

# **2020 COLLECTIVE BARGAINING AGREEMENT**

Between the International Association of Machinists & Aerospace Workers and SMX Cargo

**Effective Dates: 11/2/2020 - 11/1/2023**

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## AGREEMENT

This agreement, effective as of November 2, 2020 except as specifically otherwise stated herein, is made and entered into by and between SMX Cargo, LLC (a/k/a "SMX Cargo"), hereinafter sometimes designated as the "Company," and the International Association of Machinists and Aerospace Workers (DISTRICT 141), AFL-CIO, hereinafter sometimes designated as the "Union."

WHEREAS, "SMX CARGO", HOUSTON TEXAS, and District Lodge 141 of the International Association of Machinists and Aerospace Workers, AFL-CIO, have met to discuss entering into this new Agreement, signed and dated in Houston, Texas on November 2, 2020; pursuant to the certification issued by the National Mediation Board, in NMB Case # R-7465:

NOW, THEREFORE, the parties agree as follows:

**ARTICLE 1**  
**SOLE AGREEMENT / SUCCESSOR AND PURPOSE**

The Company will notify the Union in writing promptly in case of any acquisition, merger or sale which the Company becomes involved in.

All provisions of the Agreement shall be binding upon the successors or assignors of the Company for the duration of the Agreement.

**Section 1.** The purpose of this Agreement is for the Company, its employees and the Union to cooperate fully in order to provide for the safety of air transportation and the efficiency of the operation of the Company.

**Section 2.** The Company agrees there will be no discrimination, interference or restraint or coercion by it or any of its agents against any employee because he/she joins the Union or because of his/her membership or lawful activity in the Union.

**Section 3.** There shall be no discrimination between employees covered by this Agreement because of age, sex, race, creed, color or national origin.

**Section 4.** It is expressly understood and agreed that the Agreement as set forth herein shall supersede any and all existing or previously executed agreements and memoranda of understanding between the parties.

To further these purposes, the Company or an International Representative of the Union may request a conference at any time to discuss and deal with any dispute which arises under the application of this Agreement or otherwise.

**ARTICLE 2**  
**RECOGNITION AND SCOPE OF AGREEMENT**

**Section 1.** Pursuant to the order of the National Mediation Board, NMB Case # R-7465, “SMX CARGO, LLC” d/b/a “SMX CARGO” (the “Company”) hereby recognizes the International Association of Machinists and Aerospace Workers (the “Union”) as the authorized representative of the EMPLOYEES covered by this Agreement. The Company recognizes the Union, in accordance with the Railway Labor Act (NMB Case # R-7465), as the exclusive representative, for the purposes of collective bargaining in respect to rates of pay, wages and other conditions of employment, of all full time and regular part time Fleet Service employees employed by the Company at its operations serving United Airlines’ Cargo and/or Mail Facilities in Houston, TX and Denver, CO. In the event that air cargo or mail operations are expanded to additional airports, the Company will provide the Union with notice of such expansion.

**Section 2.** The Company agrees that the work performed, per the categories and classifications, as described in Article 6 at the above-identified operations are recognized as coming within the jurisdiction of this Agreement.

**Section 3.** In the performance of their duties, employees covered by this Agreement shall be governed by Company rules, regulations and orders issued by properly designated authorities of the Company, providing such rules, regulations, and orders are not in conflict with the terms and conditions embodied in this Agreement. The Company may make such rules, regulations, and orders on an ad-hoc basis as it deems necessary. The Company will, after the signing of this Agreement, cause to be compiled and make easily available to each present and all new employees the presently applicable conduct rules and regulations, and no such new rules or regulations will be considered effective until copies have been furnished to the Local Committee, (the Assistant General Chair and all Shop Stewards) and conspicuously posted in the working areas at least one week prior to effective date. In cases where emergency changes are necessary, the Company will notify the committee and such changes will be posted and become effective immediately thereafter.

**ARTICLE 3  
COMPENSATION**

**Section 1: Provisions Applicable to all Wage Items:** All provisions of this Article are subject to the following provisions:

In the event that the Company is required by legislation to compensate an employee at a rate than is higher than the rate that the employee is receiving, the Company will comply with the requirement without further negotiation with the union.

All general contract anniversary date wage increases are subject to the following:

**A. New Employees.** Increases shall be pro-rated for new employees as follows:

Employees who have not received a step increase as of the contract anniversary date shall have their contract anniversary increase pro-rated based on the number of full-months completed prior to the date of the increase. For example, an employee with five and a half months (5.5) months of service as of the contract anniversary date shall receive five-twelfths (5/12) of the amount of the contract anniversary date increase.

Employees who have received a step increase within the twelve (12) months prior to the contract anniversary date (or who would receive such an increase on the contract anniversary date) will have their contract anniversary increase pro-rated based on the number of full months completed since their step increase. For example, an employee who received a step increase three (3) months before the contract anniversary date shall receive three-twelfths (3/12) of the amount of the contract anniversary date increase.

An employee who receives a step increase after receiving a pro-rated contract anniversary increase will receive the step increase equal to the cents-per-hour difference between the start/entry rate and the step increase rate.

**B. No Effect on Premiums.** Contract anniversary increases are not paid on any premiums, such as lead, security screener or dangerous goods premiums.

**Section 2. Houston Wages.**

The following provisions pertain to wages at the Houston location:

**Starting Minimum Hourly Rates:**

Effective at contract inception and throughout agreement (Starting minimum rates do not change throughout contract unless required by Federal, State or Local Law):

<b><u>A Positions</u></b>	<b><u>Start/Entry</u></b>	<b><u>6-month (AKA “Step Increase”)</u></b>
Warehouse Agent, Dock Coordinator, ULD Controller	\$11.22	\$11.47
Yard Operations Planner	\$11.22	\$12.00
Mail Agents	\$11.22	\$11.47
Truck Coordinator, Customer Service Agent, Data Entry, Export Agent, AMS Specialist, Import Agent	\$11.22	\$11.47
<b><u>B Positions</u></b>	<b><u>Start/Entry</u></b>	<b><u>6 month (AKA “Step Increase”)</u></b>
Cargo Operations Planner, Cargo Solutions Investigator, Capacity Planner	\$11.22	\$11.72
Mail Operations Planner	\$11.22	\$11.72
Acceptance Counter, Front Counter, Quickpack/PetSafe Counter, Delivery Counter	\$11.22	\$11.72
Wide Body Builder	\$11.50	\$12.00
ANA Agent	\$11.22	\$11.72



**Premium Rates.** Premium pay will be paid under certain circumstances as detailed below. Current employees who are already receiving the corresponding premiums do not receive additional amounts due to the provisions below.

**Certified Security Screeners:** The Company will pay Certified Security Screener Premium to employees who have been certified as security screeners and who perform security screening work. Assignment of job duties that require security screener certifications will be at the Company's sole discretion.

**Security Screener Training.** The Company may sponsor agents to attend training for various Security Screener certifications from time to time. The number to be trained and the frequency of training is at the Company's sole discretion. Cargo agents may indicate their interest in participating in training for security screener certification by informing the site manager in writing with a copy of the request to the Union. Cargo agents that make such a request will be placed on a waiting list for training. When qualifications, skill, ability & performance factors are equal, the Company will select the most senior candidates among candidates that are currently in an Acceptance Counter position and who have been in such job for at least ninety (90) days. The Company may, at its discretion, make training available to agents not working in the above above-referenced jobs based on the Company's determination that the certification would be useful in the employee's role. The Company may bypass the above provisions upon a showing of significant business need.

Employees will receive the Certified Security Screener Premium either on a regular assignment basis or on an ad-hoc assignment basis.

- **Regular Assignment.** An employee who holds a security screener certification and who is regularly assigned to job duties that require use of their certification will receive the applicable Certified Security Screener Premium for all hours worked. For purpose of this paragraph "regularly assigned" means that twenty-five percent (25%) or more of their shifts for a month are shifts in which their certification would be necessary.
- **Ad-Hoc Assignment.** An employee who holds a Security Screener certification but who is only assigned to job duties that require use of their certification on an ad-hoc basis will receive the Certified Security Screener Premium for all hours worked in the specific workweek in which the use of the certification is required.

The applicable levels for the Certified Security Screener Premium are as follows. Full and partial premiums may not be combined:

1. **Full Premium: \$2.00/Hr.** To receive full premium, an employee must be trained and certified in the following areas: ETD, X-ray, and Physical Search. To receive the full premium, the employee's security screening duties (whether regular assignment or ad-hoc) must include actually performing X-ray screening.

