



# COLLECTIVE BARGAINING AGREEMENT

Between

*National Marine Fisheries Service Beaufort, NC*

*and*

*National Association of Independent Labor (NAIL),*

*Local 20*



Dated: September 15, 2017



## TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
	PREAMBLE	3
1	RECOGNITION AND UNIT DESIGNATION	4
2	PROVISIONS OF LAWS AND REGULATIONS	5
3	EMPLOYER RIGHTS AND RESPONSIBILITIES	6
4	EMPLOYEE RIGHTS AND RESPONSIBILITIES	7
5	UNION RIGHTS AND OBLIGATIONS	9
6	UNION REPRESENTATION	10
7	NEGOTIATIONS	12
8	HOURS OF WORK	14
9	TIME AND ATTENDANCE	16
10	TELEWORK	18
11	ADVERSE WEATHER POLICY	24
12	POSITION DESCRIPTION AND CLASSIFICATION	26
13	PROMOTIONS AND CAREER LADDER POSITIONS	27
14	PERFORMANCE APPRAISAL	28
15	TRAINING AND DEVELOPMENT	29
16	EMPLOYEE ASSISTANCE PROGRAM	30
17	TRAVEL	31
18	DISCIPLINARY AND ADVERSE ACTIONS	33

19	GRIEVANCE PROCEDURES	35
20	ARBITRATION PROCEDURES	38
21	PAYROLL WITHHOLDING OF UNION DUES	40
22	UNION TRAINING SESSIONS	42
23	PUBLICITY	43
24	UNION OFFICE SPACE	44
25	FACILITIES	45
26	REDUCTION-IN-FORCE, TRANSFER OF FUNCTION, OR REORGANIZATION	46
27	FURLOUGHS	47
28	DAYS AT SEA	49
29	DISTRIBUTION OF AGREEMENT	50
30	DURATION AND CHANGES	51
--	SIGNATURE PAGE	52

## PREAMBLE

This Agreement is made and entered into by and between the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), Beaufort, North Carolina, hereafter referred to as the “Employer,” and the National Association of Independent Labor (NAIL), Local 20, hereinafter referred to as the “Union” (collectively referred to as “the Parties”) pursuant to the statutory authority of Chapter 71 of Title 5 of the United States Code (USC).” This Agreement and such supplementary agreements as may be agreed to hereunder from time to time, together constitute a collective agreement between the Employer and the Union.

## ARTICLE 1

### RECOGNITION AND UNIT DESIGNATION

The Employer recognizes the Union as the exclusive bargaining representative for all professional and nonprofessional employees of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Beaufort, North Carolina, excluding all supervisors, management officials and employees described in 5 USC 7112 (b) (2), (3), (4), (6), and (7).

## ARTICLE 2

### PROVISIONS OF LAWS AND REGULATIONS

Section 1. It is agreed and understood by the Employer and the Union that in the administration of all matters covered by this agreement, officials and employees are governed by existing or future laws, Executive Orders and regulations of appropriate government-wide authorities; by published agency policies and regulations in existence at the time this agreement is approved and subsequently published agency policies and regulations required by law or by the regulations of appropriate government-wide authorities.

Section 2. The fact that the Union agrees to published Agency policies and regulations in existence at the time the agreement is approved does not preclude the Union from requesting to meet and negotiate on impact and implementation or substantive bargaining of any Agency policy and regulation not specifically addressed in this agreement.

## ARTICLE 3

### EMPLOYER RIGHTS AND RESPONSIBILITIES

Section 1. Subject to Section 2 of this Article, nothing in this Article shall affect the authority of any management official of the Agency –

- a. To determine the mission, budget, organization, number of employees and internal security practices of the agency and:
- b. In accordance with applicable laws –
  1. to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
  2. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
  3. with respect to filling positions, to make selections for appointments from –
    - A. among properly ranked and certified candidates for promotions; or
    - B. any other appropriate source; and
  4. to take whatever actions may be necessary to carry out the agency mission during emergencies.

Section 2. Nothing in this Article shall preclude the Employer and the Union from negotiating –

- a. at the election of the Agency, on the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing work;
- b. procedures which management officials of the Agency will observe in exercising any authority under this Article; or
- c. appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such management officials.

Section 3. The Employer will provide a safe and healthy working environment in accordance with E.O. 12196 that is free from recognized hazards.



## ARTICLE 4

### EMPLOYEE RIGHTS AND RESPONSIBILITIES

Section 1. Each employee has the right, freely and without fear of penalty or reprisal, to form, join and assist the Union or to refrain from such activity. The freedom of such employees to assist the Union shall be recognized as extending to participation in the management of the Union and acting for the Union in the capacity of a Union officer or steward.

Section 2. The Employer agrees that employees in the exercise of these rights shall be protected from interference, restraint, coercion, or discrimination by any representative of the Employer.

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

Section 4. Nothing in this agreement precludes any employee of the bargaining unit, regardless of union membership, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulation, or established agency policy or from choosing their own representative in a grievance or appellate action except when the grievance is covered under the negotiated procedure contained in this Agreement.

Section 5. The Union shall be given the opportunity to be represented at any examination of a unit employee by a representative of the Employer in connection with an investigation if:

- a. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
- b. The employee requests representation.

Section 6. Prior to the commencement of an investigatory examination, the employee will be informed of the purpose of the examination.

Section 7. In the administration of this Agreement and working conditions, all employees will be treated in a fair and equitable manner.

Section 8. The employee has the right to confer with the Union during duty hours concerning grievances, complaints, appeals or other appropriate matters. Prior to leaving the work area, an employee desiring to confer with a Union representative will make the request for time to their immediate supervisor. The request shall estimate amount of time needed and location of the meeting. The supervisor or their designee will release the employee from duty unless the presence of the employee at the worksite is necessary to meet immediate work requirements.

Such absences from the work area will be limited to reasonable amount(s) sufficient in duration to conduct discussions and/or actions deemed necessary.

Section 9. The Union shares a mutual interest with the Employer in ensuring a safe work environment. Therefore, employees should report known hazards, safety concerns, and broken equipment in the workplace to management.

## ARTICLE 5

### UNION RIGHTS AND OBLIGATIONS

Section 1. The Union shall accept employees of the Bargaining Unit as members without discrimination based on color, race, religion, creed, age, sex, national origin, political affiliation, marital status or mental handicap.

Section 2. The Union shall act for and negotiate agreements covering all employees in the Bargaining Unit and shall be obligated to represent the interests of all such employees without discrimination and without regard to union membership in matters covered by the Agreement.

Section 3. The Union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

Section 4. The Union will be listed on the new employee check-in list, and provided reasonable official time to meet with the new employee. The Employer will provide the Union the name(s) and duty locations of new Bargaining Unit employees when assigned to offsite locations.

## ARTICLE 6

### UNION REPRESENTATION

Section 1. For the purpose of official time, the Employer recognizes up to three (3) representatives of the Union. The Union will provide a written list of representatives to the Center Deputy Director annually, and as changes are made. Any Union representative not designated in writing by the Union in this manner will not be recognized by the Employer as eligible for official time.

Section 2. Reasonable official time will be granted to Union representatives to perform representational functions in accordance with 5 USC § 7131. Representational functions include:

- a. Investigate, prepare and/or present grievances, appeals, claims and unfair labor practice charges;
- b. Consult and/or negotiate with representatives of the Employer concerning personnel policies, practices and conditions of employment;
- c. Research and prepare recommendations and/or proposals in connection with the above consultations, negotiations, or meetings;
- d. Administration of the negotiated agreement; and
- e. Third party proceedings where the Union is authorized to represent the employee.

Section 3. Representatives will provide reasonable advance notice to their immediate supervisors whenever they wish to leave their official duties to perform any of their representational responsibilities and will report to their supervisors when they return. Permission will be granted upon request except when work exigencies preclude such release. Official time will not be unreasonably denied.

Section 4. Representatives are responsible for reporting the amount of official time spent performing representational duties.

Section 5. The Employer agrees that there shall be no restraint, interference, coercion, or discrimination against Union officials and stewards in the performance of duties related to their responsibilities as the exclusive representative for unit members.

