IN THE MATTER OF AN INTEREST ARBITRATION

BETWEEN:

AIR CANADA

("Air Canada", the "Employer" or the "Company")

AND:

INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, DISTRICT LODGE 140

(the "Union" or the "IAMAW")

ARBITRATOR:	Vincent L. Ready
COUNSEL:	Alexandra Meunier for the Employer
	Sean FitzPatrick for the Union
WRITTEN SUBMISSIONS:	October 10, 13 and 17, 2023 and November 3 and 19, 2023
HEARING:	November 1 and 2, 2023 Toronto, Ontario
DECISION:	December 29, 2023

33760.1

This is an interest arbitration to settle the terms and conditions of a Collective Agreement between these parties.

I am constituted as an Interest Arbitrator pursuant to the terms of a Memorandum of Agreement dated December 18, 2015, which is for a ten-year agreement with two limited opportunities for reopening the agreement.

This arbitration pertains to the second reopener covering the years 2022 to 2026.

HISTORY OF NEGOTIATIONS

The parties bargained directly during the 90-day time frame set out in the Memorandum. They reached a stalemate.

The parties appointed me as the Mediator/Arbitrator in this dispute in January 2023. I held a number of meetings with them during the mediation process; however, little progress was made in respect of settling the matters in dispute between the parties. Consequently, mediation ceased, and the parties referred the outstanding issues to arbitration.

I directed the parties to provide me with written submissions which were received on October 10, 13 and 17, 2023 and November 3 and 19, 2023.

THE PARTIES' PROPOSALS

The outstanding proposals considered in this interest arbitration award are as follows:

Union

1. U1a – MEPP Contribution increase at Service Milestones and U1b – MEPP Inclusion of Overtime

2. U12 – Article 19.03 – Regional Shop Committee Composition

3. U15a – Effect of Discipline on Transfers and Promotions

4. U15b – Effect of Absences on Transfers and Promotions and U15c – Article 16.12.07 – Vacancy Posting Period

5. U16 – Article 10.01.03.01 and 10.01.03.01.04 – Notification of Changes to Shift Schedules

6. U25 – MOA – Conditional Recall

7. U26 – Active Memoranda of a National Scope

8. U27 – Article 20.14.02 – Off Duty Status Limits

9. U17 – Article 10.06 – Relief Shift Schedules

10. UA3 – Article 20.22 – Traded Shift Ownership and Partial Shift Trades

Air Canada

1. C1 (Compression Levels) Memorandum of Agreement No. 12

2. Sick Part Time

3. Comprehensive proposal introduced November 2, 2023

At the commencement of the hearing on November 1, 2023**,** the Employer introduced a comprehensive proposal in principle form with respect to enhancement of Category 38 training (E-M2 bridging course), endorsement revisions, retirement phase-in for Technical Services classification, Technical Service Classification and Pay Grade.

These proposals were coupled with what the Employer characterizes as cost offset proposals, including the introduction of a Stockkeeper 8 position; a Tank Entry premium; a Lead Planner and Lead Licensed Planner premium; a Lead Technical Data Controller premium; A Dangerous Goods premium; and an adjustment of the wage scale for Technical Services.

The Union made an application to essentially disallow the Employer's proposal based on the parameters and requirements of the Memorandum of Agreement in the 2015 settlement agreement.

I made a preliminary ruling that, due to the nature, circumstances and content of the proposal, I would allow it to be submitted, subject to further written submissions. I feel I have an obligation to explain my rationale for allowing the Employer's proposal, notwithstanding its late introduction.

First, when I reviewed the Employer's new proposal, it contained, *inter alia*, significant wage increases and other improvements for a significant number of the Company's employees. Second, the proposal was designed to bring wages for skilled personnel working for Air Canada in line with other comparable airlines. Therefore, having considered the purpose and the intent of the proposal, I decided it was admissible. To put it more bluntly, to not consider the proposal would be tantamount to refusing to consider a significant wage increase to employees, and potentially restrict the Employer's ability to attract and retain skilled employees.

While I do agree with the Union that the Employer ought to have declared its intention to table its November 3, 2023 comprehensive proposal in a more timely manner, I am not prepared, nor do I have jurisdiction, to revisit this earlier decision. Further, the Employer's late introduction of its comprehensive proposal was overcome by allowing the parties to provide

comprehensive written submissions so that it could be fully canvassed and considered, and its content warranted consideration in the present case.

