s)he made a reasonable effort to report to work but that such conditions prevented him or her from doing so. Factors the Employer will consider in granting such requests may include: the distance between the employee's residence and place of work; the mode of transportation normally used by the employee; efforts by the employee to report to work; the success of other similarly situated employees to report to work; physical disability of the employee; and local travel restrictions. Excused absences granted under this provision will only be for the period in which the employee was reasonably prevented from reporting for work. **AGREED**

- (8) Medical Examinations and Treatment. To undergo a medical examination requested by an authorized CBP official, or to obtain medical services required for official purposes or administered as part of the official Safety and Health program, including travel time. An employee undergoing initial examination and emergency treatment for a work-related injury on the day of the injury will also be granted excused absence. **AGREED**
- (9) Bone Marrow and Organ Donation. Up to seven (7) work days per calendar year to serve as a bone marrow donor, and up to thirty (30) work days per calendar year to serve as an organ donor. **AGREED**
- (10) Meetings and Conferences. To attend a convention, conference or meeting that is not directly related to official duties if management determines the employee's attendance will contribute to the goals of CBP. After evaluating the request, the Employer will grant or deny the excused absence. If denied, the employee may request annual leave or LWOP to attend. **AGREED**
- (11) Relocation. To enable an employee who is relocated by the Employer outside his/her commuting area to make pre-moving and post-moving arrangements, as permitted in accordance with applicable law, regulations and this Agreement. In addition, nothing in this subsection prohibits the Employer from granting employee requests for annual leave or leave without pay in combination with excused absences for such pre- and post-moving arrangements. **AGREED**
- (12) Funeral of Immediate Relative in the Armed Forces. Up to three (3) days of excused absence to make arrangements for and/or to attend the funeral or memorial service for an immediate relative who died in a combat zone (as determined by the President of the United States), as a result of wounds,

disease, or injury incurred while serving as a member of the Armed Forces.
AGREED

(13) Funeral of a Fellow Law Enforcement Officer. For a Federal law enforcement officer to attend the funeral of a fellow law enforcement officer or Federal firefighter who was killed in the line of duty. For the purposes of this provision, CBP has determined employees who receive the enhanced retirement are eligible for this benefit. **AGREED**

(14) Veterans to Attend Funeral Services. For a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, up to four (4) hours in any given day to participate as a pallbearer or as a member of a firing squad or guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States. **AGREED**

D. Supervisors may excuse occasional brief absences from duty of less than one (1) hour when the employee provides the supervisor with an acceptable explanation for the absence. **AGREED**

ARTICLE XX: MERIT PROMOTION

Section 1. The purpose of this Article is to clarify and/or supplement the procedures by which the Employer will solicit and evaluate applications from employees for bargaining unit positions subject to competition. **AGREED**

Section 2. The Employer will establish, maintain and make available to employees its Merit Promotion Plan in accordance with 5 C.F.R. § 335 and applicable provisions of this Agreement. **AGREED**

Section 3. Action Coverage.

A. Actions Covered. Except for actions identified in subsection B., the Employer will utilize merit promotion procedures for all promotion actions to bargaining unit positions as well as the following:

- (1) A temporary promotion, or detail to a higher grade position or a position with known promotion potential, of more than sixty (60) consecutive calendar days; **AGREED**
- (2) Selection for training which is part of an authorized training agreement, part of a promotion program, or required before an employee may be considered for a promotion as specified in 5 C.F.R. § 410.302; **AGREED**
- (3) Reassignment or demotion to a position with more promotion potential than a position previously held on a permanent basis in the competitive service (except as permitted under reduction-in-force regulations); **AGREED**
- (4) Transfer to a position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service; **AGREED**
- (5) Reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service; and **AGREED**
- (6) Any other action for which management determines utilization of these procedures may be appropriate or beneficial. **AGREED**

B. Actions Not Covered. These procedures do not apply to:

- (1) **Conversion of a temporary promotion to permanent promotion when the temporary promotion was originally made under competitive procedures and the fact that it might lead to a permanent promotion was made known to all potential candidates through its inclusion on the announcement.**
- (2) **A promotion resulting from the upgrading of a position without significant change in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error;**
- (3) **A position change permitted by reduction-in-force procedures;**
- (4) **A career ladder promotion; AGREED**
- (5) **A promotion resulting from an employee's position being classified at a higher grade because of additional duties and responsibilities;**
- (6) **A temporary promotion, or detail to a higher grade position or a position with known promotion potential, of sixty (60) consecutive calendar days or less; AGREED**
- (7) **Promotion to a grade previously held on a permanent basis in the competitive service (or in another merit system with which the Office of Personnel Management (OPM) has an interchange agreement) from which an employee was separated or demoted for other than performance or conduct reasons; AGREED**
- (8) **Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position the employee currently holds or previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement and did not lose because of performance or conduct reasons); AGREED**
- (9) **Consideration of a candidate not given proper consideration in a competitive promotion action; and AGREED**

- (10) Any other action permitted by law or government-wide regulation (in effect on the date of this agreement) without competition.

Section 4. Area of Consideration.

- A. Areas of consideration must be sufficiently broad to ensure the availability of high quality candidates, taking into account the nature and level of positions covered.
AGREED
- B. As a general rule, the minimum area of consideration for actions covered by this Article will be CBP wide within the commuting area of the position being filled.
- C. Employees on a temporary assignment outside of the commuting area for a period of one (1) year or less will be considered within the area of consideration of their permanent position of record.

Section 5. Announcements.

- A. At a minimum, vacancy announcements will include the following information, if applicable:
- (1) Vacancy (or job opportunities) identification; **AGREED**
 - (2) Number of vacancies; **AGREED**
 - (3) Position title, series and grade (or pay rate); **AGREED**
 - (4) Full performance level of the job; **AGREED**
 - (5) Duty location(s); **AGREED**
 - (6) Opening and closing dates; **AGREED**
 - (7) Qualification requirements; **AGREED**
 - (8) Selective placement factor(s); **AGREED**
 - (9) Salary range; **AGREED**
 - (10) Duties of the job; **AGREED**
 - (11) Basis of rating (evaluation method(s) to be used); **AGREED**
 - (12) Area of consideration; **AGREED**
 - (13) Whether moving and related expenses are authorized; **AGREED**
 - (14) Position bargaining unit eligibility; **AGREED**
 - (15) Instructions on what to file and how to apply; **AGREED**
 - (16) Declination procedures (usually for large, nationwide announcements with multiple locations); **AGREED**

- (17) Equal opportunity nondiscrimination statement; **AGREED**
- (18) Reasonable accommodation statement; and **AGREED**
- (19) Veterans' eligibility information and any other special requirements such as CTAP language, including the definition of well qualified. **AGREED**
- B.** All qualification requirements and evaluation criteria must be based on a valid job analysis. To be valid, there must be a rational relationship between performance in the position being filled (or in the target position in the case of an entry position) and the requirements or criteria being used. **AGREED**
- C.** For those positions filled using occupational tests, specific instructions regarding testing times, locations and any other administrative information will be determined on a case-by-case basis. Factors considered in determining test administration may be based on such factors as applicant location, response volume, hiring needs, etc. **AGREED**
- D.** To increase the efficiency of this procedure when a significant number of essentially identical positions are expected to be filled over an extended period, nothing will prohibit the Employer from establishing long-term announcements, e.g., open continuous announcement or announcements with a fixed closing date, permitting the establishment of a pool of applicants from which certificates may be issued up to one year from the issuance of the first certificate. In these circumstances, vacancy announcements must specify the intent to establish long-term use and indicate how long certificates may be used. **AGREED**
- E.** **Announcements subject to this procedure will be posted on the internet and open for a minimum of seven (7) calendar days.**
- F.** **The decision to pay or not to pay moving and related expenses must be made before the issuance of the vacancy announcement. As a general rule, the Employer will pay relocation expenses for employee transfers that are in the interest of the Government and are not primarily for the convenience or benefit of the employee. The decision not to pay moving and related expenses may be made if a sufficient supply of qualified local candidates potentially exists. A statement addressing whether payment of moving and related expenses has been authorized must be included in the vacancy announcement. When authorized, payment of moving and related expenses will be provided in accordance with the Federal Travel Regulations and applicable terms of this Agreement.**

- G. The Employer will establish a method, accessible through the Employer's internet web site (e.g., www.cbp.gov), by which employees and the Union may obtain a complete listing of all open announcements, as well as complete copies of the announcements themselves. Nothing will prohibit the Union from establishing a link on its own web sites to this information. **AGREED**

Section 6. Application Procedures.

- A. To be considered for announced positions, employees must apply in accordance with the application procedures contained and explained in the announcement. **AGREED**
- B. Employees within the area of consideration who are absent for legitimate reasons, e.g., on detail, on leave, at training courses, in the military service, or serving in public international organizations or on Intergovernmental Personnel Act assignments, will receive appropriate consideration for those positions to which they apply. **AGREED**
- C. **All employee application materials must be received by the closing date of the announcement. The Employer will grant exceptions to this requirement to employees who are unable to apply to an announcement by the closing date due to unique circumstances, such as extended military service. In such situations, the Employer will allow an employee to apply and receive consideration after the closing date of an announcement, provided no selection has been made.**
- D. Upon request, and subject to workload requirements, employees will be permitted a reasonable amount of duty time, and to use the Employer's equipment (i.e., computers), to perform all requirements (including developing resumes) associated with applying for positions announced under this Article. To reduce the amount of time required, employees will store electronic resumes in the automated application system so that they may be used in applying to subsequent announcements. **AGREED**
- E. The Employer will establish a method for potential applicants within the stated area of consideration who need additional assistance in following the on-line application procedures (e.g., those without reasonable access to the internet) to obtain such assistance. In unusual and specific circumstances, the Employer may provide alternative methods for submitting the required information (e.g., by facsimile). In such cases, the employee must still comply with all other

requirements of the announcement, including but not limited to the submission of all required application material by the announcement closing date.