Section 6. Representatives of the national office for NAIL will be allowed to visit the facilities on appropriate union business subject to all local security policies and practices regarding visitors.

Section 7. The representative of the Union for administration and implementation of this Agreement will be the duly-elected or appointed President of the local or the person whom they

designate to act in their place.

Section 8. The Union will be provided a listing of all committees established by the Employer. The Union may appoint a member to any Employer committee that recommends changes to management regarding bargaining unit employees' conditions of employment. The Union may be invited to appoint a member to other committees.

Section 9. Official time may not be expended for any activities performed by employees relating to internal Union business. This includes the solicitation of membership, election of Union officials, and collection of dues.

## ARTICLE 7

### NEGOTIATIONS

Section 1. It is agreed that the Employer shall negotiate with the Union on all proposed changes in conditions of employment in accordance with 5 USC Chapter 71. It is understood that the Employer in this context means a representative with delegated authority to speak for the Center Deputy Director. The Employer shall provide written notice to the union of proposed changes to conditions of employment that may adversely affect the bargaining unit. Written notice will include those matters initiated locally and/or at a higher Agency level.

Section 2. Negotiation is defined as collective bargaining between the Employer and the Union with the objective of reaching formal written agreement with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws, regulations and published policies.

Section 3. Procedures for bargaining. The following procedures for bargaining will be followed unless otherwise agreed to by the Parties:

- a. The Employer agrees to notify the Union President in writing prior to the planned implementation of a proposed change in conditions of employment. The notification will indicate the general nature of the proposed change and the planned implementation date.
- b. The Union shall have ten (10) calendar days from the date of notification to request bargaining. Within ten (10) calendar days of the Employer's receipt of the request to bargain, a meeting will be held to discuss the proposed change. After conclusion of the meeting, the Union will have ten (10) calendar days to forward written proposals to the Employer.
- c. If the Union does not request bargaining within the time limit, the Employer may implement the proposed change(s).
- d. Bargaining will normally commence within ten (10) calendar days, after submission of Union proposals, unless otherwise agreed to by the Parties.
- e. The Employer shall have ten (10) calendar days from the date of receipt of Union initiated proposed change to conditions of employment to forward written proposals to the Union. Bargaining will normally commence within ten (10) calendar days, unless otherwise agreed upon by the Parties.
- f. Upon mutual agreement, the Parties will use all available technology (e.g., teleconference, email, Google Hangouts, VTC) to negotiate as an alternative to face-to-face bargaining.
- g. The Union will be authorized the same number of Union representatives on official time as the Agency has representatives at the negotiations.

Section 4. It is recognized that this Agreement is not all inclusive, and the fact that certain working conditions have not been specifically covered in the Agreement does not lessen the responsibility of either Party to meet with the other for discussion and exchange of views and/or negotiations in an effort to find mutually satisfactory solutions to matters related to policies, practices, procedures, and conditions of employment not covered in this Agreement.

Section 5. Issues regarding impasse or negotiability of an item under discussion will be resolved in accordance with applicable provisions of Title 5 Code of Federal Regulations (CFR) and the rules and regulations of the Federal Labor Relations Authority.

## ARTICLE 8

### HOURS OF WORK

Section 1. The administrative week is established as the 7-day calendar week beginning at 0001 Sunday and ending at 2400 Saturday. The basic workweek for full-time employees is defined as Monday through Friday, eight hours per workday, 40 hours per week, and results in 80 hours per pay period. Employees have the option to work an Alternative Work Schedule (AWS) in accordance with Office of Personnel Management (OPM) guidance.

Section 2. Terms and Definitions:

- a. Alternative Work Schedule (AWS): Work schedules made up of flexible or compressed schedules.
- b. Flexible Work Schedule/Flextime (FWS): A work schedule that consists of ten (10) workdays of eight (8) hours each within the biweekly pay period, with varying starting and ending times. Once selected, the hours are fixed until the employee obtains supervisory approval to select different starting and stopping times.
- c. Maxiflex: A type of flexible work schedule that contains core hours on fewer than ten (10) workdays in the biweekly pay period and in which a full-time employee has a basic work requirement of eighty (80) hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the time limits established by the organization.
- d. Variable week: Daily and weekly flexibility: The basic requirement is to complete eighty (80) hours in each biweekly pay period. Employee must work during each of the ten (10) workdays in the pay period. Flexibility is in the number of hours an employee works each day and each week. Schedules can vary from week to week and day to day, with more hours worked in one week than the other.
- e. Compressed Work Schedule (CWS): A work schedule that consists of a total of 80 hours worked over less than ten (10) workdays in a biweekly pay period. Examples are:
  1. 5-4/9 Plan: The 5-4/9 Plan consists of a total of 80 hours in nine (9) working days, limited to nine (9) hours per day during eight (8) days of the biweekly pay period, and eight (8) hours on the 9<sup>th</sup> day to complete the basic requirement for the two week period.
  2. 4-10 Plan: The 4-10 Plan is a work schedule for ten (10) hours per day, 4 days a week.
- f. As outlined by OPM, the term “Tour of Duty” defines the limits within which an employee must complete his or her basic work requirement. A “Tour of Duty” comprises all hours and days for which flexible hours have been designated, including those days within a “Maxiflex” schedule for which only flexible hours are scheduled.
- g. As outlined by OPM, the term “Credit Hours” is defined as those hour(s) within a flexible



work schedule that an employee elects to work in excess of his or her basic work requirement so as to vary the length of a workweek or work day. Earned “Credit Hours” may be carried over from one pay period to the next, but shall not exceed a 24-hour balance. Employees shall manage hours of work judiciously to realize the benefits of approved alternative work schedules and comply with the requirements outlined in this article.

Section 3. The normal hours of operation shall be from 6:00 am to 8:00 pm, Monday through Friday. Employees are required to take a thirty (30) minute, non-paid lunch period if they work more than six (6) continuous hours during the day. At the beginning of the pay period, employees will provide their supervisor a work schedule which identifies the employees regular working hours during the two week pay period. Changes can be made to the schedule at any time by emailing the supervisor. Employees should email work schedule changes prior to the start of the workday in which the change is occurring, or as soon as possible in the event of an emergency.

Section 4. Employees shall maintain a Google calendar and annotate in advance or as soon as possible any period of time spent out of the facility during their reported schedule for that pay period. Out of facility is defined as, leave, travel, telework, and off-site work. Any entries shall be marked as public on the Google calendar. In the event that an employee is unable to access the Google calendar they may send out whereabouts to their supervisor by text or other means mutually agreed upon with their supervisor.

## ARTICLE 9

### TIME AND ATTENDANCE

Section 1. The Employer is responsible for the following:

- a. Establish Work Unit policies to establish submission deadlines and manage timekeeping functions. Discuss timekeeping rules and responsibilities with all employees.
- b. Review and take timely action on all requests for leave, premium pay and compensatory time for travel. Review the electronic time and attendance records for accuracy of hours worked, leave taken, and accounts charged for all employees each pay period to ensure compliance with all rules, regulations, policies and laws and to mitigate the creations of new leave errors.
- c. Complete online certification/approval of the validated time and attendance record for all employees by the established deadline each pay period.
- d. Ensure time and attendance files are retained for six years, pursuant to regulation. As the certified time and attendance records are maintained online, it is no longer necessary to print the certified reports for the retention file but it is necessary to retain hard copies of all supporting documentation.
- e. Provide employees and timekeepers reasonable time to carry out their timekeeping responsibilities.
- f. Ensure compliance with all pay, leave, and timekeeping regulations and policies.
- g. Provide measures to ensure an appropriate level of security exists that will reduce the possibility of fraud and/or abuse.

Section 2. Employees are responsible for the following:

- a. Unless otherwise approved by a supervisor, all employees are required to submit their time and attendance no later than COB the second Friday of each pay period. During Holidays and pay periods with extended weekends, employees may be required to submit their time and attendance early.
- b. Ensure compliance with all rules, regulations, policies and laws when submitting hours worked, and leave taken, and ensure accuracy of programs charged for each pay period. Employees are responsible for reporting time and attendance errors to their supervisor for correction.