2. **Partial Premium: \$.50/Hr.** Employees who are trained in ETD and/or Physical Search will receive the partial premium. The maximum partial premium is \$.50 per hour.

**Dangerous Goods Specialist:** One-time additional \$0.50 premium for all hours worked by Cargo employees with this certification.

The Company may sponsor agents to attend training for Dangerous Goods certification from time to time. The number to be trained and the frequency of training is at the Company's sole discretion. Cargo agents may indicate their interest in participating in training for dangerous goods certification by informing the site manager in writing with a copy of the request to the Union. Cargo agents that make such a request will be placed on a waiting list for training. When qualifications, skill, ability & performance factors are equal, the Company will select the most senior candidates among candidates that are currently in the following jobs and who have been in such job for at least ninety (90) days: Front Counter, Quickpack/PetSafe Counter Attendants, and Export Agents. The Company may, at its discretion, make training available to agents not working in the above above-referenced jobs based on the Company's determination that the certification would be useful in the employee's role. The Company may bypass the above provisions upon a showing of significant business need.

**Lead Agent:** \$1.50 above base rate. Leads in Houston may receive the lead premium as well as the Certified Security Screener/Dangerous Goods Specialist premiums.

### **General Wage Increase**

#### **Date of signing (November 2, 2020):**

- 2.5% increase for any agent who does not receive an increase via the new wage table.
- Any agent who receives an increase that is less than 2.5% via the new wage table will receive a date of signing increase added on to the table for a total increase of 2.5%. If applicable, for subsequent step increases (i.e. Six Months), the agent will thereafter receive the designated cents-per-hour increase when the agent reaches the next step.

#### **One-year Anniversary of Signed Agreement (November 2, 2021):**

- 3.0% subject to the pro-rations and limitations specified above.

#### **Second Anniversary of Signed Agreement (November 2, 2022):**

- 3.0% subject to the pro-rations and limitations specified above.

**Section 3. Denver Wages.**

The following provisions pertain to wages at the Denver location:

**Starting Minimum Hourly Rates:**

Effective at contract inception and throughout agreement (Starting minimum rates do not change throughout contract unless required by Federal, State or Local Law):

<b><u>A Positions</u></b>	<b><u>Start/Entry</u></b>	<b><u>Trained on all airlines serviced by SM Cargo at Denver (AKA “Step Increase”)</u></b>
Mail Agent, Warehouse Agent	\$15.00	N/A
Front Counter	\$15.00	\$15.50  Requires Completed Basic Security General, Category 7 and 8 training
<b><u>B Positions</u></b>	<b><u>Start/Entry</u></b>	<b><u>Trained on all airlines serviced by SM Cargo at Denver (AKA “Step Increase”)</u></b>
Security Screener	\$15.50	\$16.00  Requires, X-ray, physical search, ETD trainings.

Wide Body Builder	\$16.00	\$17.00  3-day Lufthansa course must be completed
Cargo Solutions Investigator, Cargo Operations Planner	\$16.00	N/A

**Premium Rates.** Premium pay will be paid under certain circumstances as detailed below. Current employees who are already receiving the corresponding premiums do not receive additional amounts due to the above-provisions.

**Dangerous Goods Specialist:** *One-time additional \$0.50 Premium for all hours worked by cargo employees with this certification. \$1.00 premium for two airlines (this is a total amount and is not added onto the \$0.50 premium for one airline).*

The Company may sponsor agents to attend training for Dangerous Goods certification from time to time. The number to be trained and the frequency of training is at the Company’s sole discretion. Cargo agents may indicate their interest in participating in training for dangerous goods certification by informing the site manager in writing with a copy of the request to the Union. Cargo agents that make such a request will be placed on a waiting list for training. When qualifications, skill, ability & performance factors are equal, the Company will select the most senior candidates among candidates that are currently in the following jobs and who have been in such job for at least ninety (90) days: Front Counter, Quickpack/PetSafe Counter Attendants, and Export Agents. The Company may, at its discretion, make training available to agents not working in the above above-referenced jobs based on the Company’s determination that the certification would be useful in the employee’s role. The Company may bypass the above provisions upon a showing of significant business need.

**Lead Agent:** \$1.50 above base rate. Leads in Denver may receive the lead premium as well as the Dangerous Goods Specialist premiums.

**General Wage Increase**

**Date of signing (November 2, 2020):**

- 2.5% increase for all current employees.

**One-year Anniversary of Signed Agreement (November 2, 2021):**

- 3.0% for all employees subject to the pro-rations and limitations specified above.

**Second Anniversary of Signed Agreement (November 2, 2022):**

- 3.0% for all employees subject to the pro-rations and limitations specified above.

**ARTICLE 4**  
**UNION SECURITY AND DUES CHECKOFF**

A. Union Security

1. Each employee now or hereafter employed and covered by this Agreement shall, as a condition of continued employment, within sixty (60) days following the beginning of employment or the effective date of this Agreement, whichever is later, become a member of the Union and shall maintain membership in good standing in the Union, so long as this Section remains in effect. Financial core membership, that is payment to the union of an amount equal to union dues without formal membership, shall also be deemed in compliance with this Article.
  - a. This condition shall not apply with respect to any employee to whom such membership is not available upon the same terms and conditions as are generally applicable to any other members of his/her occupation or with respect to any employee to whom membership is denied or terminated for any reason other than the failure of the employee to tender the initiation, reinstatement fees, assessments, and monthly dues uniformly required of other employees in his/her occupation as a condition of acquiring or retaining membership. For the purpose of the Agreement "membership in good standing" in the Union shall consist of the payment by the employee of initiation fees uniformly required of other employees of like status (unless such initiation fees are waived by the Union), plus the payment of dues (as hereinafter described) for each calendar month, plus the payment of assessment(s), within prescribed time limits, as may be levied in accordance with procedures set forth in the Union's "Constitution of the Grand Lodge, District and Local Lodges, Counsels and Conferences."
2. If an employee, who is required to become a member of the Union as provided in this Section, does not become a member of the Union within the time limits specified in paragraph 1 above, the Union shall notify the appropriate Company designee with a copy to the employee, that such employee has failed to become a member or maintain membership in good standing of the Union as required by this Section and is, therefore, to be discharged. The Company shall then promptly notify the employee involved that s/he is to be discharged from the service of the company and shall promptly take proper steps to discharge said employee as set forth in paragraphs 5 and 6 below.
3. When an employee holding seniority under the Agreement leaves and then returns to the coverage of the Agreement from a position in which s/he was not covered, s/he must resume her/his obligation to the Union within seven (7) calendar days after return. Failure to comply will cause the employee to be discharged as set forth in paragraphs 5 and 6 below.
4. If an employee covered by this Agreement becomes delinquent by more than two calendar months in the payment of monthly dues, including assessments, the Union shall notify the employee in writing, certified mail, return receipt requested, with a copy to the appropriate

Company designee that said employee is delinquent in the payment of the monthly membership dues as specified herein and, accordingly, will be subject to discharge as an employee of the Company. Such letter shall be issued in compliance with the policy of the Union regarding Union Security.

5. If any employee fails to initiate membership as described in paragraphs 1 and 2 above; fails to resume membership obligations described in paragraph 3 above; or, becomes delinquent in the payment of dues or fees as described in paragraph 4 above, the Union shall notify, in writing the appropriate Company designee with a copy to the employee, that the employee has failed to comply with the provisions herein and is, therefore, to be discharged. The Company shall then promptly notify the employee involved that s/he is to be discharged from the service of the company, and shall promptly take the proper steps to so discharge the employee.
6. The Company will, within three business days after the receipt of notice from the Union, discharge any employee who is not in good standing in the Union as required in this Section.
7. An employee terminated at the request of the Union as per this Article and under this Agreement shall be deemed to have been discharged for cause and the Company shall not be liable for any wages or pay claims of any type from such employee. It is expressly agreed that the Company shall not be liable for any claim of loss by any employee adversely affected by any Company action taken pursuant to a written request by the Union related to the terms of this Section. The Company agrees that in the event it is named as a defendant or charged party in any action by an individual discharged pursuant to the provisions of the Union Security clause contained in this Agreement, the Company shall promptly notify the Union. The Union shall indemnify the Company and hold the Company harmless from any claims, awards, decisions or judgments that arise from the application of this Union Security clause.