Section 7. Evaluation Procedures for Minimally Qualified and Eligible Applicants.

- A. Applicants meeting basic qualification and eligibility requirements will be evaluated for positions and receive a rating based on how well they meet the job related knowledge, skills and abilities (KSAs) contained in the announcement.
AGREED
- B. For applicants who are evaluated based on narrative responses to the required KSAs and/or information provided in the employment application or resume, the following procedures will be used:
- (1) **The evaluation will be performed by one or more individuals familiar with the position being filled.**
 - (2) **The information provided by the applicant will be reviewed and compared to the required KSAs contained in the announcement using an evaluation instrument consisting of four levels for each KSA - Excellent, Good, Moderate and Barely Acceptable, and will be scored four (4), three (3), two (2) and one (1) respectively. If the information provided by the applicant shows no evidence of possessing a particular KSA or if there is insufficient information on which to base a rating, a zero (0) score will be assigned.**
- C. For applicants who are evaluated based on answers to job-related questions, scores will be assigned to each answer. **AGREED**
- D. Applicant ratings will be transmuted based on a total possible score of one hundred (100) points. The minimum qualifying score will be seventy (70) points.
AGREED
- E. Only tests approved by OPM and/or the Employer, as part of a comprehensive set of assessment procedures, may be used. Without OPM approval, the Employer cannot implement a written test to determine basic eligibility (i.e., on a pass-fail basis), or as the single evaluation instrument in assessing in-service applicants.
AGREED

- F. Applicants may be evaluated based on responses to standard questions under a structured interview method. This assessment will be used in conjunction with other assessments. The results of the interview may be scored and applied to an applicant's overall rating or used on a pass/fail basis. When structured interviews are used, if one applicant within an evaluation category (e.g., best qualified) is provided the opportunity to participate in a structured interview, all employees within that evaluation category will be provided the opportunity to participate in a structured interview. **AGREED**

- G. Applicants will be considered for selection based on the rating received from the evaluation process. The applicant's final rating is a reflection of his/her overall education, training and/or experience for a particular position and will determine further selection consideration. Those applicants who meet the basic eligibility requirements and are determined best qualified may be referred for selection consideration. **AGREED**

- H. **In an effort to assist the Employer in achieving its diversity goals, a sufficient number of best-qualified applicants will be placed on the referral certificate in score order. All names within twelve (12) points of the top score, including all those with tied scores, will be referred to the selecting official, with three (3) additional applicants referred for each additional vacancy. The minimum number of referrals is five (5) and the maximum number is fifteen (15) plus all tied scores. Applicant scores will not be shown on the referral certificate.**

- I. **Applicants for whom competitive procedures do not apply, a.k.a., alternative staffing candidates, will be considered and referred to the selecting official, on a separate referral certificate for selection consideration at the same time as the competitive referral certificate. Applicants subject to this referral procedure who meet the basic qualification and eligibility requirements of the position will be placed on the referral certificate in alphabetical order.**

Section 8. Selection Procedures.

- A. **When reviewing the applicants on the competitive certificate, the selecting official will consider current employees before considering outside applicants.**

- B. **Selecting officials may interview all, some or none of the applicants referred on any certificate. Interviews may be conducted in person or by telephone or videoconference (or equivalent method).**

- C. Selecting officials may choose any applicant referred on the best-qualified list. However, in cases where fewer vacancies are filled than initially identified, selections must be made within the allowable number of referrals for each vacancy in accordance with Section 7.G. Nothing will prevent the employer from making a greater number of selections from a certificate than the number of vacancies initially identified in the announcement, provided doing so is consistent with government-wide rules and regulations.**
- D. Selecting officials may elect to make a selection, or not, from any referral certificate, and/or may select from any other appropriate source, including, but not limited to, reemployment priority lists, reinstatement, transfer, handicapped, or Veteran Recruitment Act eligibles, or those within reach on an appropriate OPM certificate. In making such determinations, the Employer has an obligation to determine which source is most likely to best meet the agency mission objectives, contribute fresh ideas and new viewpoints, and meet the Employer's affirmative action goals.**
- E. Selecting officials will make selections in a timely manner. For other than long-term vacancy announcements, the Employer will establish a goal of completing the selection process within forty-five (45) days of the certificate issuance date. Except for unusual circumstances, a certificate will not be valid for more than one hundred and twenty (120) days after its issuance date.**
- F. Once a candidate has been selected and accepted the position, the candidate will not receive further consideration under that vacancy announcement. Similarly, if an applicant's employment status has changed since applying for a position under a vacancy announcement which results in the applicant meeting the criteria for being a noncompetitive eligible, he/she will be considered as an alternative staffing candidate under that announcement.**

Section 9. Information and Documentation.

- A. A temporary record of each action taken under the Employer's merit promotion plan will be maintained for a period of at least two (2) years from the date of selection or until the action has been formally evaluated by OPM (whichever comes first). Merit promotion files that are related to EEO complaints or grievances will be maintained in accordance with the National Archives and Records Administration, General Records Schedule for Civilian Personnel Records, provided the Employer was timely notified office of such actions prior to**

the end of the normal retention period. The documentation should be sufficient to allow reconstruction of the entire promotion action, including documentation on how candidates were rated and ranked. **AGREED**

B. Upon request, the following information may be released to an applicant or his/her designee (with written authorization):

- (1) Whether the applicant was qualified and/or referred for selection;
- (2) If not qualified, the reasons;
- (3) Whether the applicant was referred for selection;
- (4) Name of the selectee;
- (5) Cutoff score (lowest score referred); and
- (6) Rating/scores of best-qualified candidates. **AGREED**

C. Information that may not be released includes, but is not limited to confidential examining material (e.g., answer keys, rating schedules and crediting plans, rating sheets and test booklets); information that may intrude upon the privacy of other individuals; and materials that would compromise the objectivity or fairness of the examination and evaluation process. **AGREED**

Section 10. Grievances. Employees and/or the Union have the right to file a complaint relating to a promotion action taken under this Article. Such complaints will be submitted and addressed under Article __: Grievance Procedure. While the procedures used by the Employer to identify and rank qualified candidates may be proper subjects for formal complaints and grievances, non-selection from among a group of properly ranked and certified candidates is not an appropriate basis for a formal complaint or grievance. **AGREED**

Section 11. Post-Selection Actions.

- A. Upon request by an employee referred but not selected under this procedure, the selecting official will meet with the employee for the purpose of discussing how the employee may improve his/her standing in the event another position is filled using this procedure in the future. **AGREED**
- B. An employee occupying a position with established career ladder promotion potential will be promoted on the first pay period after a period of fifty-two (52) weeks, or whatever lesser period may be applicable, provided the supervisor has determined the employee has demonstrated the ability to perform at the higher

grade level, all qualification and administrative requirements have been met, the employee's current rating of record is at least fully successful (or equivalent) and there is sufficient higher level work to be performed. **AGREED**

ARTICLE XX: REASSIGNMENTS

CBP and NTEU recognize the value of retaining highly experienced and productive employees in the accomplishment of the Agency's mission. With this in mind, CBP and NTEU have agreed to establish the following mechanisms by which employees may express an interest in and/or be reassigned. **AGREED**

Section 1. Definitions.

- A. **Reassignment:** Unless defined otherwise, refers to the permanent change of an employee from one duty station (i.e., Port of Entry, city or county) to another, within the same occupational series, without promotion or demotion. **AGREED**
- B. **Covered employees:** Except as supplemented below, the provisions of this Article apply to all CBP employees covered by this Agreement who are not the subject of any pending performance action, pending disciplinary action, or pending investigation of alleged misconduct. Actions and investigations on which a decision has been made (and if applicable, issued to the employee) are not pending. **AGREED**
- C. **Seniority** will be determined by:
- (1) The total time an employee has served in his or her occupation (e.g., CBP Officer, CBP Agriculture Specialist, Import Specialist, etc.), including time in an equivalent position (e.g., Customs and Immigration Inspectors for CBP Officers and PPQ Officers for CBP Agriculture Specialists) at the employee's heritage agency. For seniority purposes, Customs Canine Enforcement Officer, Immigration Inspector (Canine) or PPQ Officer (Canine) is considered creditable equivalent heritage agency time to the CBP Officer and CBP Agriculture Specialist positions, respectively. **AGREED**
 - (2) In the event it is necessary to resolve ties after step (1), the total time an employee has served in CBP and heritage agency, regardless of position, will be used. **AGREED**
 - (3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e., SCD) will be used. **AGREED**
 - (4) In the event it is necessary to resolve ties after step (3), they will be resolved by coin flip. **AGREED**

Less than full-time employment will be credited for seniority purposes in accordance with the above on a pro rated basis. **AGREED**

Section 2. Employee Requested Reassignments.

A. Coverage. In addition to the requirements of Section 1.B., this Section applies only to full-time permanent employees who are not assigned to Preclearance, overseas locations, academies or training facilities. **AGREED**

B. Policies.

- (1) The Employer will consider employee initiated requests for reassignment in accordance with this Section to duty stations at which the employee's Office (e.g., Office of Field Operations, Office of Trade or Office of Information Technology) has employees of the same occupation and grade. **AGREED**
- (2) **When filling a position with other than a probationary or trial period employee, the Employer will consider the placement of employees under this Section. Absent just cause, when qualified employees are available for placement, the Employer has elected to offer placements through these procedures for at least one out of every two positions it fills with non-probationary/non-trial period employees. This Section does not apply to the placement of employees through the procedures contained in Article 13: Bid, Rotation and Placement.**
- (3) As such reassignments are primarily for the benefit of the employee, all relocation costs associated with reassignments granted under this Section are the responsibility of the employee. **AGREED**
- (4) Employees may withdraw a voluntary reassignment request submitted under this Section at any time by delivering written notification to the management representative responsible for administering the applicable voluntary reassignment process described below. **AGREED**
- (5) **In the event an employee accepts a reassignment, accepts a reassignment and subsequently declines prior to his/her release, or declines or fails to respond to an offer of reassignment under this Section, the employee will not be eligible for future voluntary reassignments for a period of three (3) years. This provision does not prohibit an employee from applying to**

management-initiated vacancy announcements or submitting a request for reassignment on the basis of a hardship (Subsection E) in the event the circumstances leading to the hardship develop after the voluntary reassignment was offered under this Subsection.