Section 3. Compensatory time off is time off with pay in lieu of overtime pay for irregular or occasional overtime work, or when permitted under agency flexible work schedule programs, time off with pay in lieu of overtime pay for regularly scheduled or irregular or occasional overtime work. Compensatory time off may be approved (not required) in lieu of regularly scheduled overtime work only for employees, including wage employees, who are ordered to

work overtime hours under flexible work schedules. See 5 USC 6123(a)(1). Compensatory time earned must be used by the employee within 26 pay periods after accrual, or the agency must pay the employee at the “overtime rate” when the Compensatory time was earned.

Section 4. Compensatory time off for travel is a separate form of compensatory time that may be earned by an employee for time spent in travel status away from their official duty station when such time is not otherwise compensable. Compensatory time off for travel is forfeited if not used within 26 pay periods after the pay period it is credited, upon voluntary transfer to another agency or upon separation from the federal government. Under no circumstances may an employee receive payment for unused compensatory time off for travel. There is no limit on the amount of compensatory time off for travel an employee may earn and it is not considered in applying the biweekly cap or annual premium pay cap.

Section 5. Leave:

- a. Employees are entitled to accrue and use leave in accordance with law, Government-wide rule and regulation and the provisions of this Section.
- b. Employees are expected to apply in advance for approval of all anticipated leave. Employees must use 1) the electronic time and attendance system, 2) the OPM Form 71 or 3) email their supervisor for requesting leave.
- c. When an Employee has not received advance approval for leave and does not report to work by their designated start time, the employee must (except in an emergency), within two (2) hours of their designated start time, communicate through mutually agreed upon methods (e.g. voice, text, email) directly to their leave-approving official indicating the type of leave requested and a phone number where the employee can be reached in the event the leave-approving official needs to contact them about the leave.
- d. In certain circumstances set forth in 5 CFR 630.405 an employee may be required to submit medical certification in support of sick leave.

## ARTICLE 10

### TELEWORK

Section 1. Telework is a flexible work arrangement under which an employee performs the duties and responsibilities of their position and other authorized activities from an approved alternate worksite other than the employee's designated traditional Federal workplace. Telework is a workplace flexibility management option to facilitate the timely and effective accomplishment of the work of the office.

Section 2. Definitions:

- a. Ad Hoc Telework – Telework performed on an irregular basis, requested by the employee, to address a specific need of the employee. Ad hoc telework must be requested and approved by the supervisor in advance.
- b. Alternate Worksite – The employee's residence or a location other than the traditional worksite which, has been approved by the manager/supervisor for the performance of the employee's official duties. For purposes of telework, the alternate worksite is considered an official Government worksite.
- c. Approving Official – The immediate supervisor of the employee requesting telework unless otherwise designated.
- d. Eligible Employee – All employees in eligible positions are considered eligible to telework unless
  1. The employee has been officially disciplined for being absent without permission for more than five (5) days in any calendar year; or
  2. The employee has been officially disciplined for violations of 5 CFR Part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch) for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties (there are no exceptions); or
  3. The employee is currently on a leave restriction; or
  4. The employee is currently on a Performance Improvement Plan (PIP); or
  5. The employee has been formally disciplined within the previous year from the date of the request for telework.
- e. Eligible Positions – A position is an eligible position unless:
  1. The official duties require on a regular basis, the direct handling of secure materials determined to be inappropriate for telework by the head of the bureau/operating unit; or
  2. The employee performs onsite activities that cannot be performed at an alternate worksite. Assignments that are not portable include those assignments that require personal face-to-face internal or external customer contact, or assignments that require physical access to the official duty station.

- f. Emergency Essential – A person assigned responsibility to report to, be on call, or serve as backup to an alternate site, as required, performing essential functions or other continuity-related operations.
- g. Official Duty Station – Location of an employee’s position of record where the employee regularly performs their duties. If the employee’s work involves recurring travel or their work location varies on a recurring basis, the duty station is the location where the work activities of the employee’s position of record are based, as determined by the supervisor. An employee’s official duty station determines the appropriate locality area for pay purposes for General Schedule and CAPS employees.
- h. Mobile Workers – Employees who, by the nature of their duties, do not have a designated traditional worksite, and they typically use their home as their ‘home base.’ Due to the nature of their work, they are not considered telework-ready employees.
- i. Regular/Recurring Telework – Telework that is performed on the same day(s) of the week on the employee’s regularly scheduled tour of duty.
- j. Telework – Telework, known as “telecommuting,” refers to a paid, flexible work arrangement under which an employee performs the duties and responsibilities of their position, and other authorized activities, from an alternate worksite, not the traditional worksite.
- k. Telework-Ready Employee – An employee who has completed Telework 101 for Employees via the Commerce Learning Center (CLC); has a signed individual telework agreement (Appendix A); and has the required necessities to telework for their entire work schedule.

Section 3. Eligibility: In order for an employee to be telework eligible:

- a. The employee must be in a telework eligible position as defined in Section 2(e) of this article; and
- b. The employee must meet the definition of an eligible employee as defined in Section 2(d) of this article; and
- c. The employee must complete the Telework 101 for Employees training via the Commerce Learning Center (CLC); and
- d. The employee must have a current, signed individual telework agreement (Appendix A); and
- e. The employee must meet all IT security requirements and have the necessities required to telework (e.g. phone, copier, office space, etc.)

Section 4. Types of Telework:

- a. Regular/Recurring Telework occurs as part of a preapproved ongoing, regular schedule. Once the schedule is established, the employee may not change the assigned telework day(s) without prior approval of the approving official; and
- b. Ad Hoc Telework occurs on an irregular basis and is requested by the employee, to address a specific need of the employee. Ad hoc telework must be requested and approved by the supervisor in advance.

- c. Situational Telework occurs when an Employee's worksite is closed due to non-weather related emergencies (e.g. lab safety, plumbing, heating, and other facility issues).

Section 5. Telework Agreements: Telework agreements run from October 1 through September 30 each year, unless terminated earlier, and must be renewed annually. There are two types of plans an employee may choose from:

- a. Plan A requirements:
  - 1. Ad hoc teleworking cannot exceed more than 120 hours during a fiscal year.
  - 2. The employee must obtain supervisory approval before performing ad hoc telework.
  - 3. The employee is responsible for ensuring that there is sufficient work for the period of telework scheduled to be performed.
  - 4. The employee is required to perform situational telework when the office is closed for reasons other than Federal law (i.e., Federal Holiday), Executive Order, or weather related emergencies.
  - 5. The employee may switch to Plan B at any time prior to reaching the 120-hour limitation, and the individual telework agreement is modified to reflect the change.
- b. Plan B requirements:
  - 1. Employees who desire the option of doing more than 120 hours ad hoc and/or regular/recurring telework during the fiscal year.
  - 2. Employee must obtain supervisory approval before performing ad hoc telework. The employee is responsible for ensuring that there is sufficient work for the period of telework scheduled to be performed.
  - 3. The employee is required to perform situational telework when the office is closed for reasons other than Federal law (i.e., Federal Holiday) or Executive Order.
  - 4. The employee is required to telework when the worksite is closed due to weather related emergencies, unless the emergency adversely affects the telework site (e.g. disruption of electricity, mandatory evacuations, or network connection problems that prevent telework).
  - 5. Employees on Plan B may not change to Plan A during the term of the individual telework agreement.

Section 6. The maximum number of days an employee is allowed to telework per pay period is at the discretion of the approving official. In no circumstance may an Employee report to their official duty station less than twice in a bi-weekly pay period.

Section 7. Telework is voluntary unless telework is a condition of employment or is required to continue Government operations in times of emergency. In these instances, an employee may be required to work at home, or at a telework center, or at an approved alternate worksite.

Section 8. Telework may not be used as a substitute for dependent care. Elders, children, or other

dependents present at the telework location must be able to care for themselves, and must not interfere with the employee's ability to carry out their duties.

Section 9. Employees are responsible for the safe handling of sensitive and personally identifiable information (PII) in compliance with all applicable laws, regulations, and policies while teleworking.