#### B. Dues Check-off

1. During the life of this Agreement, the Company will deduct from the pay of each member of the Union and remit to the Union monthly membership dues uniformly levied in accordance with the Constitution and Bylaws of the Union, provided such member of the Union voluntarily executes the agreed form, which is hereunder included in this Agreement to be known as the "Check-Off Form" which shall be prepared and furnished by the Union. Dues deducted from employee's paychecks shall be remitted to the Union by the end of the month following the deductions.
2. The Company will not be required to deduct monthly membership dues from the pay of employees covered by this Agreement unless:
  - a. The Company has received a Check-Off Form, and

- b. The dues for the employee conform to the applicable dues for other employees covered under this Agreement as determined by the Union. The Union agrees that it shall indemnify and hold the Company harmless from and against any liability whatsoever for compliance with the dues check-off procedure provided in this Agreement.
3. In the event an employee's first paycheck of the month has insufficient funds to cover his/her monthly dues, the Company will collect any back dues in addition to the regular monthly dues from the employee's first check of the following month and remit it to the Union.





## **ARTICLE 5 SENIORITY**

**Section 1.** The Company shall maintain a seniority list for all bargaining unit employees. The Company shall also maintain a local list for each facility covered hereunder. A copy of the seniority list shall be provided to the Union upon request.

**Section 2.** Seniority shall be by Craft (meaning the period of time the employee was covered by this labor agreement) and shall accrue from the date of entering the Craft. The classifications to be recognized for seniority purposes shall be those listed in Article 6 of this Agreement.

**Section 3.** Employees with ninety (90) calendar days or less of employment shall be regarded as probationary and there shall be no responsibility on the part of the Company to reemploy them in the event they are discharged or laid off during this period. Probationary employees may be terminated "at will" and without recourse to the grievance procedure. This period may be extended by the Company for an additional period of forty-five (45) days by giving notice to the Union and the employee within the original probationary period together with a non-arbitrary reason for the extension. If retained past the probationary period, the names of such employees shall be placed on the seniority list in the order of their date of hire. The Company will provide the Union's Grievance Committee of the names of new hires within ten (10) days after their first day of employment.

**Section 4.** Seniority lists by Craft/Class shall be furnished to the Local Grievance Committee and the District 141 Assistant General Chair and shall be posted in each facility January 1st of each year and shall be revised each six (6) months thereafter. Such lists shall be subject to correction upon protest for a period of thirty (30) days; if no complaint is made within thirty (30) days after posting, the list as published will be assumed to be correct and no changes will be made except under extraordinary circumstances. In preparing seniority lists when it is impossible to determine the proper order by date of entering the Craft/Class or by length of service with the Company, then the names shall be listed in numerical order using the last four digits of the social security number with the lower number being senior.

**Section 5.** Seniority, employees' rights and all benefits under this contract and employment status shall terminate and be lost by the employee for the following reasons:

- (a) If the employee voluntarily quits;
- (b) If the employee is properly discharged in accordance to this agreement;
- (c) If the employee fails on recall from layoff to report for work within three (3) working days following notification by the Company to report to work by any verifiable means;
- (d) Continuous layoff for a period of eighteen (18) months or the employee's seniority with the Company, whichever is less;

(e) If an employee accepts other employment while absent on disability, workers' compensation or other leave of absence;

(f) Incapacitation from working because of illness or injury up to the employee's length of service or eighteen (18) months, subject to applicable law.

**Section 6.** An employee on injury, leave, or layoff, will continue to retain and accrue Craft seniority during the first eighteen (18) months of leave.

## **ARTICLE 6 CLASSIFICATIONS**

Classifications covered by this Agreement include the following:

### **Section 1. Job Family “A” Classifications.**

- **Cargo 1.** This classification includes the following job: Warehouse Agents.
- **Cargo 2.** This classification includes the following job: Yard Operations Planners.
- **Mail 1.** This classification includes the following job: Mail Agents.
- **Office 1.** This classification includes the following jobs: Truck Coordinator, Dock Coordinator, Customer Service Agent, Data Entry, Export Agent, AMS Specialist.

### **Section 2. Job Family “B” Classifications.**

- **Cargo 3.** This classification includes the following jobs: Cargo Operations Planner, Cargo Solutions Investigator
- **Mail 2.** This classification includes the following job: Mail Operations Planner.
- **Counter.** This classification includes the following job: Acceptance Counter (PetSafe and Quickpack).
- **Wide Body.**
- **All ANA and Lufthansa positions.**
- **New Positions.** All new positions unless the parties mutually agree that the new position will be treated as a “Job Family A” position.
- **Special Skill Positions.** Any “Job Family A” position which requires specialized performance or skills as determined by the Company.

**Section 3. Lead Agent Classification.** – This classification includes the following duties: planning, leading, directing, coordinating, instructing, on-the-job training and delegating the work of his/her assigned group.

In the event the Company feels that a Lead is not meeting the job expectations as set forth by the Company, the following steps will be followed.

- The Company will meet with the Lead and Union Representation if requested, and advise the Lead where they are failing to meet the Company's expectations in regards to duties of a Lead.
- If after thirty (30) days the job performance of the Lead has not risen to an acceptable level the Lead will be provided with training targeted to raise the performance level of the Lead to a satisfactory level.
- If after another thirty (30) days the job performance of the Lead is not at an acceptable level, the Company may remove the Lead from his/her position and return them back to a position in the group that his/her seniority could hold.

**Section 4.** Employees who transfer from one classification to another will retain their qualification to the previous classification for a period of six (6) months.

## ARTICLE 7 HOURS OF WORK AND OVERTIME

### **Hours of Work:**

**Section 1.** The parties recognize that the Company's operations are subject to the operational requirements and mandates of its customer. Accordingly, the scheduling of work hours, including overtime hours, will be at the Company's exclusive discretion.

Nonetheless, the parties understand that the normal full-time workweek consists of five (5) consecutive workdays, followed by two (2) consecutive days off. The normal full-time workday is eight (8) hours of work with a thirty (30) minute unpaid meal period. A separate fifteen (15) minute rest period will be given during the first half of the shift and another fifteen (15) minute rest period will be given during the second half of the shift. An alternative normal full-time workweek consists of four (4) workdays of ten (10) hours per day, followed by three (3) days off with a minimum of two (2) consecutive days off. The alternative ten (10) hour workday includes an unpaid thirty (30) minute meal period. A separate fifteen (15) minute rest period will be given during the first half of the shift and another fifteen (15) minute rest period will be given during the second half of the shift.

A part-time week will normally consist of a minimum of twelve (12) hours and a maximum of thirty-two (32) hours of work. The Company may offer a shorter part-time week to no more than the following number of employees:

- Houston: 7 Employees;
- Denver: 7 Employees.

This number may be increased by mutual agreement with the Union.

Part-time employees will be given one (1) fifteen (15) minute rest period for every four (4) hours worked. The normal minimum daily schedule will be four (4) hours without a meal period. Part-time employees scheduled for more than five (5) hours in a day will be scheduled an unpaid meal period not to exceed thirty (30) minutes between the end of the second (2nd) and end of the fourth (4th) hour of the shift, unless otherwise mutually agreed upon by the Company and the Employee. Employees scheduled to work a shift of five (5) hours or less will not be scheduled a meal period.

The Employer may supplement its workforce with seasonal or temporary employees during two periods on any given rolling year that will be determined by operational needs. Such seasonal/temporary employees shall not be covered by the provisions of this Agreement until their 90th day of employment.

Nothing in this Agreement shall be construed as a guarantee of any hours in a workweek. Based upon operational activity and staffing, Voluntary Authorized Unpaid Time Off (VAUTO) will be awarded in Craft Seniority order. VAUTO may be available in advance on a daily or extended basis.

The normal workweek, including shift starting times, may be varied because of reduced volume

or workload, production needs, coverage or other business needs, including those created by absences, leaves or unavailability of employees.

In the event that the number of hours needed to be reduced cannot be reached by soliciting VAUTO, the Company may reduce hours in order to respond to business circumstances. Unless caused by emergency circumstances, prior to implementing any reduction, the Company will meet with the District 141 Assistant General Chair to confer concerning how to best manage the necessary reductions and implement the changes, at least seventy-two (72) hours in advance of the change. All reductions will be made in reverse seniority order. If there is a need to reduce hours more than once in a workweek based on unexpected daily volume fluctuations, the Company will confer with the Assistant General Chair. If the Assistant General Chair is not available, the Company will confer with the local designee.