- (6) Where required to be provided by this Article, an employee's resume (or Optional Form 612) will be used by the Employer for the purpose of reviewing the employee's qualifications and determining what training, if any, would be required if placed. **AGREED**
- (7) Management will consider reassignment requests under this Section in the following priority order:
 - (a) Placements made as a result of third-party decisions (or related settlements); **AGREED**
 - (b) Career Transition Assistance Program (CTAP) eligibles; **AGREED**
 - (c) Re-employment Priority List (RPL) Eligibles **AGREED**
 - (d) Grade retention eligibles; **AGREED**
 - (e) Priority consideration eligibles; **AGREED**
 - (f) Special consideration for re-promotion eligibles; **AGREED**
 - (g) Medical and educational hardships (granted in the order in which they are received); **AGREED**
 - (h) Spousal hardships (granted in the order in which they are received); **AGREED**
 - (i) Voluntary reassignments. **AGREED**

C. Voluntary Reassignments.

- (1) For covered CBP Officers and CBP Agriculture Specialists within the Office of Field Operations (OFO), the following voluntary reassignment procedures shall apply: **AGREED**

- (a) On an annual basis, voluntary reassignment requests will be solicited from eligible employees through a nationwide posting. **AGREED**
- (b) In addition to the requirements of Section 2.A., eligible employees are those that have successfully performed in their current occupation with CBP for the previous two (2) years. **AGREED**
- (c) Employees will be provided thirty (30) calendar days from the date of the solicitation to submit reassignment requests. Such requests must include a current resume (or Optional Form 612), a self-certification statement of seniority, and identify up to three (3) duty stations to which the employee wishes to be reassigned. **AGREED**
- (d) Within ninety (90) calendar days of the date employee requests are due, the Employer will establish a roster of employees in each occupation who desire a voluntary reassignment for each duty station, in seniority order. The Employer will establish a procedure by which NTEU and the twenty (20) most senior employees who requested a voluntary reassignment for each duty station will be able to obtain their status. **AGREED**
- (e) Unless a formal written withdrawal is submitted, an employee request will be considered active until the next solicitation. **AGREED**
- (f) **When filling a vacancy at a particular duty station through voluntary reassignment, absent just cause, the most senior qualified employee will be selected. When making selections under this subsection for positions within a Port's core functions (i.e., passenger processing and cargo), the Employer has elected to provide the employee the necessary training (as determined by management) for the employee to perform the core function prior to or following the employee's placement. As an exception, the Employer may elect to bypass the most senior employee when (s)he lacks skills and/or training and the placement of the employee would hinder port operations. If a request is denied, the employee will be informed of the reasons for the denial upon request.**
- (g) Absent exigent circumstances, an employee selected for reassignment under these procedures will notify management of his/her acceptance or declination within seventy-two (72) hours of the offer. **AGREED**

- (h) In the event an employee declines, or fails to respond to an offer, in addition to the requirements of Section 2.B.(4), the employee will be removed from all voluntary reassignment rosters. **AGREED**
- (2) For employees in occupations other than CBP Officers and CBP Agriculture Specialists and/or outside OFO, the following procedures shall apply:
AGREED
- (a) An employee may request a voluntary reassignment under this Section at any time by submitting a written request to the gaining Port or Division Director (or designee) with a copy to his/her current Port or Division Director (or designee) [*or equivalent management officials*]. Such requests must include a current resume (or Optional Form 612) and a self-certification statement of seniority. **AGREED**
- (b) Management at the gaining duty station will maintain, and consider active, requests received for a period of not less than one (1) year. Employees may submit a formal withdrawal during this period at any time. **AGREED**
- (c) The Employer will establish a procedure by which NTEU and the requesting employee may obtain the status of an active reassignment request. **AGREED**
- (d) **When filling a vacancy at a particular duty station through voluntary reassignment, absent just cause, the most senior qualified employee with an active request will be selected. If denied, the employee will be informed of the reasons for the denial upon request.**
- (e) Absent exigent circumstances, an employee selected for reassignment under these procedures will notify management of his/her acceptance or declination within seventy-two (72) hours of the offer. **AGREED**

D. Position Exchanges.

- (1) The Employer will consider a request from two eligible employees in the same occupational classification and grade level who wish to voluntarily exchange their duty stations at any time. **AGREED**
- (2) To be considered, a copy of the request must be submitted to each employee's Port Director or Division Director (or designee) [*or equivalent management*

official], and include a copy of each employees' current resume (or Optional Form 612). **AGREED**

- (3) Management will normally respond to such requests within forty-five (45) calendar days. **AGREED**
- (4) **If the employees meet the qualifications requirements of the position at their respective gaining duty stations, absent just cause, the requests will be granted. When evaluating exchange requests for an exchange between two CBP Officers or two Agriculture Specialist assigned to core functions of their respective Ports and the core functions are in different operating environments (e.g., land border port vs. airport vs. seaport), the Employer has elected to provide the employees the necessary training (as determined by management) for the employee to perform the core function prior to or following the exchange. As an exception, the Employer may deny the exchange request when an employee lacks skill and or/training and the granting of the exchange would hinder port operations.**
- (5) **Nothing in this subsection will prevent the Employer, at its discretion, to grant a position exchange where one or both of the requesting employees do not fully meet the qualifications and training requirements of the position(s) at the gaining duty station(s).**
- (6) Exchanges granted under this Subsection are not grievable, either by the employees involved or not involved in the exchange, or the Union.
AGREED

E. Hardship Reassignments.

- (1) The following procedures have been established so that employees experiencing hardships may be provided consideration for reassignment at other duty stations in an expedited manner and with greater priority than most other reassignment requests. As a result, hardship circumstances have been defined to exist in narrow circumstances. **AGREED**
- (2) Only hardships impacting the employee or the employee's immediate family will be considered under this Subsection. Immediate family include the employee's spouse, parent (or legal guardians), sibling and/or children. "Step" relationships are included in the definition of immediate family.
AGREED

- (3) Employees covered by this Subsection include all full-time permanent employees covered by this Agreement (notwithstanding Section 2.A.), provided the circumstances leading to the hardship occurred after the employee accepted employment at the current duty station. **AGREED**
- (4) Qualified hardships include when an employee (or immediate family member) experiences:
- (a) A medical condition:
1. That is serious in nature, and **AGREED**
 2. The condition is not treatable in the employee's current duty station (e.g., a severe condition which might be alleviated by relocation to another geographic area would not be considered a significant hardship unless the condition cannot be alleviated or controlled by recognized medical treatment in the employee's current duty station); **AGREED**
- (b) A condition requiring special educational facilities where there are no equivalent facilities in the employee's current duty station; or **AGREED**
- (c) **Separation of an employee from his or her spouse when:**
1. **The spouse is employed by the Employer at the time of the circumstances leading to the separation;**
 2. **The separation is a direct result of the employee's involuntary permanent assignment to a duty station outside the employee's current commuting area; and**
 3. **The separation did not exist prior to the employee's acceptance of employment at his or her current duty station.**
- (5) To be considered, an employee hardship reassignment request must contain verifiable documentation concerning the circumstances (including medical documentation if applicable) that give rise to the hardship. The Employer may request additional documentation if deemed necessary. **AGREED**
- (6) Prior to requesting a hardship reassignment, employees should seek to develop alternatives to relocation if applicable (e.g., securing assistance from

the Employee Assistance Program, local and state social services, other counseling services, etc.). Alternatives to reassignment for accommodating hardships include Voluntary Reassignments (Subsection C), Position Exchanges (Subsection D), and applying to vacancy announcements for positions of equivalent grade. **AGREED**

- (7) All hardship requests will be filed with the requested Field or Division Office (or equivalent) with a copy provided to the current Field or Division Office (or equivalent). Employees will notify current and requested duty stations in the event they wish to withdraw their requests. **AGREED**
- (8) Requests for a hardship reassignment within the geographic area of the same Field or Division Office (or equivalent) will be processed by that Office. **AGREED**
- (9) Requests for a hardship reassignment between two Field or Division Offices (or equivalent) will be evaluated and decided by the requested (potential gaining) Office. **AGREED**
- (10) The deciding official shall review and provide the employee a written response to the request within forty-five (45) calendar days of receiving the request or supplemental information requested from the employee, whichever occurs later. The written response will indicate whether the request has been granted, and if denied, the reasons for the denial. **AGREED**

Section 3. Management Directed Reassignments.

- A. The Employer retains the right to identify and direct the reassignment of any employee to any position of equivalent grade based on the needs of the Agency, including but not limited to workload fluctuations, new programs, new locations and/or the need to realign existing resources. This Section describes the procedures by which such reassignments will be made.**
- B. The procedures contained in this Section will apply to management directed reassignments, including but not limited to:**
 - (1) The reassignment of bargaining unit employees from unit to non-unit positions and;**

- (2) **The reassignment of CBP Officer (Canine) to a CBP Officer position. As an exception, in the event a canine assigned to a specific CBP Officer (Canine) retires, expires or otherwise becomes inoperative and the Employer does not intend to provide the CBP Officer (Canine) a new canine, the Employer may elect to reassign the affected employee to a CBP Officer position at the same grade and duty station. In the event a CBP Officer (Canine) is involuntarily reassigned under this provision, (s)he will be given priority consideration for any CBP Officer (Canine) position filled at his/her duty station for a period of not less than one (1) year from the date of the reassignment.**

C. Reassignments within a Duty Station.

- (1) If the Employer determines that more than one (1) employee is qualified from within the work group from which a reassignment within the duty station is to be made, management will solicit volunteers from within the work group from which the selection is to be made. **AGREED**
- (2) In the event: **AGREED**
 - (a) More qualified and releasable employees volunteer than are required, selections will be made in seniority order. **AGREED**
 - (b) Too few qualified and releasable employees within the workgroup volunteer, employees will be assigned in inverse seniority order. **AGREED**

C. Directed Reassignments Outside the Duty Station.

- (1) If the Employer determines that more than one (1) employee is qualified from within the work group from which a reassignment outside the duty station is to be made, management will solicit volunteers from within the work group from which the selection is to be made. **AGREED**
- (2) In the event more qualified and releasable employees volunteer than are required, selections will be made in seniority order. **AGREED**
- (3) In the event too few qualified and releasable employees volunteer, management may proceed with reassigning the volunteers in accordance with the provisions of this Section. In the event the Employer determines it is necessary to involuntarily reassign employees outside the duty station, the

Employer will provide the Union notice and the opportunity to bargain in accordance with Article __: Bargaining. **AGREED**

- (4) Costs associated with reassignments under this subsection shall be the responsibility of the Employer, and will be provided in accordance with established policy and procedures for a permanent change of station.