Section 10. Employees are required to document all teleworked hours for each pay period in which they are worked.

Section 11. Telework may be terminated if at any time the employee fails to maintain an acceptable level of performance, or fails to maintain the eligibility requirements of the telework agreement.

Application

Modification

**APPENDIX A: SAMPLE TELEWORK APPLICATION/AGREEMENT AND MODIFICATION OF TELEWORK AGREEMENT**

Section I – To be completed by the Employee

**Date of Request:** \_\_\_\_\_ **Proposed Start Date:** \_\_\_\_\_

**Employee Name:** \_\_\_\_\_ **Organization:** \_\_\_\_\_

Telephone: \_\_\_\_\_

Grade or Pay Band: \_\_\_\_\_

Supervisor's Name and Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Address, Telephone, and Description of Alternate Worksite: \_\_\_\_\_

Equipment Needed to Perform Work at Alternate Worksite: \_\_\_\_\_

**Telework Level Requested: ( ) Plan A ( ) Plan B**

**Expiration Date of Agreement:** \_\_\_\_\_ .

**Type of Telework: ( ) Regularly Scheduled ( ) Ad Hoc**

Work Schedule Including AWS Day Off (If Applicable): \_\_\_\_\_

Telework Days at Alternate Worksite: \_\_\_\_\_

Identification of specific data types allowed being accessed

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ I have requested Plan A. I understand that I am limited to no more than 120 hours of ad hoc telework during the term of the individual telework agreement. I may be required to telework when my office is closed due to non-weather related emergency.

\_\_\_\_\_ I have requested Plan B. I understand that I must telework when my office is closed, except as set forth in Article 10 of the Collective Bargaining Agreement between NAIL, Local 20 and the Employer. I have the option of performing regular/recurring and/or ad hoc telework for more than 120 hours during the term of the telework agreement. Working less than 120 hours of ad hoc telework does not change my election of Plan B. I may not change to Plan A during the term of the individual telework agreement.

\_\_\_\_\_ I certify that I have completed Telework 101- Employee via the CLC, the Telework Safety Checklist, and the Telework Assessment Tool.



\_\_\_\_\_ I understand that I may not care for children, elders, or other dependents while I am in a duty status and teleworking. I am not permitted to telework during time I am taking care of dependents. In these situations, I may request the appropriate leave from my supervisor.

\_\_\_\_\_ I understand that I must abide by the IT security requirements conveyed in the DOC Information Technology Security Program Policy (ITSPP), Commerce Information Technology Requirements (CITRs), Frequently Asked Questions (FAQs) and IT Security Policy memos. A complete list of DOC IT security documentation can be accessed at:  
<https://connection.commerce.gov/collection/it-security-policy-and-fisma-reporting-program>

\_\_\_\_\_ I understand that I must abide by the IT security requirements conveyed in the NOAA Information Technology Security Policy (ITSP), NOAA’s Computer Incident Response Team Requirements (N-CITR), and IT Security Policies. A complete list of NOAA IT security documentation can be accessed at: <https://www.csp.noaa.gov/policies>.

**Employee’s Signature** \_\_\_\_\_ **Date:** \_\_\_\_\_

Section II – To be completed by the Approving Official

Approved: ( ) Disapproved: ( ) Reason Not Approved: \_\_\_\_\_

---

**I certify that the employee is eligible and authorized to telework, that I have reviewed the employee’s Safety Checklist as well as the Telework Assessment Tool.**

**Approving Official’s Signature** \_\_\_\_\_ **Date:** \_\_\_\_\_

## ARTICLE 11

### ADVERSE WEATHER POLICY

Section 1. When it has been determined that the lab will be closed due to adverse weather conditions, employees scheduled to work shall be administratively excused without charge to leave or loss of pay. Employees considered mission essential, as determined by the Employer, may be required to report or remain on duty. Certain Employees with valid telework agreements in place may be required to work in accordance with Article 10 of this agreement.

Section 2. When the decision has been made to close the lab during duty hours and to administratively excuse employees, employees shall be promptly notified.

Section 3. When the Employer decides during non-duty hours to operate on a reduced basis or close the facility due to adverse weather conditions, the Employer will disseminate the information to NOAA Emergency Notification System or other appropriate means immediately after the decision is made.

Section 4. The Employer will make a good faith effort to inform the Union President of lab closures due to adverse weather conditions.

Section 5. The Employer will maintain a list of mission-essential bargaining unit personnel for adverse weather operations and will provide written notification to personnel on this list. On-the-spot mission-essential personnel shall be designated to complete work that must be accomplished. This designation is not meant to include normal routine work that is not critical to mission.

Section 6. When a lab closure is declared prior to the beginning of the work day due to adverse weather conditions, mission-essential employees are expected to make every reasonable effort to report for duty. If it is impossible for mission-essential employees to report for duty due to unanticipated circumstances beyond their control, e.g. road closure, etc., they shall be excused by their supervisor or their designee.

Section 7. The Parties agree that there may be instances when the Employer is required to shut down or reduce its heating/air conditioning to conserve energy. If this should result in adverse working conditions, except where employees are excused, the Employer should use one or more of the following to reduce or eliminate such conditions:

- a. Allow nonessential personnel to vary their tours of duty.
- b. Move employees to different locations on the facility.
- c. Implement liberal leave or telework policies.

Section 8. In the event of a mandatory evacuation order as declared by Federal, State, or Local Government management will follow the procedure outlined in 5 CFR part 550, subpart D and the OPM Handbook on Pay Leave Benefits for Federal Employees Affected by Severe Weather Conditions or Other Emergency Situations dated June 2008 or any substantive update or OPM issued directives and/or guidance. Employees would be required to use the established notification system to report status and obtain information from management.

Section 9. There may be situations where staff members will be required to “Shelter in Place”. This situation can occur when it is safer to take shelter where you are located rather than trying to evacuate the building or campus. Bargaining unit employees should follow the shelter in place guidelines found in the Occupant Emergency Plan for the NOAA Beaufort Laboratory.

## ARTICLE 12

### POSITION DESCRIPTION AND CLASSIFICATION

#### Section 1. Position Description:

- a. The Employer agrees that employees will normally be assigned work which is appropriate for their position description taking into account the mission of the agency. "Other duties as assigned" frequently used in position descriptions will not be construed as meaning that a significant amount of work at a higher or lower grade level will be assigned to an employee unless the supervisor advises the personnel office and requests revision of the position description and appropriate classification action.
- b. The Employer agrees that position descriptions will be written based upon the duties and responsibilities assigned to positions. Employees will be furnished a copy of their position description upon request.
- c. Each employee shall be afforded the opportunity to discuss their position description with their immediate supervisor to determine if the description is accurate. If that discussion results in a change to the position description, the Employee will be furnished a copy of their new position description. Grievances regarding the accuracy and adequacy of position descriptions will begin at Step 2 of the negotiated procedures.

#### Section 2. Position Classification:

- a. Positions will be classified based upon the duties and responsibilities assigned to positions in accordance with the Department of Commerce Alternative Personnel System (CAPS) Operating Procedures Manual and all applicable law and regulations.
- b. An employee who believes their position is improperly classified may discuss the matter with the supervisor. The supervisor with such assistance as required shall explain the basis upon which duties were described and the position classification.
- c. An employee who believes their position is not properly classified (incorrect title, pay band, or series) may file a classification appeal at any time. Classification decisions are not grievable. Employees desiring to file a position classification appeal should contact the personnel office for appeal procedures.

Section 3. FLSA determinations, at the discretion of an Employee, may be filed either as a classification appeal in accordance with the CAPS Manual, a grievance in accordance with Article 19 of this Agreement or under the statutory procedure.

## ARTICLE 13

### PROMOTIONS AND CAREER LADDER POSITIONS

Section 1. Employees in both non-career ladder and career ladder research positions will be evaluated in accordance with the Personnel Management Advisory Committee (PMAC) process on an annual basis, if they apply. The PMAC process evaluates the level of research being conducted by an Employee based on the Employee's: research assignment, supervisory controls, guidelines and originality, and contributions, impact and stature. PMAC evaluations are used to support non-competitive promotion (i.e. career-ladder promotions and accretion of duties promotions) requests sent to NOAA Workforce Management Office for processing and approval. Any disapproval by the Workforce Management Office must be for valid reasons.