**Section 2.** All scheduled meal periods are unpaid. Eight (8) hour shifts will have a scheduled meal period between the end of the third (3rd) and the end of the sixth (6th) hour of the shift, unless otherwise mutually agreed upon. Ten (10) hour shifts will have a scheduled meal period between the end of the fourth (4th) and the end of the seventh (7th) hour of the shift, unless otherwise mutually agreed upon. Employees who do not receive a scheduled meal period due to operational needs shall be paid for the meal period. Employees must receive management permission before performing work in their meal period and must ensure that they have included such work on their daily time record.

**Section 3.** The Company reserves the right to refrain from putting employees to work who report to work for their scheduled shift two (2) hours or more after the shift begins.

**Section 4.** Work schedules will be bid through the following “shift bid” process:

- A. Shift bids will be conducted at least once a year. The Company may also conduct additional shift bids (or limited shift bids) at its sole discretion in the event of significant changes to operational needs. Notice of an upcoming shift bid will be posted at least twenty-one (21) days before the effective date of the bid. The Company will post actual shift schedules for bid no later than five (5) days in advance of the commencement of bidding. Bidding will be conducted under company established procedures.

The initial shift bid need not be conducted until at least six (6) months following the ratification of this Agreement.

- B. The awarding of hours and days off will be determined by Craft Seniority. If an employee does not bid, he/she will be assigned a remaining shift in his/her Classification.
- C. Unless applicable law requires otherwise, an employee on an occupational injury, sick, medical, or any other extended leave who desires to participate in a shift bid will be assigned a remaining shift in his/her Classification upon returning from leave.
- D. The Company will designate certain work areas within a job classification that require specialization or performance skills. Shifts within these work areas will be available for bid only by employees selected through a posting and interview process, and will be listed

as restricted positions on the shift bid. Other interested employees may request training for these work areas and positions, which will be awarded based on the size and needs of the operation and, if successful, such qualified employees may participate in overtime, day trades and outage relief in these work areas and positions.

- E. A shift bid may not be used to change any work assignment or position (including full-time vs. part-time status) other than the employee's shift.
- F. Probationary employees may be assigned to shifts and job duties outside of the shift-bid process at the Company's sole discretion.
- G. The results of the shift bid will be posted or made available upon request.

In the event that three percent (3%) or more of the Company's employees at the location voluntarily resign as a result of the shift bid process, the Company's obligation to conduct further shift bids shall be suspended until the parties negotiate and agree upon an acceptable alternative designed to alleviate the problem. Employees whose shifts were involuntarily changed and who voluntarily resign within forty-five (45) days after the shift bid results are posted shall be presumed to have resigned because of the shift bid. Additionally, this provision of the Agreement may be reopened for re-negotiation upon fourteen (14) day notice in the event the Company determines that the shift bidding process has created undue administrative, recruiting, or operational burdens.

**Section 4.1** Outside of the shift-bid process, employees that desire to work a different shift may submit requests for shift reassignment. Management will endeavor to grant such requests when feasible and when open positions or change opportunities may exist; however, management shall not be required to grant any shift change. When a shift change is allowed and when two or more employees seek the same shift change, seniority will govern.

**Section 5.** The Company may permit shift-trades and day-trades on an ad-hoc basis subject to the approval of management that are submitted to the Company within seventy-two (72) hours of the commencement of the shift. The shift-trade or day-trade request will be submitted in writing on a Company approved form to the Company designated representative. Employees may only trade to perform work that they are qualified to do. Proposed trades must be cost-neutral to the Company. Employees who fail to provide four (4) hours prior notice of an absence for a traded shift (unless exigent circumstances prohibit such notice) or who demonstrate a deliberate pattern of calling out for a scheduled trade will not be allowed to trade for six (6) months.

**Section 6.** An employee called to work or at work when the Company determines there is no or insufficient work available for any reason shall receive a minimum of three (3) hours pay at the regular hourly rate.

**Overtime:**

**Section 7.** Overtime is paid for all hours worked in excess of forty (40) in one workweek (defined as Sunday through Saturday) and is paid a one and one-half times the employee's regular rate. The following hours shall count as time worked toward the forty-hour threshold for purposes of computing overtime:

- A single pre-approved, full PTO day. Only one paid PTO day in a week shall count as time worked toward overtime.
- Paid Jury Duty.
- Paid Bereavement.
- Paid Military Leave.
- Hours during a workweek when the employee's normal shift hours were reduced by the Company. This does not include VAUTO, nor shall the employee be paid for such hours.

## **Section 8.**

- A. Procedure for Planned Overtime. The following procedure shall apply to overtime that is scheduled at least a day in advance:
- The Company will post a sign up for overtime availability once per quarter – employees who sign up agree to be contacted when additional hours become available;
  - The Company will maintain a list with the people from the overtime availability list with their cumulative overtime hours paid in that quarter and will update the list on a weekly basis after payroll;
  - In offering planned overtime, the Company will use the most recently updated overtime list and call people who have the required skills for that job in order based on the lowest to highest paid cumulative overtime hours for the quarter;
  - If the Company does not reach the person on the list immediately, it will move on to the next person on the list to offer the overtime;
  - If no employee on the list accepts the overtime, the Company may assign the overtime at its discretion (including utilization of employees who did not sign up for quarterly overtime availability), and may force overtime on a reverse seniority basis.
- B. Procedure for Shift Extension. Shift extension is overtime which is anticipated to be four (4) hours or less and could include an earlier start time or a later end time. The Company may decide at its discretion whether to offer an extension or to call in an employee early. The following procedure shall apply to shift extension overtime:
- Any Employee may sign up for a daily list of shift-extension volunteers;
  - If a shift extension is needed, the Company will consult the planned overtime Excel list based on lowest to highest running total with a preference for employees within the department from which the overtime is required and who are on shift at the time the need is identified;
  - If no employee on the daily list on shift within the affected department accepts the overtime, the Company may assign the overtime at its discretion, and may force overtime on a reverse seniority basis.
- C. All Overtime lists will be zeroed-out every quarter and all employees who sign up for overtime will be placed on the new list in seniority order.
- D. An employee who is inappropriately bypassed for overtime will be placed at the top of



the overtime availability list.

**Section 9.** **Seventh-Day Premium.** An employee who works seven 8-hour days in a workweek (defined as Sunday through Saturday) shall be receive double their regular pay rate for hours worked on the seventh day. Each workweek stands alone for purposes of this provision. If an employee's normal scheduled shift is cancelled or shortened by the Company, such hours shall be treated as hours worked only for purposes of qualifying for this premium. This does not include VAUTO, nor shall the employee be paid for such hours.

**Section 10.** **No Pyramiding.** There shall be no pyramiding of overtime or premium pay under this agreement.

## **ARTICLE 8 JOB BIDDING**

**Section 1.** When a permanent vacancy occurs in a position in **Job Family A**, the vacancy shall be posted by the Company for seven (7) calendar days at the location where the opening exists. If a unit employee is interested in bidding into a job at a different site, the employee may ask the site manager of their home location in writing for a listing of then-current bidding postings at the desired location, and the Company will provide that individual a copy of said posting within two (2) business days. Any qualified bargaining unit employee who desires such a posted job may present his/her bid in writing signed by him/her on forms provided by the Company. When qualifications, skill, ability, and performance factors (only written warnings for performance, personal conduct or dependability from the preceding 12 months will be considered) are equal, the Company will choose the most senior candidate in the following order:

1. Most senior candidate already in that classification
2. Most senior candidate outside of that classification but in that building (i.e. mail vs. cargo)
3. Most senior candidate regardless of classification or building

An employee who has already been trained/certified in the role (or who holds a special certification) shall be deemed more qualified than an employee who requires training. If no qualified candidate applies, the job may be filled by the Company from any other source. If the employee awarded the job cannot satisfactorily perform the job within thirty (30) days, or if the employee desires to return to his/her previous position within thirty (30) days, the employee shall be returned to his/her old job and old rate if feasible and shall not be able to bid again for a vacant position for six (6) months. Once awarded a position through bidding, an employee may not bid for another vacant position for six (6) months.

Any job openings created by the acceptance of a posted position in any job classification will not be subject to the posting and bidding procedure, but can be filled by the Company at its discretion. The parties recognize that this provision may apply to multiple “down the line” job openings which occur as the result of the initial vacancy.

The Union recognizes that the Company may not immediately assign the selected individual to the position due to the need to select, train for and backfill the position that the selected employee may be vacating.

**Section 2.** Temporary vacancies for any position will be filled at the Company’s discretion without the need to post the job. A temporary vacancy under this Article is defined as a job, the duration of which is not expected to exceed ninety (90) days.