AGREED

Section 4. Nothing in this Article shall preclude the Employer from reassigning an employee to a position within his/her duty station or commuting area for the purpose of correcting or minimizing deficiencies in the employee's performance or conduct. In such circumstances, and where there are multiple duty stations within the same commuting area, the Employer will determine whether the correction or minimization can be successfully accomplished through the reassignment of the employee to a position within the employee's current duty station prior to directing the reassignment of the employee to another duty station.

Section 5. Employees selected for reassignment under this Article will be provided reasonable notice (as far in advance as practical, but normally not less than thirty (30) calendar days) of the date they are expected to report to their new duty station. However, the parties understand that conditions beyond the control of management may necessitate a brief notification period. AGREED

Section 6. An employee reassigned to a duty station outside of his or her commuting area may request and will be granted excused absence without charge to leave to enable him/her to make pre-moving and post-moving arrangements in accordance with applicable law, regulations and Section 10.C.(11) of Article __: Leave and Excusal.

ARTICLE XX: PRECLEARANCE

Section 1. This Article covers the policy and procedures by which employees will be selected for, assigned to and returned from Office of Field Operations (OFO) Preclearance locations. **AGREED**

Section 2. When filling positions at Preclearance locations, the Employer will utilize the same announcement and application solicitation procedures as those used for positions filled through merit promotion. Such announcements will have an agency-wide area of consideration, and contain relevant information concerning the expected tour length and return policies. **AGREED**

Section 3. Assignment Duration and Return Service Requirements.

- A. Once selected and assigned, the Employer expects assignments to generally be served as a two (2) year initial tour, with an opportunity for the Employee to apply for a two (2) year extension, followed by the opportunity to apply for a one (1) year extension. Nothing in this subsection is intended to prohibit the Employer from exercising its discretion to release an employee from his/her established tour. **AGREED**
- B. When filling positions under Section 2 of this Article, generally the Employer will only consider employees who have completed a return service period of not less than five (5) years from the end date of the Employee's previous Preclearance tour. In the event the Employer determines it is necessary to consider employees who have not completed the return service period (e.g., when the Employer anticipates an announcement will not generate a sufficient pool of well-qualified candidates), it will so indicate on the posted vacancy announcement and inform NTEU. **AGREED**
- C. In the event the Employer elects to alter its policies regarding the general assignment duration and return U.S. service requirements contained in this Section, it will provide the Union notice and the opportunity to bargain in accordance with Article __: Bargaining. **AGREED**

Section 4. Preparation and Reporting Procedures.

- A. Selected employees will be informed of and normally expected to complete the requirements for foreign assignments within one hundred and twenty (120) calendar days following selection notification. **AGREED**
- B. Official reporting dates will be provided to selected employees as far in advance as practicable, but not normally less than sixty (60) calendar days in advance of the effective date. **AGREED**
- C. **Operational requirements beyond the control of management may require preparation and notification periods shorter than those contained in this Section. Where practicable, employees will be informed of the shortened notice periods through inclusion of the requirement on the vacancy announcement. When not practicable, selected employees will be notified of the shortened time periods as far in advance as possible.**
- D. **Selected employees may request and be granted excused absence without charge to leave to enable him/her to make pre-moving and post-moving arrangements in accordance with applicable law, regulations and this Agreement. In addition, nothing in this subsection prohibits the Employer from granting employee requests for annual leave or leave without pay in combination with excused absences for such pre and post-moving arrangements.**

Section 5. While assigned to a Preclearance facility, employees will be considered within the area of consideration for CBP vacancy announcements with a nationwide area of consideration, as well as those with an area of consideration that includes the duty location from which the employee was selected for the Preclearance assignment, to which they apply. If selected, an employee's travel and relocation cost reimbursement will be determined by the conditions stated on the vacancy announcement to which the employee applied. **AGREED**

Section 6. Extension Request and Return Procedures.

- A. Not less than one-hundred and twenty (120) calendar days prior to the end of the initial tour, as well as the conclusion of any extensions, employees are expected to formally request an extension or express intent to return to the United States. **AGREED**

- B. Absent just cause, requests for extensions consistent with the assignment durations described in Section 3 will be approved. **AGREED**

- C. **The Employer has determined an employee returning from a Preclearance assignment will be placed at the location from which the employee was selected for the Preclearance assignment. The Employer will assign the employee to a specific work unit or assignment in a manner that does not conflict with any other provision of this Agreement.**

- D. Returning employees will be informed of the date to which they are expected to report to the location to which they are placed as far in advance as practicable, but not normally less than sixty (60) calendar days in advance of the date they are expected to report. Absent unanticipated operational requirements or circumstances, reporting dates will be established no later than sixty (60) calendar days from the end of the scheduled tour. **AGREED**

- E. During the above process, the Employer will provide returning employees a point of contact that may be contacted regarding the status of their return request and assignment. **AGREED**

ARTICLE XX: SAFETY AND HEALTH

Section 1. The Employer will make every reasonable effort, consistent with the mission of the Service and the inherent hazards of the work to be performed, to provide and maintain safe and healthful working conditions when and where it is within its authority and control to do so. The Employer has determined that whenever it becomes necessary to move an employee from a work area because of conditions or practices in that work area that pose a threat to that employee's health or physical safety, a reasonable effort will be made to find work for that employee elsewhere in the employee's post of duty.

AGREED

Section 2. The parties recognize that not all safety standards and regulations formulated for industrial or business concerns are applicable to, or readily transferable to, the operations of a law enforcement agency. However, in fulfilling its obligations under Section 1 above, the Employer shall adopt, develop, issue and maintain safety standards and regulations that are appropriate to the Employer's operations. In issuing such standards and regulations, Section 19 of the Occupational Safety and Health Act of 1970, Executive Order 12196, 29 CFR 1960, and appropriate orders and issuances promulgated thereunder shall be used as a guide. **AGREED**

Section 3.A. Employees have a responsibility to promptly correct, if possible, and/or report unsafe conditions to appropriate supervisors. The supervisor will promptly take steps to correct conditions which he finds to be unsafe and/or to refer the matter to appropriate management authority. Employees will report all accidents, no matter how minor, to their supervisors at the time of the accident. **AGREED**

B. The Employer will initiate prompt and appropriate action to correct unsafe conditions whenever they are found to exist. **AGREED**

Section 4.A. Annual inspection of all CBP facilities will be conducted by a designated safety representative of the Employer. Facilities where there is a higher than average incidence of accidents and/or illness will be inspected more frequently as determined by the Employer. At the conclusion of each inspection, the official in charge of the facility and the appropriate chapter president shall be advised of any apparent unsafe or unhealthful conditions. Employee reports of unsafe or unhealthful working conditions shall be addressed in accordance with 29 CFR 1960.28. Nothing in this section is in derogation of any rights the Union may have pursuant to law, rule or regulation.

AGREED

- B. A representative or designee of the Union shall be provided with reasonable advance notice and an opportunity to accompany the safety inspector(s) on official time during any inspection conducted by the Employer or by the safety representative described in Section 4.A. The Employer will pay mileage costs for Union representatives who are bargaining unit employees for travel to and from inspections under this Section. **AGREED**

Section 5. Safety and Health Committees.

- A. The Employer and the Union will cooperate in the continuing effort to eliminate accidents and health hazards. To this end, a Joint Safety and Health Committee will be established at the National level. Committees will also be established at Headquarters, the National Finance/Logistics Center (NFC/NLC), Laboratories, Training Centers, and at the DFO and Port levels, unless the local parties agree that the work of such committees can be handled through other methods. Field headquarters employees will be covered by the Committee in place at their work location. **AGREED**
- B. The National Safety and Health Committee shall be composed of eight (8) members to be selected as follows: **AGREED**
 - (1) Three (3) representatives of the Employer, one of whom shall be the senior safety officer or representative within the jurisdiction of the Committee. The safety officer or representative shall serve as Chairman of the National Committee. **AGREED**
 - (2) Three (3) employee representatives to be selected by the Union. **AGREED**
 - (3) One (1) employee representative to be selected from among the non-unit, non-represented employee groups. **AGREED**
 - (4) One (1) member from the NTEU National Office. **AGREED**
- C. The Employer and the Union will establish the size of the Safety and Health Committees at other levels. **AGREED**
- D. Safety Officers will be selected from among volunteers. The parties agree that Safety Officers should be given sufficient time, training, resources and encouragement to perform their duties as outlined in the CBP Occupational Safety and Health Handbook. Safety Officers will be monitored by local Safety and

Health Committees and will be invited to local Safety and Health Committee meetings. **AGREED**