- a. Packages deemed ineligible to go forward to PMAC for review: Candidates can appeal decisions not to consider their Research Level Evaluation (RLE) Packages. Appeals are to be made to SEFSC's Deputy Director in writing and within ten (10) calendar days of supervisors/candidates receiving notification that the candidate's RLE Package will not be submitted to PMAC for review. If SEFSC's Deputy Director upholds the determination that a RLE Package will not be submitted to PMAC, the candidate has five (5) calendar days to make an appeal to SEFSC's Center Director who will make a final determination on whether a RLE Package will be reviewed by PMAC.
- b. If PMAC determines that the Employee has not demonstrated the ability to perform at the next higher level, the results of the PMAC will identify the deficiencies and make recommendations for improvement.

Section 2. Employees in career ladder positions will be given concerted opportunity to reach the full potential of their assigned career ladders. In addition, the Supervisor will discuss the job requirements and expectations for the Employee to reach the next higher level.

Section 3. Employees in non-career ladder positions will be given concerted opportunity to reach the full potential of their positions. In addition, the Supervisor will discuss the job requirements and expectations for the Employee to reach the next higher level.

Section 4. Upon the Employee's request, the Supervisor and Employee will develop a plan to assist the Employee in developing skills and/or expertise for career advancement. The Supervisor will provide constructive feedback and advise the Employee of any developmental needs to reach future career advancement goals. The plan will be signed by both the Supervisor and the Employee and will allow for comments by both.

## ARTICLE 14

### PERFORMANCE APPRAISAL

Section 1. The Commerce Alternative Personnel System (CAPS) covers all employees as defined in Article 1 of this Agreement.

Section 2. The CAPS annual appraisal period begins October 1 and ends September 30. The minimum appraisal period is 120 days.

Section 3. Within 60 days of the beginning of the appraisal period, employees will be given a written performance plan for the coming rating cycle. This plan will identify the critical elements and benchmark standards for which the employee will be rated.

Section 4. A minimum of one progress review will be made approximately mid-way through the appraisal period.

Section 5. At the end of the appraisal period, the rating official will meet with the employee to discuss the employee's final rating and eligibility for a performance payout.

Section 6. A performance pay increase may be granted only at the end of the performance appraisal cycle. Employees must receive an Eligible rating at the end of the appraisal cycle to be considered for a performance pay increase. A performance pay increase is based on the employee's rating, score, career path, pay band, and interval.

Section 7. Employees who disagree with their final rating, performance score, or payout may request reconsideration with the pay pool manager within fifteen (15) calendar days of receipt of their final evaluation.

Section 8. Employees unsatisfied with the results of a request for reconsideration may within fifteen (15) calendar days file a grievance at Step 2 of the Negotiated Grievance Procedure, Article 19, with the Center Director concerning their rating, score, or payout (performance pay increase).

## ARTICLE 15

### TRAINING AND DEVELOPMENT

Section 1. Training will be provided as set forth in the NOAA Fisheries Core Policy manual. Required training is as follows:

- a. The Employer is responsible for informing employees of all required training and due date(s).
- b. The Employee is responsible for completing all required training by established deadline(s).

Section 2. The Employer has the responsibility for ensuring employees have the opportunities to acquire the appropriate skills and knowledge to conduct their work in support of the agency's mission subject to resource constraints. Training is defined as planned and coordinated programs of instruction in professional, technical, or other fields that are or will be related to an employee's job responsibilities. Training can be accomplished through a variety of approaches such as traditional classroom training, correspondence courses or self-study, university courses, e-learning, and professional conferences, seminars, and workshops that are educational or instructional in nature.

## ARTICLE 16

### EMPLOYEE ASSISTANCE PROGRAM

Section 1. The Parties recognize the need to assist an employee whose job performance is adversely affected by medical, behavioral, emotional or mental health problems. The Employer's Employee Assistance Program is a means of providing information, education, and other appropriate assistance or referral services for employees.

Section 2. The Parties jointly recognize the importance of prevention and rehabilitation aspects of alcohol and drug abuse problems.

Section 3. An employee acknowledging an alcohol or drug abuse problem which affects job performance or conduct shall be given the opportunity to utilize program resources and reasonable time to obtain assistance rehabilitation. Utilizing program resources may not relieve the employee of any pending disciplinary or performance-based actions.

Section 4. Records created in relation to an employee's alcohol or drug problem will be regarded as confidential. (Information from these records will be released to the employee's Union representative upon written authorization from the employee.)

Section 5. The Employer agrees that no unit employee will have job security or promotion opportunities jeopardized by making a request for professional assistance or referral, except as limited by laws and applicable regulations which relate to sensitive positions. The Employer further agrees that unit employees with problems of alcohol abuse or drug abuse will receive the same consideration and offer of assistance that is extended to other employees having any other illness or health problems.



## ARTICLE 17

### TRAVEL

Section 1. The Employer has the right to require employees to travel on temporary duty (TDY) under the conditions prescribed in applicable laws and regulations.

Section 2. Issuance of travel orders, advance of travel pay and payment of per diem and travel allowances shall be in accordance with the DOC Travel Policy Handbook (2016) and applicable laws and regulations and this Agreement. Where possible, the Employer shall issue travel orders, when required, sufficiently in advance to permit the employee to obtain transportation requests during working hours prior to the scheduled day of departure.

Section 3. Government contractor-issued travel charge cards will be available to all employees who are required to travel on official business, and who completed the mandatory training, unless the employee is deemed ineligible due to infrequent travel, abuse of government issued credit card, or credit unworthiness. The issuance of a government travel charge card is mandatory for Employees traveling five (5) or more times a year. Employees are responsible for paying all balances on government contractor-issued charge cards in full by the due date.

Section 4. Employees are required to use contracted travel agency for booking airline, train, lodging, and rental car reservations.

Section 5. Employees may use available Government vehicles when conducting official business. However, upon prior written approval from the Director of NMFS Programs or their designee, employee(s) may elect to use privately owned vehicles for official business. Such employees will be reimbursed for mileage as appropriate.

Section 6. Government vehicles may only be authorized for transportation between an Employee's residence and place of employment in accordance with 31 USC 1344. Such request must be submitted to the Secretary of Commerce in accordance with the DOC Personal Property Management Manual section 6.903 for approval.

Section 7. Use of leave while on travel:

If an employee chooses to use annual leave during a period of official travel, the leave must be pre-approved and the signed Travel Authorization (TA) should reflect the dates of planned leave. The number of days of leave must not exceed two (2) times the total number of days of TDY travel (e.g., if the length of the official Government trip is four (4) days, the traveler can take up to a maximum of eight (8) workdays of personal leave during the official travel). Travelers will not receive M&IE for days during which the total hours of leave is more than half of the traveler's normal work hours (e.g., if the traveler normally works eight (8) hour days and takes

four and a half (4.5) hours of leave one day, they will not receive M&IE for that entire day). Any personal leave taken in conjunction with official travel may not result in additional cost to the government. If an unanticipated situation occurs and leave is taken while on official travel, an amended TA must be prepared and approved prior to preparation of the travel voucher. However, these situations should be rare in occurrence and require supervisory approval.

## ARTICLE 18

### DISCIPLINARY AND ADVERSE ACTIONS

Section 1. The parties agree that disciplinary and adverse actions will be taken for just and sufficient cause and will promote the efficiency of the service. Disciplinary actions will be supported by a preponderance of the evidence.

Section 2. Disciplinary and adverse actions will be accomplished on a timely basis.

Section 3. Definitions:

- a. Informal Discipline is defined as an oral warning or written counseling.
- b. Disciplinary Actions are defined as reprimands or suspensions (short-term) of fourteen (14) calendar days or less.
- c. Adverse Actions are defined as removals, suspensions (long-term) of more than fourteen (14) calendar days, reduction in pay or grade, or furloughs of thirty (30) calendar days or less.