**Section 3.** When a permanent vacancy occurs in Job Family B or in a Lead position, the Company will post the position. While the Company may use seniority as a factor in making selection for employees to assign to Job Family B or Lead positions, it shall not be required to do so. The Company may assign employees to positions in Job Family B or Lead positions at its sole and complete discretion and may hire from the outside for such positions if it deems necessary.

**Section 4.** In the event the Union disputes any determination by the Company concerning

qualification, skill and ability in any matter, the Union shall bear the burden of proving, by clear and convincing evidence that the Company's action was arbitrary or capricious.

**ARTICLE 9  
VACATION AND HOLIDAYS**

**Vacation:**

**Section 1.** The Company will provide vacation benefits to full-time employees who have completed one-year of service with the Company. Upon completion of the employee's anniversary year, the employee will receive vacation based on the chart below.

Employees must submit requests for vacation equal to the amount of time they have earned during that anniversary year. If the Company denies any such requests leading to a balance remaining at the end of the anniversary year, the employee will be granted a sixty (60) day extension beyond his/her anniversary date to request and use his/her remaining days. If the employee is unable to use such time during the sixty (60) day extension the balance shall be paid out. Except as expressly provided above, unused vacation time will not be paid out.

1 to 2 years of completed service:	40 Vacation hours
3 to 4 years of completed service:	56 Vacation hours
5 to 7 years of completed service:	80 Vacation hours
8 or more years of completed service:	120 Vacation hours

**Section 2.** Employees may only take vacation benefits that are earned.

**Section 3.**

1. Employees will bid their vacation weeks in block weeks (40 hours) or day at a time basis. Employees who have earned one hundred, twenty (120) hours of vacation must use at least one week (40 hours) in a complete block.
2. No later than October 15, employees who have earned vacation time will designate the number of hours, if any, of vacation to be taken on a day-at-a-time basis in the following year and the number of blocks.
3. Block vacation weeks for bid for the following year will be scheduled between the employee's normal days off. The Company will determine the number of employees who may be on vacation during any given week within any given department and shift. The Company shall confer with the local union committee at least thirty (30) days in advance of the vacation scheduling period to discuss the method of bidding block vacation for the coming year. The information to be discussed will include anticipated block week and day-at-a-time allotments, vacation accruals, anticipated bidding procedures and rules and the seniority lists to be used. The minimum total number of block weeks made available will be equal to number of block weeks employees have declared pursuant to item 2 above.

4. Bidding for block and day at a time vacation will be by seniority. Available weeks will be posted by November 1, bidding begins immediately and will be completed by December 1. The final calendar will be made available by December 31<sup>st</sup>. The award of block vacation will be based on seniority. Bids may be split into separate periods of no less than one week each. Multiple weeks may be bid in any bid round if taken consecutively. Employees may bid one (1) continuous period, which may include all or any portion of the block vacation to which he/she is entitled. Employees failing to bid at the assigned time will be allowed to select block vacation from weeks still available at the time they report to bid as long as that round is still open.
5. Day-at-a-time vacation days will be selected in seniority order after the initial weekly block sections have been made. This process must be completed before the commencement of the ensuing calendar year.
6. Remaining Day-at-a-Time vacation. Requests may be submitted up to sixty (60) days in advance and will be awarded or denied no later than five (5) days prior to the dates requested.

**Section 4.** Vacation benefits are not earned while an employee is on a leave of absence, unless otherwise required by applicable law.

**Section 5.** An employee who resigns or is terminated will not be paid for any unused vacation time unless required by law. Employees may not use vacation to extend their termination date.

**Holidays:**

**Section 6.** Following completion of ninety (90) days of employment, employees that work on a shift that begins on one of the following holidays shall receive a holiday premium (in addition to their normal wage) which is equivalent to their straight time rate for up to eight (8) hours:

New Year's Day

Memorial Day

Independence Day

Labor Day

Thanksgiving Day

Christmas Day

**Section 7.** To be eligible for the holiday premium, the employee must work his/her entire scheduled work day on the holiday, as well as his/her scheduled days before and after the holiday. Working the entire scheduled shift also means reporting on time for the shift.

**ARTICLE 10**  
**SICK LEAVE**

**Section 1.** Upon the completion of one (1) year service, full-time employees will receive the following sick days per anniversary year to be used for illness/injury:

One Year Completed Service:	1 Day
Three Years Completed Service:	2 Days
Five Years of Completed Service:	3 Days

**Section 2.** Sick days are a use-it or lose-it benefit and will not be carried over from year-to-year or paid out upon termination for any reason.

**Section 3.** Any employee calling in sick two (2) consecutive days or more must present medical verification in order to be paid.

## **ARTICLE 11 OCCUPATIONAL INJURY LEAVE**

**Section 1.** Employees injured while at work shall be given medical attention as dictated by the severity of the injury and the circumstances at the earliest possible moment and employees shall be permitted to return to work, if cleared to return to work by an appropriate medical provider without signing any release of liability, pending the disposition or settlement of any claims for damage or compensation. In the event that medical attention is necessary, such injured employees will be allowed to obtain medical attention without loss of time during the shift in which the injury occurred. It is the responsibility of the injured employee to report an injury to his/her immediate Supervisor during the shift in which the injury occurred.

**Section 2.** During any occupational injury leave, the employee will be responsible to meet all medical examinations and treatment requirement as established by the company's insurance carrier and medical provider.

**Section 3.** The Company reserves the right to require employees returning from occupational injury leave to take an appropriate fitness-for-duty or functional capacity examination given by a provider designated by the Company. The scope of this fitness for duty or functional capacity examination will be limited to the original occupational injury sustained. This cost will be paid by the Company.

**Section 4.** An employee may retain any Workers Compensation benefits received by him/her as an award for partial or permanent injury which might exceed his/her total wages which would have been payable under this Article for the period of time lost from employment.

**Section 5.** An employee out on Workers Compensation upon request will be allowed to cash out any/all accrued vacation/sick time to supplement his/her income to the extent the employee has lost time.

## **ARTICLE 12 JURY DUTY**

**Section 1.** An employee will be excused from regular duties on days when she/he is required to be present for jury duty or is subpoenaed to testify in an administrative or judicial proceeding. An employee who receives a summons for jury duty or a subpoena to testify shall inform her/his immediate supervisor no later than forty-eight (48) hours after receiving such notice.

**Section 2.** Unless the employee is able to arrange her/his jury duty with the Court in advance, or if the Court requires regular Monday through Friday reporting for a week or more, the Company shall drop all duty from her/his schedule during her/his period of jury duty. In either case, the employee is expected to report her/his availability for work once released from jury duty. If the employee is able to arrange her/his jury schedule with the Court, she/he will be expected to work on all scheduled workdays that do not conflict.

**Section 3.** An employee may be required to provide adequate proof of jury or witness service.

**Section 4.** The Company will compensate employees who have completed their probationary period for scheduled hours lost because of their involuntary participation in his/her civic duties mentioned above up to a maximum of five (5) days per calendar year.



**ARTICLE 13  
BEREAVEMENT LEAVE**

**Section 1.** Should there be a death in the immediate family (as defined below), an employee will be excused for up to three (3) consecutive scheduled working days, with pay, to plan and attend the funeral or memorial service of the immediate family member. The Company should be notified as soon as possible in the event of a death requiring Bereavement Leave. Proof of Death will be required.

**Section 2.** Bereavement pay shall be eight (8) hours at the employee's straight time hourly rate. No more than three (3) days of bereavement pay will be paid per calendar year. If an employee needs more time off than outlined in this Article, the employee may request additional unpaid leave time.

**Section 3.** The amount of paid bereavement leave that will be granted will be as follows:

Wife, Husband, Son, Daughter, Step-Children, Brother, Sister, Step-Brother, Step-Sister, Father, Step-Father, Mother, Step-Mother, Father-in-law, Mother-in-law, Grandparent or Spouse's Grandparent, Grandchild, Brother-in-law, Sister-in-law, Aunt, Uncle, Niece, Nephew.	Up to 3 days
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**ARTICLE 14**  
**PERSONNEL FILES**

**Section1.** Employees will have access to their personnel file two (2) times per calendar year upon request with two (2) business day's written notice.