- E.** Proposed enhancements to the CBP safety program will be referred to the National Safety and Health Committee for discussion. **AGREED**
- F.** Each Committee shall meet at least once each six (6) months, or at such other times as are agreed to by the parties. The Committee Chairman shall provide a written report of each meeting to the Commissioner, Port/Area Director, and designated Union representatives as appropriate. **AGREED**
- G.** Committees shall have access to CBP training materials, and will be provided training in accordance with applicable laws, regulations and the CBP Occupational Safety and Health Handbook. **AGREED**
- H.** Committees established pursuant to this Section shall be advisory in nature, and will advise, and will be consulted by the Commissioner, Headquarters, the National Finance/Logistics Center (NFC/NLC), Laboratories, Training Centers, DFOs and Port Directors on all aspects of the CBP occupational safety and health programs. **AGREED**
- I.** Committees shall monitor the performance of the CBP Occupational Safety and Health Programs. Committees are encouraged to review accident trends, recommend specific training needs, review adequacy of emergency evacuation procedures, and recommend promotional campaigns. **AGREED**
- J.** Committees shall have full access to all existing information relevant to their advisory and monitoring functions. **AGREED**
- K.** In the event that safety and health hazards requiring corrective action involve property leased by GSA on behalf of the Employer, or property owned by a private corporation and made available for the employer's use, Committee members may, as deemed appropriate by the employer, be utilized when dealing with GSA or the property owner when efforts are undertaken to resolve the problem. **AGREED**
- L.** Since the Committees are established as management advisory committees, committee members shall receive a reasonable amount of official time, and necessary travel and per diem expenses, to take part in the deliberations of the committees. **AGREED**

M. Port Safety and Health Committees will be responsible for acquiring information about hearing conservation programs, and for recommending whether such programs are needed in their jurisdictions. The National Safety and Health Committee will provide the Port Committees with information, encouragement and technical assistance to support their hearing conservation program development activities. **AGREED**

Section 6.A. The Employer will, to the extent practical and available locally from government sources, continue to offer whatever health services are obtainable for employees. At a minimum, this will include maintenance of the existing practice of making annual influenza vaccinations and other voluntary health improvement and screening activities available for employees at those locations where practicable. **AGREED**

B. In any work location where health facilities are not available on the premises, the Employer agrees to provide and maintain standard GSA first aid kits. **AGREED**

C. In any work location where health facilities are not available on the premises, the Employer agrees to provide and maintain standard GSA first aid kits. **AGREED**

Section 7. If an ill or injured employee is sent to a medical facility for treatment, and a competent medical authority at the facility determines that the employee is unable to return to work, the employee may be granted sick leave in accordance with applicable law, regulations and the provisions of the Leave Article contained in this Agreement. If the medical authority determines that the affected employee is able to return to work, the Employer will consider that recommendation in determining whether to return the employee to work. **AGREED**

Section 8. If it becomes necessary for an employee to leave work because of an incapacitating illness or injury, and normal transportation is not available or within the employee's capacity, the Employer agrees to assist in arranging transportation to a medical facility or to the employee's home, at the request of or on behalf of the employee. The Employer's monetary, pecuniary or tort liability is governed by law, regulations, Federal court decisions, and/or decisions of the Comptroller General and the Employer assumes only such responsibility or liability allowable by law, regulation or such decisions. **AGREED**

Section 9. When an employee is injured in the performance of his duties, he should report the injury to his supervisor in accordance with the provisions of 20 CFR 10.207. The Employer will provide the injured employee with forms and information provided for under the Agency's Workers' Compensation Program and will be assisted in obtaining appropriate benefits by a servicing Worker's Compensation advisor.

AGREED

Section 10.A. An employee who sustains a disabling job-related traumatic injury, unless electing to utilize leave, is entitled to the continuation of his regular pay for a period not to exceed forty-five (45) calendar days in accordance with applicable law and regulation.

AGREED

B. Should an employee suffer a recurrence of disability and again stop work, the employee may elect to continuation of regular pay, providing the forty-five (45) calendar days were not all exhausted during the initial period of disability. This is applicable, however, only during a forty-five (45) day period beginning from the date the employee first returned to work following the initial disability.

AGREED

C. Subsequent absences necessary for examination, treatment, and therapy may be charged against the forty-five (45) days in accordance with applicable laws and regulations. **AGREED**

D. If an employee stops work under the provisions of this Section for only a portion of a day or shift (other than the day or shift when disability began), such day or shift will be considered as one (1) calendar day. **AGREED**

Section 11.A. A pregnant employee or an employee returning to work after an injury, illness or pregnancy with a medical certificate indicating that the employee should work restrictively and that full recovery is expected, will be considered for light duty by her supervisor on a case-by-case basis. An assignment to light duty appropriate to the specific medical condition will normally be granted for a temporary period, if such work is available and the assignment will not unduly disrupt work operations. **AGREED**

B. An employee on light duty will be eligible for assignment to overtime work associated with the light duty assignment, consistent with the organization's need for such work to be performed on an overtime basis and the medical restrictions placed on the employee. **AGREED**

- C. The assignment of an employee to light duty or the assignment of a light duty employee to overtime under this Section will not be grounds for disputes by other employees in the work unit on the basis that they have had to assume added or burdensome duties. **AGREED**

Section 12. Safety equipment and protective devices shall be provided to employees as required and prescribed by applicable directives and regulations. **AGREED**

Section 13.A. The Employer may require an individual who has applied for, or occupies a position which has physical/medical requirements for selection or retention, or which is a part of an established program of medical surveillance related to occupational or environmental exposure or demands, to report for a medical evaluation under the following circumstances: **AGREED**

- (1) Prior to appointment or selection (including re-employment on the basis of full or partial recovery from a medical condition); **AGREED**
- (2) On a regularly recurring periodic basis; and **AGREED**
- (3) Whenever there is a direct question about an employee's continued capacity to meet the physical or medical requirements of the position. **AGREED**

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

C. The Employer may require an employee who has been released from his competitive level in a reduction-in-force to report for a medical evaluation when the position(s) to which the employee has reassignment rights requires specific physical capacities to perform the duties of the job, and those physical capacities are different from those required in the employee's present position. The Employer shall be aware of the affirmative obligations which require reasonable accommodation of a qualified employee with a disability. **AGREED**

D. When the Employer orders an employee to undergo a medical examination, it shall inform the employee in writing of its reasons for ordering the examination and the consequences of failure to cooperate. **AGREED**

E. The Employer shall designate the examining physician, or other appropriate practitioner, for all examinations ordered or offered by the Employer. In addition, at his expense, the employee has the opportunity to submit medical documentation from his or her personal physician which the Employer shall review and consider before making a final determination on medical suitability or fitness for duty. **AGREED**

F. The Employer may order a psychiatric examination or psychological assessment only when:

(1) The results of a general medical examination which the agency has ordered show no conclusive physical basis to explain actions or behavior which may affect the safe and efficient performance of the individual or others, or

(2) A psychiatric examination is specifically required by medical requirements or a medical evaluation program. **AGREED**

(3) The Employer will make a good faith effort to secure evaluative services within the employee's local commuting area. However, in cases where the Employer's medical personnel/consultants indicate that the appropriate services are not readily available within that area, the employee may be required to travel to an alternate location. In such cases, the Employer will be fully responsible for all costs associated with such travel. **AGREED**

G. The Employer will pay all expenses incurred for agency ordered or offered medical examinations. Employees must pay for a medical examination conducted by a private physician or practitioner where the purpose of the examination is to secure a benefit sought by the employee (e.g., reassignment based on personal need, extended sick leave). **AGREED**

H. Employees required to undergo a medical examination will be provided copies of all medical documentation generated in conjunction with the examination upon written request from the employee. The documentation will be released by the Employer unless the information contained in the documentation concerns medical conditions of such a nature that a prudent physician would hesitate to inform a person suffering from those conditions of their exact nature or probable outcome.

In the latter case, the information will be released to a licensed physician or mental health professional designated in writing by the employee. **AGREED**

- I. In the event an employee no longer satisfies the established physical/medical standards of their current position, the Agency will consider the employee for other positions, for which the employee is qualified, within the duty location, prior to taking an administrative action. This provision is not intended to replace or conflict with established reasonable accommodation procedures, nor does this effort to place an employee establish that the Agency perceives in any way that the employee is an individual with a disability. **AGREED**
- J. Nothing in this section shall be construed or applied in a manner that would expand or diminish the parties' rights and obligations under applicable law and regulation. **AGREED**

Section 14. The Employer shall, through coordination with the General Services Administration (GSA), perform periodic monitoring of asbestos levels in the Employer's buildings that have been identified by the GSA as having potential asbestos problems. The results of the monitoring shall be provided to the Union. In the event such monitoring reveals a level of exposure in excess of the standard established by the Office of Occupational Safety and Health Administration (OSHA), through coordination with GSA, the Employer agrees to move exposed employees to work sites that do not have excessive exposure as soon as practicable. To the maximum extent permitted by law and regulations, affected employees will be paid hazardous duty pay or environmental differential pay during the period of exposure. For purposes of this agreement, "period of exposure" means the time between the receipt of a conclusive report indicating a level of exposure above the GSA standard and the time affected employees are removed from such exposure. **AGREED**

Section 15. The Employer shall establish procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in agency occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or others of any right afforded by Section 19 of the Occupational Safety and Health Act, Executive Order 12196, or 29 CFR 1960. These rights include, among others, the right of an employee to decline to perform his assigned task 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

seek effective redress through normal hazard reporting and abatement procedures established by the Employer. **AGREED**

Section 16. The Union will be allowed to distribute brochures to employees describing the Union's optional insurance and benefit plans. **AGREED**

Section 17. Once a year, employees will be granted official time (not to exceed one (1) hour) to consult with Union-sponsored benefits counselors. This consultation may be done in conjunction with other health information initiatives (e.g., Health Fair, Open Season, etc.). **AGREED**