Section 4. Disciplinary actions such as a suspension of an employee for fourteen (14) calendar days or less, letter of reprimand and other written informal actions are grievable only through the negotiated grievance procedure.

Section 5. Reprimands: An official reprimand is a written disciplinary action which specifies the reasons for the action. The reprimand will specify that the employee may be subject to more severe disciplinary action upon any further offense and that a copy of the reprimand will be placed in the Employees eOPF for a period of up to two (2) years. The reprimand will inform the employee that he/she has the right to file a grievance on the reprimand under the negotiated grievance procedure, and the right to Union representation. Upon request, the employee and/or his designated representative will be provided a copy(s) of the material relied upon to support the reprimand.

Section 6. An employee against whom a suspension of fourteen (14) calendar days or less is proposed is entitled to:

- a. An advance written notice stating the specific reasons for the proposed action;
- b. A reasonable time, not less than ten (10) calendar days, to answer orally and/or in writing and to furnish affidavits or other documentary evidence in support of their reply;
- c. Be represented by the Union; and
- d. A written decision and specific reasons therefore at the earliest practicable date.

Section 7. For purposes of this Article, the term “adverse action” applies to:

- a. A removal;
- b. A suspension for more than fourteen (14) calendar days;
- c. A reduction in grade;
- d. A reduction in pay; and
- e. A furlough of thirty (30) days or less. A furlough is defined as a temporary non-pay status and absence from duty required by the Employer because of a lack of work or funds, or for other non-disciplinary reasons.

Section 8. An employee against whom an adverse action is proposed is entitled to:

- a. At least thirty (30) calendar days advance written notice stating the specific reasons for the proposed action, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed or in the event of a furlough due to unforeseeable circumstances as provided for by law;
- b. Not less than ten (10) calendar days to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer, except such an opportunity to reply is not required for a furlough due to unforeseeable circumstances as provided for by law;
- c. Be represented by the Union or a representative of their choice;
- d. A written decision and the specific reasons therefore at the earliest practicable date; and
- e. If appeal is made to the Merit Systems Protection Board, the employee may have a representative of their choosing and notice of appeal rights.
- f. Adverse actions may only be appealed to the Merit Systems Protection Board.

Section 9. The Employer will inform the employee in the decision letter of grievance/appeal rights.

Section 10. Grievances contesting a suspension of fourteen (14) days or less may be filed with the Center Deputy Director at the final step of the Negotiated Grievance Procedure by the affected employee not less than fifteen (15) calendar days after receipt of the decision letter. Decisions regarding removals or suspensions of more than fourteen (14) days are excluded from the coverage of the Grievance Procedure and are appealable to the Merit Systems Protection Board.

Section 11. Upon request, the Employer shall provide an employee and, if applicable, their representative a copy of all evidence, including statements, regulations, etc., used by the Employer to support the action.

## ARTICLE 19

### GRIEVANCE PROCEDURES

Section 1. The Parties recognize and endorse the importance of bringing to light and resolving grievances in a prompt manner. The Parties agree that the expeditious settlement of grievances at the lowest possible level is in the best interest of the government service. This procedure is designed to provide an ethical, orderly and equitable means for resolving grievances.

Section 2. Unit employees covered by this agreement may present a grievance which may be processed with or without Union representation at the grievant's discretion. However, the Union shall have the right to have its representative present at the grievance meetings. This right to individual presentation does not include the right to take the matter to arbitration, unless the Union agrees to do so.

Section 3. This Article provides procedures for the processing of grievances relating to the interpretation and/or application of this Agreement, and to matters relating to personnel policies, practices, and working conditions which fall within the discretionary authority of the Employer. This shall be the sole procedure available for resolving covered grievances. A grievance is defined as any complaint:

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

Section 4. The following are excluded from coverage of this grievance procedure:

- a. A claimed violation of prohibited political activities.
- b. Retirement, life insurance, health benefits, and matters under the auspices of the Office or Worker's Compensation Program, U.S. Department of Labor.
- c. A suspension or removal under 5 USC 7532 (National Security).
- d. Any examination, certification, or appointment.
- e. The classification of any position which does not result in the reduction in grade or pay of an employee.
- f. Nonelection for promotion from a group of properly ranked and certified candidates.
- g. Termination of probationary employees.
- h. Matters applicable to the Merit System Protection Board.

- i. Equal Employment Opportunity Complaints.
- j. CAPS bonus or retention allowance.
- k. The return of an employee from a non-bargaining unit position as a supervisor or manager to a bargaining-unit position.
- l. Oral warnings.

Section 5. Grievances may be initiated by: (a) employees (either individually or jointly), (b) the Union, or (c) the Employer. Regardless of Union membership, employees shall not be precluded from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable law, rule, regulation, or established agency policy. An employee or group of employees in the unit may be represented by themselves or only by the exclusive Union, in filing a grievance under the negotiated procedure.

Section 6. Reasonable official time will be granted to aggrieved unit employees, and to the appropriate Union representatives, to investigate and prepare grievances. Official time will be granted to present a grievance through this Negotiated Grievance Procedure.

Section 7. Once a grievance has been accepted for processing under this Grievance Procedure, failure of the aggrieved employee or the Union to comply with any applicable time limit will terminate further consideration of the grievance, except as otherwise provided herein. Failure of the Employer to comply with any applicable processing time limit will constitute a valid basis for the grievance being advanced to the next higher step of this Grievance Procedure. However, any time limits stated in this Article may be extended by mutual written agreement between the Employer and the Union.

Section 8. A grievance by the employee, Union, or the Employer shall be filed within fifteen (15) calendar days of the occurrence or awareness of the incident being grieved, except for extenuating circumstances, such as an unavoidable or an authorized absence of the aggrieved. Should extenuating circumstances preclude adherence to the above-stated time constraints, written reasons will be submitted with the grievance.

Section 9. Employee grievances shall be processed as follows:

Step One. An employee shall take up his grievance with the immediate supervisor. The employee may choose to have a Union representative. A meeting will be held to discuss the grievance. The following shall be specified in writing:

- a. The basis for the grievance (this may include any Article and section of the Agreement, and reference to any practice, law, rule, or regulation alleged to be violated.)
- b. The date of the occurrence or awareness of the incident being grieved; and
- c. The corrective action sought.

The supervisor shall make a reasonable effort to resolve the grievance and will render their written decision or findings/conclusions to the employee within fifteen (15) calendar days of the date the employee submitted the grievance.

Step Two. An employee dissatisfied with the answer provided in Step One may forward the grievance to the second line supervisor within fifteen (15) calendar days of receipt of the Step One decision. The Step Two written grievance shall contain a general statement why management's Step One response is not acceptable and a copy of the Step One grievance and the response. Within fifteen (15) calendar days following receipt of the grievance, a meeting will be held to discuss the grievance. The second line supervisor, or their designee will send a written decision to the grievant and their designated representative within fifteen (15) calendar days of the meeting.

Section 10. Employer grievances shall be filed in writing with the President of the Union. The grievance shall specify the basis for the grievance and the corrective relief sought. A meeting shall be held to discuss the grievance. The President shall issue a written decision within fifteen (15) calendar days of receipt of the grievance.

Section 11. Union grievances shall be filed in writing with the Deputy Center Director by an elected officer of the Union. The grievance shall specify the basis for the grievance and the corrective relief sought. A meeting shall be held to discuss the grievance. The Deputy Center Director shall issue a written decision within fifteen (15) calendar days of his receipt of the grievance.

Section 12. Grievances not resolved through the provisions of this Article may be referred to Arbitration by either the Union or Employer in keeping with Article 20, ARBITRATION PROCEDURES.

Section 13. Grievability or arbitrability issues must be raised in writing no later than the final grievance step decision.

## ARTICLE 20

### ARBITRATION PROCEDURES

Section 1. When a matter pursued through the negotiated grievance procedure, Article 19, is not satisfactorily resolved at the final step of the grievance procedure, the matter may be submitted to arbitration by the Employer or the Union. The request to invoke arbitration must be in writing and must be received by the Deputy Center Director or the Union President within fifteen (15) calendar days of the date of receipt of the final grievance decision. Only the parties to this agreement may invoke arbitration.