## **ARTICLE 15 LEAVES OF ABSENCE**

**Section 1.** Upon written request of any employee with more than one (1) year's seniority, and for compelling personal reasons, the Company, after considering production needs and requirements, may grant permission for a personal Leave of Absence without pay for a period not to exceed thirty (30) days. This leave, at the Company's discretion, may be extended to a maximum of ninety (90) days. Failure of an employee to return promptly from a leave of absence shall subject the employee to immediate discharge unless the failure is caused by a reason beyond the employee's control.

**Section 2.** The Company will comply with all applicable state and federal laws which address employees' rights to request or obtain a family or medical leave of absence.

**Section 3.** If an employee wants to remain on a paid status, the employee is required to use his or her sick time and then vacation time during such leave. Once the employee has exhausted all sick and vacation time the leave will be unpaid.

**Section 4.** Employee benefits continuation during leaves of absence will follow applicable law.

**Section 5.** Reserved for Future Use.

**Section 6.** Every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar position with equivalent pay, benefits, or other employment terms and conditions, for which the employee is qualified.

**Section 7.** All employees will be entitled to Military, FMLA and any other leaves of absence as governed by State or Federal Law. To the extent permitted by law, the Company may require employees to substitute paid leave for unpaid FMLA leave.

**Section 8.** The Company will compensate employees who have completed their probationary period for scheduled hours lost due to military service covered by an applicable military leave law up to a maximum of five (5) days per calendar year. To receive such compensation, orders for service must be presented to the Company within the time frame provided for under the applicable military leave law. Employees on military leave may also use vacation and sick leave to compensate for lost time as permitted by law.

**Section 9.** Employees accepting full-time employment with the Union as representatives of the employees covered by this Agreement will be granted an unpaid leave of absence by the Company for up to eighteen (18) months. An employee on leave of absence for this purpose will retain and continue to accrue seniority.

## **ARTICLE 16 INVESTIGATIONS**

**Section 1.** When the Company conducts an investigation which may reasonably be anticipated to lead to disciplinary action, loss of pay, or discharge, the employee will be entitled to the following:

1. An opportunity to present information relevant to the investigation;
2. The presence of a Union representative if requested and if available within a reasonably prompt period of time. For purposes of this section, a steward shall be considered a Union representative.

**Section 2.** An employee may be held out of service with or without pay by the Company during its investigation of a matter which may lead to suspension or discharge. If an employee is not discharged or suspended, the Company will pay for lost time.

**Section 3.** Notice of all discipline will be issued in writing upon the conclusion of the investigation and shall set forth the charge(s) against the employee. Notices involving loss of pay and discharges shall be furnished to the Grievance Committee and the District 141 Assistant General Chair and provided to the employee. Such notices may be provided to the Union by electronic mail.

**Section 4.** Investigations will commence no later than thirty (30) days from the time the Company has reasonable first knowledge of the incident giving rise to the potential discipline.

**Section 5.** Time limits in this Section may be extended by mutual agreement.

**Section 6.** This Article shall not apply to discipline for attendance, nor shall it apply to verbal coaching or verbal performance counseling.

## **ARTICLE 17 GRIEVANCE PROCEDURE**

**Section 1.** The procedure for the effective handling of grievances and disputes between the parties under this Agreement shall be:

- A. The Union will be represented by a properly designated Shop Steward, Grievance Committee, and District 141 Assistant General Chair.
- B. The Company will be represented by an authorized representative at each step who will be empowered to settle all local grievances not involving changes in the Company operational policies or the intent and purpose of this Agreement.
- C. Subject to facility access rules, policies and procedures (which the parties recognize may not be controlled by the parties) the accredited representatives of the Union shall be permitted, upon reasonable advance notice to the Company, access to the non-working areas of the facilities for the purposes of investigating grievances. Each Union representative granted access to the facilities shall conduct himself or herself in a manner which does not interfere with the Company's operation. Access may be granted to working areas upon permission of the site manager, which permission shall not be unreasonably withheld.

**Section 2.** An employee who has completed his/her probationary period may be disciplined or discharged with just cause. It is recognized that because SM Cargo is a service contractor, it must maintain and impose high standards of performance, quality of work and care. Accordingly, it is agreed that "just cause" is defined as SM Cargo's determination that an employee does not meet this high standard, so long as SM Cargo does not exercise its discretion in a manner that is arbitrary, capricious, or without foundation. SM Cargo bears the burden of showing that just cause exists.

**Section 3.** Should differences arise between the Company and the Union as to an alleged violation of the provisions of this Agreement or to discipline or discharge of a non-probationary employee, an earnest effort shall be made to settle such differences immediately in the following manner:

- A. *Informal Discussion:* An aggrieved employee and/or his/her Shop Steward will discuss his/her grievance informally and orally with the employee's immediate supervisor/manager soon after the occurrence giving rise to the grievance as is practical and reasonable. If the grievance cannot be satisfied as a result of this informal discussion, the employee and/or his/her Shop Steward may present his/her grievance in writing in accordance with the Grievance Procedure Steps. The time limits found herein in the Paragraphs that follow may be waived if mutually agreed upon by the Company and the Union.
- B. *Grievance Procedure Steps*
  - 1. *Written Grievance:* An aggrieved employee and the Grievance Committee will present the grievance in writing on a standard Grievance Form provided by the Union to the

Company's facility manager within seven (7) calendar days from the occurrence giving rise to the grievance. The facility manager shall endeavor to render a decision in writing within seven (7) calendar days. If a decision is not rendered within that time period, the grievance shall be deemed denied.

2. *Grievance Review*: If a grievance has not been settled after the above Grievance Steps, the District 141 Assistant General Chair will discuss the matter with the Operations Director. That discussion may occur by telephone and should normally occur within fourteen (14) days after the denial of the written grievance. If they are unable to reach a satisfactory resolution, then either party may request the grievance be arbitrated. This request must be made in writing and received within thirty (30) calendar days from the written grievance answer or the date it was due.

**Section 4.** System Board of Adjustment. Only grievances having to do with allegations that this Agreement has been violated, final warning, disciplinary suspensions, or discharges may be arbitrated. In compliance with Section 204, Title II, of the Railway Labor Act as amended, there is hereby established a System Board of Adjustment for the purpose of adjusting and deciding disputes or grievances which may arise under the terms of this Agreement, and which are properly submitted to it after exhausting the procedure for settling disputes, as set forth under Article 17.

- A. The System Board of Adjustment shall consist of one (1) Referee selected by the parties from an ad-hoc panel of five (5) Referees. The Company and the Union shall agree to request an ad-hoc regional panel of five (5) Referees from the Federal Mediation & Conciliation Service which will be selected through alternate strikes by the parties. The party requesting arbitration shall make the first strike.
- B. The foregoing notwithstanding, the parties may agree to select a Referee who is not selected from an ad-hoc panel to hear a case.
- C. The Referee shall have jurisdiction over disputes between any employee covered by this Agreement and the Company growing out of grievances as processed through the grievance procedure. The jurisdiction of the Referee shall not extend to proposed changes in hours of employment, basic rates of compensation, or working conditions covered by this Agreement or any amendment hereto. Grievances not timely filed or submitted for arbitration as provided above shall be barred.
- D. The Referee shall consider any dispute properly submitted to it according to the terms of the above-procedure, provided that Notice of Intention to Appeal is filed within thirty (30) days after the procedure provided for in Article 17 of this Agreement has been exhausted. If not filed within such period, the action of the Company or Union which was the subject of the grievance shall become final and binding. The Union shall determine the order for considering cases.
- E. The Referee shall preside at hearings and shall be designated as Chairman of the System Board of Adjustment. It shall be the responsibility of the Chairman to guide the parties in the presentation of testimony, exhibits and arguments at hearings to the end that a fair, prompt and orderly hearing of the dispute is afforded.