Section 18. Respirators

- A. In accordance with the Occupational Safety & Health Administration (OSHA) Respiratory Protection Standard (29 C.F.R. 1910) the Employer will determine which type of respirators are required to protect employees and under which work situations they are required to be used.**
- B. Similar to the CBP policy regarding the H1N1 situation, the Employer will inform employees of the circumstances under which an employee will be allowed to don Agency provided respirators, at their discretion, without supervisory approval. In the event an employee encounters a situation and is unclear that donning a respirator is appropriate, the employee should obtain supervisory approval prior to donning the respirator.**
- C. CBP will provide sufficient training to employees who are required to use respirators. The training will be comprehensive, understandable, and provided at a minimum on an annual basis.**
- D. The respirators, required training and necessary medical evaluations will be provided at no cost to the employee.**
- E. CBP will provide appropriate storage for approved respirators.**
- F. CBP will comply with all legal requirements concerning the maintenance, care, cleaning, disinfecting, storage, inspection and repair of respirators.**

- G. All medical evaluations to determine employees' ability to use a respirator will be limited to that specific purpose and will be conducted in accordance with the provision of 29 C.F.R. 1910.134(e).**
- H. To the extent possible, evaluations will be administered privately during employees' normal working hours. CBP will inform employees how to deliver or send any required questionnaire to the appropriate FOH recipient and will provide any required postage.**
- I. Employees required to wear a respirator will be fit tested in accordance with the provisions of 29 C.F. R. 1910.134(f).**
- J. The only information provided to CBP will be the results of the Medical Clearance, which does not contain any personal medical information.**
- K. If an employee is not medically cleared to wear a respirator in a mandatory use situation, the parties recognize that the OSHA standard prohibits management from assigning the employee to perform work duties that may expose them to the respiratory hazard. In such circumstances, management may assign the work to employees who have been medically cleared and fit tested for respirator use, or permit the employee to use a respirator that does not require a medical evaluation.**
- L. CBP will conduct respirator program evaluation as required by law. Upon request, CBP will provide NTEU a briefing to discuss the data obtained in those evaluations.**

ARTICLE XX: SCHEDULING

Section 1. This Article contains the procedures by which the Employer will schedule non-overtime work.

Section 2. The requirements of this Article do not apply to alternative work schedules established under Article __: Alternative Work Schedules, with the exception of Sections 16 (Voluntary Daily or Weekly Tour of Duty Changes) and 17 (Rest Periods).

AGREED

Section 3. Definitions.

- A. *Administrative Workweek* is a period of seven (7) consecutive calendar days designated in advance by the Employer. **AGREED**
- B. *Regularly Scheduled Administrative Workweek* for a full-time employee, means the period within an administrative workweek when the employee is regularly scheduled to work. For a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work. **AGREED**
- C. *Basic Workweek* for a full-time employee, means the forty (40) hour workweek established for the employee. **AGREED**
- D. *Tour of Duty* means the hours of a day and the days of an administrative workweek that constitute an employee's regular schedule. **AGREED**
- E. *Regular Day Off (RDO)* is a day during the administrative workweek on which an employee is not scheduled to work. **AGREED**
- F. *Seniority* will be determined by:
 - (1) The total time an employee has served in his or her occupation (e.g., CBP Officer, CBP Agriculture Specialist, Import Specialist, etc.), including time in an equivalent position (e.g., Customs and Immigration Inspectors for CBP Officers and PPQ Officers for CBP Agriculture Specialists) at the employee's heritage agency. For seniority purposes, Customs Canine Enforcement Officer, Immigration Inspector (Canine) or PPQ Officer (Canine) is

considered creditable equivalent heritage agency time to the CBP Officer and CBP Agriculture Specialist positions, respectively. **AGREED**

- (2) In the event it is necessary to resolve ties after step (1), the total time an employee has served in CBP and heritage agency, regardless of position, will be used. **AGREED**
- (3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e., SCD) will be used. **AGREED**
- (4) In the event it is necessary to resolve ties after step (3), they will be resolved by coin flip. **AGREED**

Less than full-time employment will be credited for seniority purposes in accordance with the above on a pro rated basis. **AGREED**

Section 4. The scheduling of employees shall be accomplished in a fair and impartial manner. **AGREED**

Section 5. Except when the Employer determines that it would be seriously handicapped in carrying out its functions or that costs would be substantially increased, the Employer will provide that: **AGREED**

- A. Assignments to tours of duty are scheduled in advance of the administrative workweek over periods not less than one (1) week; **AGREED**
- B. The basic forty (40) hour workweek is scheduled on five (5) days, Monday through Friday when possible, and the two (2) days outside the basic workweek are consecutive; **AGREED**
- C. The working hours in each day of the basic workweek are the same; **AGREED**
- D. The basic nonovertime workday may not exceed eight (8) hours; **AGREED**
- E. The occurrence of holidays may not affect the designation of the basic workweek; and **AGREED**
- F. Breaks in working hours of more than one (1) hour may not be scheduled in a basic workday. **AGREED**

Section 6. In the event the Agency Head (or designee) determines an employee, or group of employees, are excepted from any or all of the requirements contained in Section 5 of this Article, or applicable law, the Employer will inform the Union (at the national level) of the basis of the Agency Head's determination, and make such employees aware of their coverage by the exception. Nothing in this Section waives the Union's right to challenge the Agency Head's (or designee's) determination.

Section 7. The Employer will establish employee work schedules (including basic workweeks, tours of duty and RDOs) to accomplish the mission of the Agency, and to correspond with the employee's actual work requirements. **AGREED**

Section 8. When the Employer knows in advance of an administrative workweek that the specific days and/or hours of a day actually required of an employee in that administrative workweek will differ from those required in the current administrative workweek, the Employer will reschedule the employee's regularly scheduled administrative workweek to correspond with those specific days and hours. The Employer will inform the employee of the change, and will record the change on the employee's time and attendance records. **AGREED**

Section 9. The Employer will make available projected employee non-overtime work schedules as far in advance as practicable, but not less than four (4) weeks in advance of the start of the pay period. Employees will be assigned and informed of overtime assignments in accordance with Article __: Overtime. This provision is intended to establish a consistent national minimum standard and is not intended to change established practices at locations where projected employee schedules are normally made available more than four (4) weeks in advance of the start of the pay period. **AGREED**

Section 10. When changes to posted schedules are required, the Employer will notify affected employees as soon as practicable. Nothing in this Section relieves the Employer of its obligation under Section 5 of this Article. **AGREED**

Section 11.A. The Employer may authorize a special tour of duty of not less than forty (40) hours to permit an employee to take one or more courses in a college, university, or other educational institution when it is determined that: **AGREED**

- (1) The courses being taken are not training under Chapter 41 of Title 5, United States Code; **AGREED**

- (2) The rearrangement of the employee's tour of duty will not appreciably interfere with the accomplishment of the work required to be performed; **AGREED**
- (3) Additional costs for personnel services will not be incurred; and **AGREED**
- (4) Completion of the course will equip the employee for more effective work in the Agency. **AGREED**

B. The Employer shall not pay to an employee any premium pay solely because a special tour of duty authorized under this Section causes the employee to work on a day, or at a time during the day, for which premium pay would otherwise be payable. **AGREED**

Section 12. The Employer will make individual employee schedules, as well as any changes thereto, available to those employees. Work schedules for all bargaining unit employees, as well as any changes thereto, will be made available to the appropriate NTEU Chapter President. **AGREED**

Section 13. Employees shall be compensated for hours of work in accordance with applicable laws and regulations. **AGREED**

Section 14.A. In the event the Employer determines work requirements necessitate the modification or alteration of an existing shift or tour of duty for a period of more than one work week, it will inform the appropriate NTEU Chapter President of the intended change as soon as practicable (normally at least fourteen (14) calendar days in advance), but in no case less than seven (7) calendar days in advance of implementation. Upon request, the Employer will meet with the Chapter President (or designee) to discuss any issues or concerns regarding the alteration or modification. Nothing shall prohibit the Employer from amending or adjusting its decision based upon the input and recommendations provided by the Chapter President, to the extent such modifications are consistent with this Agreement. However, unless further delay is agreed to, the Employer may proceed with implementation of the change in shift or tour of duty as scheduled.

B. The Employer will also notify affected employees of any modification or alteration of an existing shift or tour of duty not less than seven (7) calendar days prior to its implementation. **AGREED**

Section 15.A. In the event the Employer work requirements necessitate the establishment of a new shift or tour of duty, it will inform the appropriate NTEU Chapter President of the intended change as soon as practicable (normally at least fourteen (14) calendar days in advance), but in no case less than seven (7) calendar days in advance of the implementation of the new shift or tour of duty. Upon request, the Employer will meet with the Chapter President (or designee) to discuss any issues or concerns regarding the new shift or tour of duty. Nothing shall prohibit the Employer from amending or adjusting its decision based upon the input and recommendations provided by the Chapter President, to the extent such modifications are consistent with this Agreement. However, unless further delay is agreed to, the Employer may proceed with implementation of the establishment of the new shift or tour of duty as scheduled.

- B.** When staffing new shifts or tours of duty, the Employer will identify the numbers, types and grades of employees, the knowledge, skills and abilities required, as well as any other mission or operational requirements related to the nature of the assignment. Volunteers meeting these requirements will be solicited from appropriate work groups (as determined by the Employer). In the event more equally qualified and releasable employees volunteer, absent just cause, selections will be made in seniority order. If too few qualified and releasable employees from within the work group volunteer, qualified and releasable employees will be assigned in inverse seniority order. Employees selected under this procedure will be notified not less than seven (7) calendar days prior to the start of their new shift or tour of duty.
- C.** To the extent the above procedure conflicts with other provisions of this Agreement (e.g., the method for staffing post-rotational vacancies from outside the work unit under Article __: Bid, Rotation & Placement), those other provisions will take precedence.

Section 16. Voluntary Weekly or Daily Tour of Duty Changes.

- A.** In order to reduce any potential adverse impacts on employees from an exception determination under Section 6, the Employer will permit the following temporary weekly or daily tour of duty changes.

(1) Weekly or Daily Tour of Duty Swaps.