Section 2. Within seven (7) calendar days after receipt of the arbitration request, the Employer and the Union will jointly request that the Federal Mediation and Conciliation Service (FMCS) submit a list of seven (7) impartial persons qualified to act as arbitrators. Within seven (7) calendar days after receipt of such a list, a representative of the Union and a representative of the Employer will each strike one arbitrator's name from the list of seven (7); they will then repeat this procedure. The remaining name will be the duly selected arbitrator. A flip of a coin will decide which party strikes first.

Section 3. The Federal Mediation and Conciliation Service shall be empowered to make a direct designation of an arbitrator to hear the case in the event;

- a. Either party refuses to participate in the selection of an Arbitrator, or;
- b. Upon inaction or delay on the part of either party.

Section 4. The Parties will in good faith attempt to define the issue jointly. If complete agreement cannot be reached on the issue prior to arbitration, the Parties will present their respective issues to the Arbitrator at the hearing. The Arbitrator will then determine the issue to be heard.

Section 5. The Parties will exchange a list of prospective witnesses at least seven (7) calendar days prior to the hearing, unless agreed upon by both parties.

Section 6. Grievability and arbitrability issues, if unresolved, will be handled as threshold issues at Arbitration.

Section 7. The Arbitrator's fees and expenses shall be borne by the losing party. The Arbitrator shall determine the losing party. If there is a split decision in which neither party can be designated as the losing party, the cost shall be borne equally. Where the Union and the Employer mutually request a transcript or the Arbitrator requests a transcript, the expense will be shared; otherwise the party requesting the transcript shall bear the expense. The Employer and



the Union shall share equally the expenses of any mutually agreed upon services.

Section 8. The arbitration hearing will be on the Employer's premises during the Employer's regular administrative working hours. Each person authorized to attend the arbitration hearing who is employed by the Employer and who is in an active duty status at the time the hearing is held will be excused from duty to participate in the arbitration proceeding without loss of pay or charge to annual leave.

Section 9. The Arbitrator will be requested to render his/her decision to the Union and the Employer as quickly as possible, but in any event not later than thirty (30) calendar days after conclusion of the hearing, unless the parties agree otherwise.

Section 10. The Arbitrator will not change, modify, alter, delete, or add to the provisions of this agreement; this right is the prerogative of the Union and the Employer only.

Section 11. The Arbitrator's decision will be final and binding. However, either Party may file exceptions to an Arbitrator's award in accordance with applicable law and regulations.

## ARTICLE 21

### PAYROLL WITHHOLDING OF UNION DUES

Section 1. An employee who is a member in good standing of the Union may voluntarily authorize an allotment from his pay to cover regular dues for such membership providing that all the following requirements are met:

- a. The employee receives an established amount of pay that is sufficient, after legal deductions and other authorized allotments, to cover the full amount of the allotment for the established dues.
- b. The employee has voluntarily completed a request for such allotment from his/her pay with full knowledge of the limitations on revocation of the authorization.
- c. The employee is included in the unit for which exclusive recognition has been granted.

Section 2.

- a. The Union agrees to provide its members in good standing the prescribed authorization form, SF-1187, and to receive completed forms from members who want to request allotment. The President or Secretary of the Union is designated to receive completed forms, to enter the current amount of the regular dues to be deducted for the member each pay period, and to determine whether the member is in good standing in the Union. He will then complete the required request for certification and electronically submit the form for processing. Measures will be taken to ensure all forms transmitted electronically are secure and personal information is protected.
- b. Allotments authorized on properly completed and certified forms which are sent to the Employer via email at [wfmo.pay@noaa.gov](mailto:wfmo.pay@noaa.gov) will be processed in an expeditious manner.

Section 3. The Employer will withhold the amount of regular dues set by the Union from the pay of each employee for whom it has been properly executed current allotment authorization. If the amount of regular dues is changed, the Union will notify the Employer in writing of the change. Only one (1) such change will be made in any period of 12 consecutive months.

Section 4. The Employer will terminate an allotment:

- a. At the end of the pay period following notification of loss of exclusive recognition by the Union.
- b. At the end of the period during which an employee separates from the unit or moves to a position not included within the unit of recognition.

- c. At the first complete pay period after written notification is received from the Union that an employee is no longer a member in good standing in the Union.
- d. Upon receipt of a properly completed SF-1188, at the beginning of the first pay period one calendar year after the employee's dues have been withheld; or if the allotment is not revoked at the end of the first year it has been in effect, any revocation will be effective on the pay period beginning on or after September 1 provided the revocation is received by the Employer prior to September 1. Employees desiring to submit a revocation form (SF-1188) must submit the completed form during the six (6) weeks prior to the revocation period to the Employer. A copy of these forms will be provided to the local Union.
- e. SF-1188s can be downloaded at <https://www.opm.gov/forms/pdf fill/sf1188.pdf>

Section 5. Remitting the amounts withheld: Upon disbursement for each pay period, the Payroll Office will certify for payment the net amount withheld. Payment will be forwarded to the National Association of Independent Labor (NAIL). The Union will also be provided a list of the employee members designated by their Union local number, who have current allotments authorizations on file; the amount withheld from each person's pay and a statement showing the total amount withheld; and the net balance remitted. Also identified will be those employees whose pay was not sufficient to cover the full amount of the deductions and those who allotments are being terminated at the beginning of the next pay period. A copy of this listing will also be provided the local.

## ARTICLE 22

### UNION TRAINING SESSIONS

Section 1. Recognized representatives of the Union will be excused without charge to leave in conjunction with attendance at training or briefings on subjects within the scope of the Statute.

Section 2. Subject to mission needs, official time will be authorized for training sessions or briefings not to exceed sixteen (16) hours per calendar year for each steward and forty (40) hours per calendar year for each officer and chief steward.

Section 3. The Union will submit in writing to the Center Deputy Director or his/her designee, at least ten (10) calendar days in advance, any request for official time. The request will include the following information: Name(s) of representative(s); date; time; place of training or orientation sessions; and a copy of the Agenda with topics to be covered.

Section 4. The Center Deputy Director or designee will render a written decision within five (5) calendar days of the request. After completion of the training, the Union will provide the Center Deputy Director a listing of the employees who actually attended the training, and the number of hours of official time used by each.

Section 5. The Union will be permitted to use available Employer-owned projectors and training aids if available when conducting Union sponsored training sessions. The Union is financially responsible for the loss or damage of government equipment due to negligence while in its possession.

## ARTICLE 23

### PUBLICITY

Section 1. The Union shall be allowed no less than 2 ft. x 2 ft. of space on an official lockable bulletin board located in buildings 2 and 3 where members of the unit are employed to post their notices and informational bulletins/letters.

Section 2. Literature posted must not violate any law or regulation or the security of the Employer, or contain scurrilous or libelous material.

Section 3. The Union and its representatives may use the e-mail and interoffice mail system for regular representation communication (e.g. grievances, correspondence or memos). Information sent through e-mail or interoffice mail must not violate any law or regulation or the security of the Employer, or contain scurrilous or libelous material.

Section 4. The Employer agrees to allow use of available facilities for membership drives at location(s) that will provide access to unit employees during lunch periods and before or after duty hours. Detailed arrangements will be negotiated as needed, and will not interfere with performance of work.

Section 5. The distribution of Union literature will be permitted provided it is done during non-duty hours of the distributor and employee receiving the literature and it does not interfere with the mission of the Employer.

## ARTICLE 24

### UNION OFFICE SPACE

Section 1. The Employer will designate office 3-039 for the Union president to use, and furniture currently assigned to Union Representatives to be used by the Union in the performance of representational duties. The Employer will furnish the Union, on a loan basis, a lockable file cabinet. Such other office furniture and equipment as the Union requests for use in the space provided may be furnished on a loan basis, if available from existing stocks over the Employer's local requirements. The space, utilities, furniture and equipment furnished will be used by the Union only in the conduct of business specifically authorized by this Agreement and the Employer.