- F. The hearing shall take place in the city of the site of the grievance, unless a different place of meeting is agreed upon by the Company and the Union. In the event either of the parties is of the belief that the hearing should be held at a site other than as specified above, such party will notify the other party and, if both sides agree, the hearing will be conducted at the site agreed upon.
- G. The notice of dispute properly referred to the Referee for consideration shall be addressed in writing and will include the following.
- Each case submitted shall show:
1. Question or questions at issue.
  2. Statement of facts.
  3. Position of appealing party.
  4. Position of other party.
- H. The parties will endeavor to schedule a hearing date within thirty (30) days after the appointment of the Referee.
- I. The hearing may be transcribed and the parties may file written briefs with the Referee following the close of the hearing. A written award will be rendered by the Referee to the parties not later than forty-five (45) calendar days following the filing of the briefs.
- J. The time limits expressed in this Article may be extended by mutual agreement of the parties to this Agreement. The expenses and reasonable compensation of the Referee selected, as provided herein, shall be borne equally by the parties hereto.
- K. Employees covered by this Agreement may be represented at hearings by such person or persons designated by the Union, and the Company may be represented by such person or persons as it may choose and designate. Evidence may be presented either orally or in writing, or both. The parties may call any witnesses who may be deemed necessary to the dispute.
- L. Decisions of the Referee in all cases properly referable to it shall be final and binding upon the parties thereto, except that the Referee's authority on issues of arbitrability shall not be entitled to deference and such issues shall be examined de novo by any reviewing court. The authority of the Referee shall be limited to determining questions arising under this Agreement. The Referee shall not legislate and shall have no authority to modify, alter or change any of the terms of this Agreement, to interpret a term contrary to the term's definition within this Agreement, to change existing wage rates or to establish a new wage rate.
- M. Nothing herein shall be construed to limit, restrict or abridge the rights or privileges accorded either to the employees or to the Company, or their duly accredited representatives, under the provisions of the Railway Labor Act as amended.
- N. The parties shall maintain a complete record of all matters submitted to arbitration, and of all findings and decisions made.

- O. Each of the parties hereto will assume the expenses of the witnesses called or summoned by it. Compensation of witnesses who are employees of the Company, who are summoned by the Company, will be assumed by the Company.
- P. The Company and the Union, acting jointly by mutual agreement, shall have the authority to incur such other expenses as in their judgment may be deemed necessary for the proper conduct of the business of the Board and such expenses shall be borne one-half by each of the parties hereto.



## **ARTICLE 18**

### **FUNCTIONS OF MANAGEMENT**

**Section 1.** Unless limited by an express provision of this Agreement, the rights retained exclusively by, and solely to, management shall include, but are not limited to, the following: (1) to direct and supervise the work of its workers and Employees; (2) to subcontract work as long as no unit member is laid off because of the subcontracting; (3) to plan, direct and control operations, schedules and materials; (4) to determine and from time to time re-determine the amount and quality of the work needed, by whom it shall be performed and the location where such work shall be performed; (5) to determine and from time to time re-determine to what extent any process, service or activities of any nature whatsoever shall be added, modified, eliminated or obtained by contract with any other person or employer; (6) to partially or completely relocate or terminate operations; (7) to introduce different methods, automation, tools, equipment or facilities, or to change existing service practices, methods, tools, equipment and facilities; (8) to determine and regularly re-determine the number of hours per day or week operations shall be engaged in; (9) to select and to determine and from time to time re-determine the number of, qualifications of and types of employees required and to be hired; (10) to assign work and to determine the amount and quality of work to be performed by Employees in accordance with the requirements determined by the Company; (11) to determine the sequence and type of operating processes within the facility and (12) to take such measures as management may determine, and regularly re-determine, to be in the best interests of the orderly and efficient operation of the Company.

**Section 2.** The Employer's exercise of the foregoing functions shall be limited only by the express provisions of this Agreement and the Company has all the rights which it had at common law except those expressly bargained away in this Agreement.

**Section 3.** There shall be no restriction on the Employer's authority to install and use electronic data collection devices including, but not limited to video surveillance. The Union agrees that the Company may utilize data from electronic data collection devices as evidence in disciplinary decisions, grievances and arbitrations.

**Section 4.** The exercise by the Company of any of the foregoing functions shall not be reviewable by arbitration except in case such function is so exercised as to violate an express provision of this Agreement.

**ARTICLE 19**  
**NO STRIKES OR LOCKOUTS**

**Section 1.** The parties agree that there will be no complete or partial strikes, refusals to perform work, sympathy strikes, refusals to cross any picket line, slowdowns, work stoppages, secondary boycotts or other cessations of work, economic or otherwise, by the Employees or the Union without regard to whether the subject matter is arbitrable under the terms of this agreement. There shall be no lockout by the Company. If any employees or group of employees represented by the Union should violate the intent of this section, the Union will take any necessary steps to affect a prompt resumption of work.

**ARTICLE 20**  
**WORK CLOTHING**

**Section 1.** The Company will supply three (3) branded t-shirts to new employees upon hire and two (2) branded t-shirts to the employee each anniversary year (based on the employee's anniversary year) thereafter upon request.

## **ARTICLE 21 SAFETY AND HEALTH**

**Section 1.** The Union and the shop stewards agree to cooperate with the Company in encouraging employees to observe all safety regulations and to work in a safe manner. The Company agrees they will be compliant with any/all City, State and Federal regulations regarding Health and Safety.

**Section 2.** The Company hereby agrees to maintain safe, sanitary and healthful conditions in all buildings and working areas to the extent under its control, and to maintain at all times an emergency first aid equipment (eyewash, safety kit, defibrillators) to take care of its employees in case of accident or illness; provided that nothing in this Agreement shall compel the Company to maintain a doctor or nurse at its facility. The Union and employees recognize their duty and responsibility to assist in maintaining safe, healthful and sanitary conditions.

**Section 3.** Proper and modern safety devices shall be provided for all employees furnished by the Company. This includes protective eye wear, ear plugs, and gloves to employees whose duties normally require such protection. Employees will not be required to use unsafe tools or equipment. However, employees will be expected to report unsafe tools or equipment to their immediate Supervisor before refusing to use such defective tools or equipment or before putting those tools or equipment into service or allowing them to remain in service. Employees will be required to use all tools and equipment in a proper and safe manner. The Company will furnish protective apparel, equipment and devices to all employees required to work with chemicals that are injurious to clothing or employees. All employees are required to use such apparel, equipment or devices, if required for the job.

**Section 4.** Employees injured while at work shall be given medical attention at the earliest possible moment, and employees shall be permitted to return to work, if medically cleared, without signing a release of liability pending the disposition or settlement of any claims for damage or compensation.

**Section 5.** The Company will conduct an annual hearing test at no cost to the employee to the extent required by law.

**Section 6.** Rain gear will be available for use as needed, at no cost, to all employees whose duties are performed in inclement weather and will be replaced as needed.

**ARTICLE 22**  
**EMPLOYEE BENEFIT PLANS**

**Section 1.** For Houston and Denver employees, the Company will offer medical and other benefit plans or programs on the same terms it offers to hourly, non-union, non-managerial/non-supervisory associates at the respective location. The parties understand that those benefits are subject to change or elimination from time-to-time at the Company's sole discretion and that the Company need not contribute toward the cost of such coverage.

**ARTICLE 23**  
**BULLETIN BOARDS**

**Section 1.** To the extent permitted by the Company's customer, one bulletin board may be placed at each facility; the location and size of which will be determined by mutual agreement. The Union may post such notices thereon as are authorized by the Assistant General Chair or the Shops Stewards. The bulletin board shall not be used by the Union nor shall its members, for disseminating propaganda of any kind whatever, and, among other things, may not be used by the Union or its members, for posting or distributing pamphlets or political matter of any kind whatsoever, or for advertising.

**ARTICLE 24**  
**COMPANY RULES**

**Section 1.** The Company will publish and issue to all employees the current and applicable Employee Handbook of the Company and send a copy of same to the Union. Except to the extent that express language in the specific provisions of the Collective Bargaining Agreement differs from specific provisions of the Company's Employee Handbook, the policies and procedures contained in the Handbook control and are applicable to all employees. The Company may amend or change such policies, rules, or procedures at its sole discretion. The Company will, after the signing of this Agreement, cause to be compiled and make easily available to each present and all new employees the presently applicable conduct rules and regulations, and no such new rules or regulations will be considered effective until copies have been furnished to the Grievance Committee (the District 141 Assistant General Chair, and all Shop Stewards) and conspicuously posted in the working areas at least one (1) week prior to effective date. Electronic versions should also be provided where technology permits. In cases where emergency changes are necessary, the Company will notify the committee and such changes will be posted and become effective immediately thereafter.

## **ARTICLE 25 LAYOFF AND RECALL**

**Section 1.** In instances of layoff and recall, the principles of seniority within the classification subject to layoff will govern provided that the employee is qualified to perform the job. Employees with special skills or certifications may be retained in preference to employees lacking such skills or certifications. As used here, seniority refers to the Employee's overall seniority date. Part-time employees, temporary and probationary employees will be laid off prior to regular employees on the seniority list. In the event that a part-time employee possesses special skills not possessed by regular employees but deemed necessary by the Company, that employee may be retained. There shall be no bumping rights across positions, except that an employee laid off may bump any junior employee in a classification in which the employee is trained and qualified. Article 8, Section 4 shall apply to determinations of training/qualifications.