- (a) For the purpose of this Section, a swap is defined as the voluntary exchange of a scheduled daily (shift) or tour of duty (weekly) between two employees.
 - (b) Infrequent employee requests to temporarily swap shifts or tours of duty will be approved provided the employees involved in the swap are qualified to perform the duties encompassed in the swapped shift or tour of duty and the swap does not result in a negative impact on operations or an increased cost or conflict with overtime cap compliance procedures. Swaps may not be approved to the extent they undermine the purpose and intent of any other provision of this Agreement (e.g., work schedule preference provisions of Article __: Bid, Rotation & Placement).
 - (c) In order to be considered under this Section, employee swap requests must be submitted to the appropriate management official by the involved employees not less than five (5) calendar days in advance of the day (for shift swaps) or start of the work week (for tour of duty swaps). Requests submitted less than five (5) calendar days in advance may be approved at the discretion of management.
- (2) Once scheduled for a tour of duty accordance with this Article, an employee may voluntarily agree to changes that would result in a work schedule that may be inconsistent with the requirements of Section 5. For example, an employee subject to a swap contained in this Section, or an employee assigned to the midnight shift may voluntarily agree to change his/her tour of duty the following day to a day shift schedule to take advantage of a last-minute firearms qualifications opening at the gun range (e.g., caused by an employee previously scheduled requested sick or emergency annual leave), which would result in a schedule inconsistent with Section 5.A. and C.
- B. Any schedule changes provided under this Section will be made notwithstanding any other provision of this Article, will be documented by the Employer, and are not grievable by the employees involved or not involved in the schedule change, or by the Union.

Section 17. Rest Periods.

- A. The Employer will ensure employees are provided rest periods during the work day for the purpose of attending to employee personal needs. **AGREED**

- B. Such rest periods will be of reasonable duration and will be permitted at reasonable times during the work day, to include work performed on an overtime basis, consistent with the Employer's right to assign work and workload demands. **AGREED**

Section 18. Employees will be scheduled (or excused) and compensated for Holidays in accordance with the policies and procedures contained in Article XX: Holidays and Religious Observances.

ARTICLE XX: EMPLOYEE DEVELOPMENT

Section 1. Training and development of employees within the unit is a matter of significant importance. In conjunction with this concept, the Employer, within budgetary limitations, will make available to an employee the training the Employer determines will improve individual and organizational performance and assist in achieving the Employer's mission and performance goals, including training for different positions within CBP or in other Federal agencies. The Employer and the Union agree to continue their encouragement of self-initiated development efforts of individual employees consistent with the terms of this Article. **AGREED**

Section 2.A. The Employer will maintain information about CBP provided training as well as other job-related educational resources. This information will be made available to all CBP employees. Employees seeking counseling and guidance regarding training opportunities should discuss the matter with their immediate supervisor and/or their Mission Support Staff. **AGREED**

B. CBP will inform employees at least annually of the availability of training and other job-related educational resources. **AGREED**

Section 3. In-Service Training

A. Where the Employer offers in-service training to enhance job proficiency, excluding required and remedial training, the following procedures will apply:

(1) The Employer will advertise in-service training programs to all CBP employees through an electronic web-posting or other appropriate method. **AGREED**

(2) The in-service training advertisement will provide employees information about the offered training, any prerequisite qualifications, and application procedures. **AGREED**

(3) **Employees will be selected for such training in a fair and equitable manner as described in this Article XX: Fairness and Equitability. Absent just cause, qualified employees (e.g. employees within the targeted work unit) will be selected for such training in seniority order as defined in this Agreement.**

(4) In the event of a posting failure which affects a group of employees, the remedy available under this Agreement shall be limited to priority consideration when such training is offered again. **AGREED**

B. Upon request, the local NTEU chapter will be informed of those employees selected for in-service training. **AGREED**

Section 4. Non-CBP Training

A. When an employee requests non-government training, the Employer will pay authorized expenses for such training at a facility approved by the Employer when the following conditions have been met: **AGREED**

(1) the training has been applied for on an SF-182 or the appropriate form and approved in advance; **AGREED**

(2) the training will improve individual and organizational performance and assist in achieving the Employer's mission and performance goals, including training for different positions within CBP; **AGREED**

(3) existing training programs within CBP will not adequately meet the training need; **AGREED**

(4) it is not feasible to establish a new training program to meet the need effectively; **AGREED**

(5) reasonable inquiry has failed to disclose the availability of a suitable and adequate program elsewhere within the Government; **AGREED**

(6) funds are available to pay for the training; **AGREED**

(7) the course is not being taken solely for the purpose of obtaining a degree; and, **AGREED**

(8) the approval of such training will not create an undue interference with operational requirements or an imbalance in staffing patterns. **AGREED**

B. An employee who fails to satisfactorily complete the training provided for in Section 4 shall reimburse the Employer for all tuition and related expenses

incurred by the Employer for that portion of the training not satisfactorily completed. **AGREED**

- C. In accordance with applicable law and regulations, the Employer may waive in whole or in part a right to recover tuition and related expenses, if it is shown that the recovery would be against equity and good conscience or against the public interest. For example, waiver would normally be appropriate if the employee encountered unforeseen personal or health problems, medical emergency, or change in official duties. **AGREED**
- D. Upon request, the local NTEU chapter will be informed of those employees selected for Non-CBP training. **AGREED**

Section 5. Tuition Assistance Program

- A. In addition to the mechanism for employees to request non-CBP training in Section 4, the employer will establish a supplemental Tuition Assistance Program (TAP) as an additional method of obtaining training not offered by CBP that will either provide employees improved skills for doing their current job or help them pursue career advancement in a field of work performed by the CBP.
- B. Participating employees who are approved may receive up to \$2,500 per open season. **AGREED**
- C. **Should the maximum amount of funding change or in the event funding is no longer available for TAP, NTEU and employees will be advised of changes and/or the temporary suspension of the program. Additionally, NTEU and employees will be advised at the earliest practicable date when TAP will resume.**
- D. There will be three open seasons for employees to apply for TAP funding corresponding to the fall, spring and summer terms. **AGREED**
- E. Courses must be taken at an accredited college or university, including through the use of "non-traditional" methods such as distance learning courses offered at accredited universities or colleges.
- F. TAP applications will be evaluated with the following criteria:

- (1) The requested course's applicability to the applicant's current position and career progression;
 - (2) An applicant's narrative response justifying the request; and
 - (3) The operational requirements and priorities of CBP.
- G.** Employees submitting incomplete application packages will be so informed as soon as possible upon discovery by CBP. **AGREED**
- H.** CBP will inform employees in writing in the event they are denied TAP assistance and the reasons for such denials. **AGREED**
- I.** CBP will make reasonable adjustments to the schedules of those receiving TAP assistance, if necessary, workload permitting. **AGREED**
- J.** Employees will be informed at least on an annual basis of the existence of the TAP, and will be provided access to all application and descriptive TAP materials. **AGREED**
- K.** Participants must complete the course with a passing grade (C or better or pass for a pass/fail course) in order to receive monetary assistance. **AGREED**
- L.** An employee who fails to obtain a passing grade shall reimburse the Employer for all assistance provided by CBP. CBP will consider waiver of reimbursement in accordance with Section 4.C. **AGREED**
- N.** An employee may receive assistance for one course per CBP-TAP term and no more than three courses per calendar year. **AGREED**

Section 6.A. When an employee is reassigned due to the position previously held having been eliminated, sufficient training as determined by the Employer will be given to the employee to enable him to perform the duties of the new position. **AGREED**

- B.** NTEU will assert the lack of adequate training as a defense to any action adverse to the employee.
- C.** When training is given by the Employer primarily to prepare employees for promotion, selection for the training will be made under the merit promotion procedures contained in this Agreement.

Section 7.A. Employees who are selected to assume the duties of a new position, but who subsequently do not satisfy the training requirements of the new position will be given the option of returning to their prior position. **AGREED**

B. The employer will consider the existence of any learning disabilities or handicaps and whether they were reasonably accommodated or not before taking action adverse to the employee based on his performance in training. **AGREED**

Section 8. Employees required to attend training will be given notification as far in advance as possible and, absent unusual circumstances, no later than two (2) weeks prior to the commencement of such training. This requirement may be waived by the employee. **AGREED**

Section 9. If the Employer determines that successful completion of a training course is required for placement or continued retention in a position, employees who fail to successfully complete the course may be subject to removal from the position, or not placed/retained in the position. Any such action will be taken in accordance with law and the terms of this Agreement. **AGREED**

Section 10. The Employer will reimburse employees for all training costs and expenses incurred as a result of training in accordance with applicable laws and regulations. For example, if law or regulation permits the Employer to reimburse professional employees, such as attorneys, accountants, and chemists for required continuing professional education, it will do so. **AGREED**

Section 11.A. In order to determine the quality of training, an evaluation through questionnaires may be conducted by the Employer after any national training conducted outside of the Federal Law Enforcement Training Center. Responses to the questionnaire may be made anonymously. **AGREED**

B. Employees at FLETC, CETC or similar training centers will be surveyed every two years concerning the living conditions. Un-sanitized copies of such surveys will be provided to NTEU although the name of the student may be sanitized. **AGREED**

C. After consulting with NTEU regarding the survey results pursuant to Subsection B, CBP will take necessary action to seek improvements, if needed. **AGREED**

Section 12. Training courses and testing procedures will be validated pursuant to government-wide rules and regulations and applicable law. **AGREED**

Section 13. By the end of the first year of this contract, the employer will create a reasonable upward mobility program for those unit employees who have not yet been selected for positions with career ladder potential to GS-11. **AGREED**

ARTICLE XX: OFFICAL TIME

Section 1. The term "official time" as used in this Article, means an approved absence from duty by a bargaining unit employee during regular hours of duty without loss of pay and without charge to leave. **AGREED**

Section 2. A. Representatives shall be granted a reasonable amount of official time for all matters relating to the administration of this Agreement, and joint labor-management relations matters arising under Chapter 71, Labor-Management Relations, Title 5 and any other activity for which the Civil Service Reform Act (CSRA) allows employees to use official time **such as: AGREED**