Section 2. Union representatives are authorized use of Employer office support items (e.g. telephone, copier, fax machine, printer, and computer with internet and e-mail access).

Section 3. Meeting rooms are available through reservation using the Google Calendar.

## ARTICLE 25

### FACILITIES

Section 1. All Bargaining Unit Employees will have 24 hour a day access to all equipment and resources needed to perform the work required, including, but not limited to, printers, telephones, restroom facilities, meeting space and office supplies.

Section 2. The Employer will provide paved walkways and sufficient lighting to all designated parking areas.

Section 3. Safe drinking water will be available at all times in all buildings where Bargaining Unit Employees are assigned. Upon request the Employer will provide employees proof of safe water.

Section 4. All Bargaining Unit Employees will have access to Building 1 resources between the hours of 6:00 am to 6:30 pm Monday through Friday. Access outside of these hours may be requested on a case by case basis through the Employees supervisor.

Section 5. Clean air and adequate climate control will be provided in all work environments. If it becomes necessary, employees may be temporarily relocated or offered telework to accommodate repairs.

## ARTICLE 26

### REDUCTION-IN-FORCE, TRANSFER OF FUNCTION, OR REORGANIZATION

Section 1. The Employer and the Union jointly recognize that occasions may arise where adjustments of the work force may be necessary by Reduction-In-Force (RIF), Transfer of Function, or Reorganization.

- a. RIF means the release of an employee from a competitive level by separation, demotion, furlough for more than thirty (30) consecutive calendar days, or more than twenty-two (22) discontinuous workdays, but not more than one (1) year, or reassignment requiring displacement.
- b. Transfer of Function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, or the movement of the competitive area in which the function is performed to another area.
- c. Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization or activity.

Section 2. The Employer will advise the Union in writing of any proposed or anticipated RIF, Transfer of Function, or Reorganization that affects bargaining unit positions or conditions of employment. At that time the Union may request bargaining.



## ARTICLE 27

### FURLOUGHS

#### Section 1. Definitions:

- a. Administrative Furlough: An administrative furlough is a planned event by the agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any budget situation other than a lapse in appropriations.
- b. Shutdown Furlough: A shutdown furlough (also called an emergency furlough) occurs when there is a lapse in appropriations or authorization, and can occur at the beginning of a fiscal year, if no funds have been appropriated for that year, or upon expiration of a continuing resolution, if a new continuing resolution or appropriations law is not passed.
- c. Exempt: "Exempt" employees are not affected by a lapse in appropriations. This includes employees who are not funded by annually appropriated funds. Employees performing those functions will generally continue to be governed by the normal pay, leave, and other civil service rules.
- d. Excepted: "Excepted" employees refers to employees who are funded through annual appropriations, but are excluded from a furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations or authorization. Excepted employees include employees who conduct emergency work involving the safety of human life or the protection of property, or certain other types of excepted work. Emergency employees are not automatically deemed excepted employees for purpose of shutdown furloughs.

#### Section 2. Coverage:

- a. Critical Positions: Positions that provide direct support to excepted positions may also be deemed excepted if they are critical to performing the excepted activity. Determinations regarding status of excepted or non-excepted will be made on a position by position basis.
- b. Shutdown: Employees who are funded through annual appropriations and not designated as excepted (non-essential) are barred from working during a shutdown except to conduct activities necessary to execute an orderly suspension of operations as directed by the Director of NMFS Programs.

### Section 3. Planning:

- a. Alternatives to Furlough: For administrative furloughs the Employer will consider reasonable alternatives to address budgetary constraints prior to placing employees on furlough.
- b. Individual Request: Employees may request continuous or non-continuous furlough days during an administrative furlough. Approval of employee requests will be subject to
- c. mission requirements and will not be unreasonably denied.  
Retroactive Pay: for shutdown furloughs, in accordance with congressional authorization and appropriation for back-pay, the Employer will grant employees who suffer loss of pay through a furlough, retroactive pay and benefits that the employees would have received had they not been furloughed.

### Section 4. Notification:

- a. Timely Notification: the Employer agrees to notify the Union of an impending furlough as soon as practical after it is informed. Subsequently, the Employer will identify to the Union the impacted bargaining unit employees affected.
- b. List of Positions: the Employer will provide the Union with a list of positions which have been determined by the Employer to be exempt and excepted from the furlough.
- c. Scheduling: Prior to the implementation of furloughs, the Employer will notify the Union of the total number of furlough days and the time period during which the furlough will occur.

## ARTICLE 28

### DAYS AT SEA

Section 1. This Article provides guidelines that are used by Supervisors, Division and Laboratory Directors when allocating “Days-at-Sea” (DAS).

Section 2. The most important guidelines relate to the availability of appropriate and sufficient funding to support DAS (*i.e.* maintaining Program, Project & Activity (PPA) integrity and not violating the Anti-deficiency Act). These guidelines apply to NOAA White Ships, SEFSC vessels, and contract vessels. DAS are assigned to an Employee based on factors including:

- a. **Funding:** The availability of appropriate and sufficient funding, including funds for premium and overtime pay and the availability of travel ceiling.
- b. **Employee Performance Plan/Responsibilities:** The responsibilities and duties specified in an Employee’s performance plan that are related to the allocation of DAS to achieve their performance goals.
- c. **Employee Capabilities/Contribution:** The capabilities and skill set (including the ability to work and interact productively with survey participants) possessed by the Employee that can be used to support work being conducted at-sea. Supervisors may assign DAS to Employees who volunteer while having limited at-sea experience but will benefit professionally from the experience of performing work at-sea.
- d. **Employee Workload:** The extent and urgency of competing duties and workload requirements that will determine the amount of time an Employee will have available to take part in at-sea surveys. The allocation of an Employee’s work effort including to competing tasks, is the responsibility of the Employee’s supervisor.

## ARTICLE 29

### DISTRIBUTION OF AGREEMENT

The Agreement will be typed in final format by the Employer. After approval, copies of the Agreement will be reproduced. Cost of reproduction will be borne by the Employer. The Employer will distribute copies of the Agreement to all unit members and new employees as hired. The Union will be provided copies of the Agreement for internal use as needed.

## ARTICLE 30

### DURATION AND CHANGES

Section 1. This Agreement shall remain in full force and effect for a period of three (3) years from the date of its approval by the head of the Agency or from the 31<sup>st</sup> day after execution, whichever is sooner. This Agreement will automatically be renewed for 3-year periods thereafter unless written notice of a desire to renegotiate the Agreement is served by either party between the 105<sup>th</sup> and 60<sup>th</sup> day prior to expiration of the contract.

Section 2. This Agreement is subject to reopening:

- a. By mutual consent of the parties concerned;
- b. When new or revised laws or regulations of appropriate authority require changes to provisions of this Agreement.

Section 3. When the renegotiation of this Agreement is pending or in process, and the parties are unable to complete such renegotiation by the termination date of the Agreement, the terms and conditions of this Agreement shall continue in effect until a new Agreement is effected.

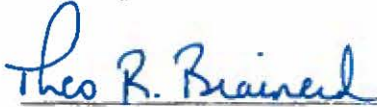
SIGNATURE PAGE

This Agreement is executed on June 2, 2017 to become effective within thirty (30) days or upon approval by the Department of Commerce, whichever is earlier.

FOR MANAGEMENT:



MELANIE WILLENS  
Chief Negotiator

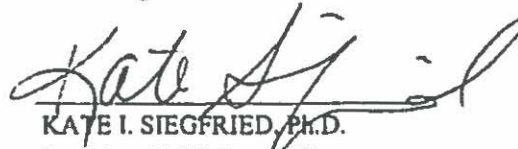


THEO BRAINERD, Ph.D.  
Deputy Director,  
Southeast Fisheries Science Center

FOR THE UNION:



GEORGE L. REAVES, JR.  
Chief Negotiator



KATE I. SIEGFRIED, Ph.D.  
President, NAIL Local 20

September 15, 2017

To Be Effective: \_\_\_\_\_





**NAJL**  
NATIONAL ASSOCIATION OF  
INDEPENDENT LABOR