**Section 2.** In the event of a restoration of the workforce, employees will be recalled in the Craft seniority order provided, however, that employees being recalled still have the ability and qualifications to perform the work. If an employee fails to respond to a notice or message from the Company within three (3) working days of its transmission, the Company's obligation to the employee under this Agreement ceases.

**Section 3.** Employees recalled after being laid off for thirty (30) days or more must successfully complete all pre-employment requirements.



**ARTICLE 26**  
**UNION BUSINESS**

**Section 1.** Except as otherwise provided for in this Agreement, no Union member will leave his/her Department or designated work area to attend a Union meeting or for any other purpose pertaining to Union business unless he/she has first requested and received permission from a designated representative of the Company for the employee to leave.

**Section 2.** The shop stewards will be allowed a reasonable period of time to investigate and discuss grievances. The shop stewards will request this time through the designated representative of the Company at their location. Where possible, this time will be requested during a period which minimizes any disruption to the Company's daily operations. It is understood by both parties that every effort will be made to minimize time spent on the investigation of grievances. Shop stewards will not suffer any loss of pay for time spent in the investigation of grievances or for time spent at disciplinary hearings or meetings with management.

**ARTICLE 27**  
**SAVINGS CLAUSE**

**Section 1.** In the event of any of the provisions of this Agreement shall be or become invalid or unenforceable by reason of any federal or state law now existing or hereafter enacted, such invalidity or unenforceability shall not affect the remainder of the provisions hereof.

**Section 2.** In the event of any invalidation, either party may, upon thirty (30) days' notice, request negotiations for modifications or amendments of this Agreement specifically relating to that provision that has been invalidated.

**ARTICLE 28**  
**GENERAL/MISCELLANEOUS**

**Section 1. Temporary Duty Assignment**

- A. Employees may be asked to voluntarily travel away from their location to assist at another site covered by this Agreement. Assignments are limited to ninety (90) days at a time.
- B. The Company will determine the location, classification/status, work area, and qualifications from which employees will be selected for Company-required travel.
- C. Employees will receive reimbursement for substantiated meals up to a maximum of \$48.00 per day. Alcohol will not be reimbursed. Expenses must be substantiated within a reasonable period of time and in the unlikely event of an overpayment, the overpayment must be returned to the Company within a reasonable period of time.
- D. Where overnight lodging is needed for employees away from their home location on Company-required travel, single room accommodations will be provided.
- E. Employees will also be reimbursed for any reasonable business travel related expenses. Expenses must be substantiated within a reasonable period of time and in the unlikely event of an overpayment, the overpayment must be returned to the Company within a reasonable period of time.

**ARTICLE 29**  
**COMPLIANCE WITH DISCRIMINATION LAW**

The provisions of the Agreement will apply equally to all employees regardless of sex, gender, color, race, creed, religion, national origin, age or any other legally protected characteristics.

**EQUAL TREATMENT**

The Company and the Union agree that there will be no discrimination against any present or future employee by reason of race, creed, color, age, disability, national origin, sex, Union membership, or any other characteristic protected by law, including, but not limited to, Title VII of the Civil Rights Act, the American with Disabilities Act, or any other similar federal, state or municipal statutes, laws, rules or regulations. All claims alleging illegal discrimination under any of the above or similar authorities shall be subject to the Agreement's grievance or arbitration procedure as the final, binding, sole and exclusive remedy for such violations under the terms of this Collective Bargaining Agreement. The Company and the Union further agree that there shall be no discrimination against any present or future employment applicant in hiring or by any referral system or hiring hall because of applicant's Union membership, or lack thereof and that there shall be no discrimination against any employee as a result of engaging in any activity in support of the Union that is not unlawful or in violation of this Agreement. The Company and the Union further agree that all claims shall be arbitrated on an individual basis. Consequently, neither the Company, the Union or the employees covered by this Agreement may submit any claim as a class action, collective action or other representative action for resolution under this Agreement or otherwise. This provision shall apply to allegations arising out of events occurring before and/or after the effective date of this Agreement. Arbitrators shall apply applicable law as it would be applied by the appropriate court in rendering decisions on the applicable claim. The above-stated provisions relating to arbitration of discrimination claims shall also apply to claims alleging violation of any other law, including wage and hour claims.

**ARTICLE 30**  
**EFFECTIVE DATE AND DURATION**

1. This Agreement is effective November 2, 2020 and will continue in full force and effect until November 1, 2023 and will renew itself without change on a year-to-year basis on that date, unless written notice of intended change is served by either party in accordance with Section 6, Title I of the Railway Labor Act, as amended, or by mutual agreement of both parties, not less than thirty (30) days prior to November 1, 2023.

2. Any notices given under this provision shall be deemed to be served when mailed, postage prepaid, registered or certified mail, return receipt requested to SMX Cargo 860 W. Evergreen, Chicago, IL 60642, for service upon the Company, and when similarly mailed to the International Association of Machinists and Aerospace Workers, District 141, 1771 Commerce Drive, Suite 103 Elk Grove, IL 60007 or at some other addresses as may be designated in writing by the Company or the Union. The day following the post offices mailing date shown on the registered or certified letters shall be the controlling date for all purposes under this Agreement.

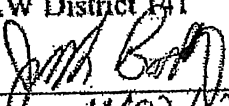
IN WITNESS WHEREOF, the parties have signed this Agreement:

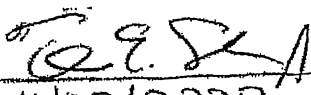
INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE  
WORKERS DISTRICT 141

SMX CARGO, LLC

Joseph Bartz  
Assistant General Chairman  
IAAWW District 141

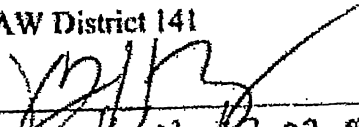
Tom Sheldon  
For SMX Cargo, LLC

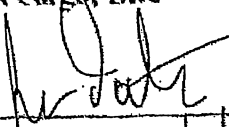
Sig.   
Date 11/02/2020

Sig.   
Date 11/02/2020

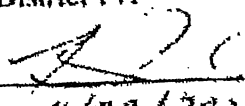
Victor Hernandez  
Assistant General Chairman  
IAAWW District 141

Juan Tatis  
For SMX Cargo, LLC

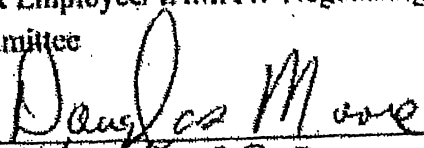
Sig.   
Date 11/02/2020

Sig.   
Date 11/2/20

Robert Josel  
Assistant General Chairman  
IAAWW District 141

Sig.   
Date 11/02/2020

Douglas Moore  
SMX Employee/ IMAAW Negotiating  
Committee

Sig.   
Date 11/02/2020

**MEMORANDUM OF UNDERSTANDING**

Solely as an inducement to ratification of the 2020 - 2023 labor agreement between SM Cargo and IAM District Lodge 141, each unit employee that is actively employed and currently working on the ratification date of the 2020 labor agreement and who is not assigned to the SFO location shall be paid the gross amount specified below within three (3) weeks after the Company is notified of the ratification of the Agreement. The gross amount is subject to all required withholding.

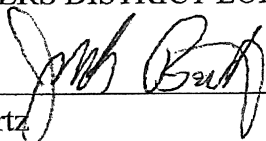
Tenure for purposes of the signing bonus is based on employee's most-recent hire date unless the employee was involuntarily released by the Company after March 1, 2020 and rehired prior to contract ratification. For such employees, the bonus will be paid based on their most-recent hire date prior to the release/return specified above.

Tenure as of Ratification Date	Amount
< 1 year	\$300
1 year	\$300
2 year	\$300
3 year	\$400
4 year	\$500
5 year	\$600
6 year	\$700
7 year	\$800

FOR INTERNATIONAL ASSOCIATION  
OF MACHINISTS AND AEROSPACE  
WORKERS DISTRICT LODGE 141

Joe Bartz

DATE

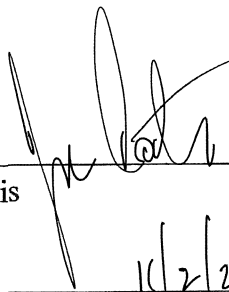


11/02/2020

FOR SMX CARGO, LLC

Juan Tatis

DATE



11/2/2020