- (1) To prepare for and participate in Labor-Management Relations Committees (LMRCs) activities as provided for in this Agreement; **AGREED**
- (2) Meetings with the Employer concerning personnel policies, practices or other general conditions of employment or any other matter covered by 5 USC 7114(a)(2)(A); **AGREED**
- (3) To prepare for and present unfair labor practice charges or unit clarification petitions including preparation for and participation in any Federal Labor Relations Authority investigation or hearing as a representative of the Union; **AGREED**
- (4) To prepare and deliver written and/or oral replies to notices of proposed disciplinary, adverse or unacceptable performance actions; **AGREED**
- (5) To prepare for and present appeals in connection with statutory or regulatory appeal procedures in which the Union is designated as the representative; **AGREED**
- (6) To prepare for and present reconsideration replies in connection with the denial of within grade increases; **AGREED**
- (7) Examinations of bargaining unit employees by a representative of the Employer in connection with an investigation; **AGREED**
- (8) To prepare for and participate in grievance meetings and arbitration hearings; **AGREED**

- (9) Meetings of committees on which Union representatives are authorized membership pursuant to this Agreement; **AGREED**
 - (10) To prepare for and/or participate in local or national negotiations; **AGREED**
 - (11) To meet with national staff representatives of the Union in connection with a grievance, arbitration, or unfair labor practice charge; **AGREED**
 - (12) To travel to and from any activity for which official time is authorized under this Article; **AGREED**
 - (13) To attend or conduct Union sponsored training and other joint labor-management relations training matters. In no case will a Chapter receive less than forty (40) hours for each national Vice President, Chapter President, or Chief Steward and no less than twenty-four (24) hours for each Steward position authorized by this Agreement. All of this time may be pooled for use by any or all Chapter Union Representatives; **AGREED**
 - (14) To engage in lobbying activities (e.g., visiting, phoning and writing to elected representatives) on matters concerning Union employees' conditions of employment. This official time will be available to union representatives in addition to Chapter Presidents, Chief Stewards and Stewards (e.g., Legislative Coordinators or Chapter Vice Presidents). **AGREED**
 - (15) To prepare and maintain records and reports required of the Union by 5 U.S.C. § 7120 (c). **AGREED**
- B.** When serving as a designated employee representative in an established appeals procedure, a steward, chief steward, or Chapter President shall receive such official time as may be provided or allowed in the law or regulations governing the appeal procedure. **AGREED**
- C.** Reasonable time shall also be granted as necessary to stewards, chief stewards, Chapter Presidents, and affected employees to prepare for meetings referenced in Subsection A. above. **AGREED**

Section 3. As necessary or required, employees shall be excused from duty without charge to leave to participate in the activities covered in Section 2 of this Article. **AGREED.**

Section 4. With regard to representational duties, the Union may officially designate Union stewards and chief stewards as follows: **AGREED**

- A. The Union may designate at least one (1) official steward at each post of duty. A post of duty, for the purpose of this Article, is a common physical location, such as a station, port-of-entry, airport etc. The post of duty shall be the representational area of the steward(s) for the purposes of this Article. **AGREED**
- B. The Union agrees to appoint no more than the following number of stewards at any post of duty where more than twenty-five (25) employees are stationed:
AGREED

<u>Post of Duty Size</u>	<u>Number of Stewards</u>
26 – 50 unit employees	2
51 – 100 unit employees	4
101 – 175 unit employees	5
176 – 250 unit employees	6
251 – 325 unit employees	7
326 – 400 unit employees	8
401 – 475 unit employees	9
476 – 550 unit employees	10
551 – 625 unit employees	11
626 – 700 unit employees	12
701 – 775 unit employees	13
776 – 850 unit employees	14
851 – 925 unit employees	15
926 – 1000 unit employees	16
1001 – 1075 unit employees	17
1076+ unit employees	18 AGREED

- C. In addition to the stewards designated pursuant to Subsections A and B above, the Union may also designate one (1) chief steward for each CBP Port, Area or Headquarters Office. Each Chapter shall have at least one chief steward. A chief steward may represent any employee concerning matters related to the employment of the employee within his Chapter's jurisdiction. The preceding will not result in any additional cost, e.g. travel and per diem, to the Employer.
AGREED
- D. The Employer shall recognize the President of each existing NTEU Chapter representing CBP employees as having the authority to represent the Union in the administration of this Agreement and to represent bargaining unit employees

concerning any matter relating to the employment of an employee within their respective jurisdiction. Where more than one (1) Chapter President exists within a DFO area, the DFO area shall be geographically apportioned by the Union to provide non-overlapping representational areas for each Chapter President. The Union shall notify the Employer of such apportionment. The Chapter President may represent any employee concerning matters relating to the employment of the employee within his chapter's jurisdiction. The preceding will not result in any additional cost, e.g. travel and per diem, to the Employer. **AGREED**

E. In addition to requests under Section 10 of this Article, official time will be allocated in blocks to the following NTEU Chapters:

- 1) Chapters representing two hundred (200) to three hundred and ninety nine (399) bargaining unit employees will be allowed one representative on 50% official time.**
- 2) Chapters representing four hundred (400) to nine hundred and ninety nine (999) bargaining unit employees will be allowed one representative on 100% official time.**
- 3) Chapters representing one thousand (1,000) bargaining unit employees will be authorized two (2) representatives on 100% official time.**
- 4) Additional representatives may be authorized on a full-time or other percentage basis upon agreement of the National President of NTEU and the Director, Labor Relations (or their designees). Disagreements concerning official time will be resolved through expedited arbitration in accordance with Article XX: Arbitration.**

F. Union representatives who elect full-time status will notify the appropriate management official(s) of their status and its anticipated duration in accordance with local scheduling practices. AGREED

G. Chapters may elect to divide full-time Union representation responsibilities among more than one person. AGREED

H. Upon conclusion of their labor-management duties, full-time Union representatives will return to positions in the same series and grade they occupied before assuming full-time union duties. AGREED

- I. The Employer will designate a manager to whom a full-time Union representative will report for administrative purposes (e.g., leave, travel, etc.). Normally, this manager will be the Port director or his designee. Employees who are serving as full-time representatives will be rated in accordance with the provisions of the applicable Article of this Agreement while fulfilling their labor-management duties. **AGREED**

- J. Performing full-time duties as a Union representative will have no effect on an employee's ability to participate in overtime. An employee covered by COPRA will remain in his participating group and his participation will conform with inspectional assignment policy and local excusal procedures. **AGREED**

- K. Except in emergency/exigent circumstances, Union representatives in full time status will not be required to perform the normal duties of their position. **AGREED**

- L. In the event of operational demand employees on official time must be able to immediately report to work prepared to carry out the full scope of their respective duties. **AGREED**

- M. Nothing in this subsection is intended to reduce the number of full-time Chapter representatives in place as of the effective date of this Agreement. **AGREED**

Section 5. For each representative allowed under the provisions of this Article, the Union may appoint an alternate representative. The alternate representative may serve as a representative only when the official representative is absent from duty or on an assignment outside his representational area. **AGREED**

Section 6. A. Local NTEU Chapters will provide the Employer a list of its Vice Presidents and other officers/stewards within thirty (30) calendar days of the effective date of this Agreement, and annually thereafter. In addition, the Chapters will provide the Employer a list of additions, deletions or changes to the list each month. Only those stewards and alternates on the steward's list will be recognized by the Employer as having authority to represent the Union. The Union at the National level will provide to the Employer a list of its Chapter Presidents within thirty (30) calendar days of the effective date of this Agreement and changes to this list each month. **AGREED**

- B. The Union may change stewards at any time by providing written notice to the appropriate management official. At least one (1) management official will be

designated to receive such information within each port, Area, field headquarters office, and National Headquarters. Nothing in this Section shall prohibit a Chapter President or an NTEU National representative from representing the Union.

AGREED

Section 7. Official time may be used in any reasonable location agreed to by the parties locally. In the event the local parties are unable to reach agreement, the Agency will provide the representative with a reasonable location to perform representational duties while on official time. **AGREED**

Section 8.A. The Employer has determined that, unless there are insufficient other qualified candidates, union officers or stewards will be considered for details or temporary promotions to supervisory positions only if they volunteer. When the Employer determines to detail or temporarily promote a union officer or steward to a supervisory position, the union officer or steward must relinquish all union responsibilities for the duration of the detail or temporary promotion. **AGREED**

B. This Section shall not prohibit a Union officer or steward from serving as an acting supervisor for brief periods of time so long as no conflict of interest is created. **AGREED**

Section 9. In accordance with the special job order accounting code established for that purpose, all approved time spent by representatives on representational functions will be charged to labor-relations time and so recorded by the Employer on the time and attendance report. **AGREED**

Section 10. Union representatives other than full-time representatives who wish to use official time authorized under this Article must obtain consent from their immediate supervisor before undertaking such activity. An SF-71 or other form mutually agreed to by the parties at the local level may be used for such requests. The representative shall inform the supervisor where he is going, the general purpose of his visit, i.e., the category of representational activity, and when he expects to return. Immediately upon return to the work site and prior to returning to duty, the representative shall inform his supervisor of his return. **AGREED**

Section 11. When a representative enters a work area or performs representational activities he must receive the consent of the immediate supervisor in charge of the work area. The representative shall inform the supervisor whom he wishes to confer with, the general purpose of the visit and how long he expects the conferee to be away from his duties. The conferee shall receive the agreement of his immediate supervisor prior to ceasing his duties. Whenever practicable, the conference shall take place in a meeting room as provided for in Article ___: Facilities and Services. **AGREED**

Section 12. Workload requirements permitting, requests pursuant to Sections 10 and 11 above will normally be granted. If a request is denied due to work requirements, the supervisor will explain the reason and will indicate to the representative and/or employee when he expects it will be possible to grant the request. **AGREED**

Section 13. Workload permitting, the Employer shall make shift adjustments for representatives to attend labor-management meetings during their duty hours.

Section 14. Employees are permitted but not required to wear a uniform while on official time. **AGREED**