ROLE OF THE INTEREST ARBITRATOR

It is agreed by the parties that the legal framework guiding this arbitration is set out in the Memorandum as follows:

> j. Subject to the second sentence of paragraph k, below, in rendering a decision about an Interest Arbitration item, the mediator-arbitrator shall have regard to the following:
>
> i. the replication principle;
>
> ii. the terms and conditions of employment of comparable employees;
>
> iii. the impact on the Company, including, without limitation, the cost impact;
>
> iv. any other factor that the arbitrator considers relevant.

In addition to the above factors, the parties have given further guidance to the arbitrator limiting their jurisdiction to make changes to the agreement during a reopener as set out at paragraph 7(k):

> k. The arbitrator will also consider the total cost of the package and its impact on total compensation. Specifically, in no event shall the mediator-arbitrator issue an award pursuant to the arbitration contemplated in this Memorandum that increases the total cost of the Company's obligations under the Collective Agreement except for the following item, which the parties acknowledge could result in an increase in cost based on a comparison with the terms and conditions of employment of other comparable employees at Air Canada or in Canada generally and/or cost of living (which shall be determined by the Bank of Canada Core Consumer Price Index – v41693242):

In making my award I have attempted as close as possible to adhere to the parties' agreed-to guidelines.

I now turn to the issues in dispute.

U1a – MEPP Contribution Increase at Service Milestones

At present, under section 12 of the Pension Memorandum of Agreement at Appendix XXXXIV of the Collective Agreement, both the Employer and employee contribute 6% of salary to the IAMAW MEPP, for total contribution of 12%. These contribution levels have not changed in the ten years since the MEPP was established.

The Union proposes that:

(a) For employees who have completed more than two (2) years of service but less than five (5) years of service, the employee contribution would increase to 7.5 percent of salary and the employer contribution would increase to 8.25 percent of salary, for a total contribution of 15.75 percent; and

(b) For employees who have completed more than five (5) years of service, the employee contribution would increase to 7.5 percent of salary and the employer contribution would increase to 10.5 percent of salary, for a total contribution of 18 percent.

In support of these changes being sought, the Union asserts that other retirement plans at Air Canada for ACPA, CUPE and Unifor, all embody the principle that contribution levels should increase with service. In particular, the Union points to the plan negotiated between Air Canada Pilots Association (ACPA or ALPA) and Air Canada, which provides for employer contribution

increases after two and five years to 8.25% and 10.5% respectively, which it notes is identical to its proposal.

The Union also points to the recent rise in the Consumer Price Index as well as inflation as justification to increase the pension contribution rates.

Further, it is argued that the proposed increase in contribution rates would provide an incentive for employees to remain with the Company, in particular in the skilled trades.

Additionally, the Union points to the current and continuing financial improvement in the Company's profits.

In summary, the Union puts it this way in its submission:

> The Union submits that this proposal is responsive to the fundamental purpose of the Framework Agreement's reopener arbitration, in that it is an appropriate and modest response to member priorities and needs that have changed over the course of the Framework Agreement collective agreement, as members hired in mid-2013, who were junior at the time the 2016-19 agreement were negotiated, have since attained greater seniority and expectations, and some have developed plans for a long-term relationship with Air Canada. It is also fully consistent with the parties' mutual recognition that the cost of the MEPP based on comparisons with other employees, and/or increases in the cost of living.

In reply to the Union's pension proposal, the Company points to the fact that the pension proposals are "extremely costly" and not as the Union describes it as a modest cost.

More specifically, the Employer asserts the estimated cost of the Union's increased pension proposals on contribution rates is estimated to be $10.1M in

2024, $22.4M in 2029, and $32.6M in 2034, and further, the expected growth in the MEPP population (resulting from the replacement of IAMAW members retiring from the defined benefit pension plan by new IAMAW hires participating in the MEPP) has an exponential effect on the additional costs.

The Company also urges rejection of the comparison to Pilot pension contributions as that has never been a historic comparison.

The Employer argues that the Union is selectively attempting to compare to other employee groups such as CUPE (Flight Attendants) and Unifor who represent different employees at Air Canada. However, it notes the difficulty in comparing these plans because the design and structure of the CUPE and Unifor plans are completely different from the IAMAW MEPP Plan. Both are hybrid plans (combination of defined benefit and defined contribution plans) which, it is argued, were attained through arbitration and not comparable to the IAMAW MEPP Plan.

The Company also points to the contribution rates between it and the various unions that are certified to represent Air Canada employees which was summarized in its submission at para. 16 as follows:

> Air Canada Pension Plans for employees hired since 2011/2012 (2005 for Management and ATS)

Contributions					
Group	**Type of plan**	**Employee**	**Company**	**Maximum Pensionable Earnings (MPE)**	**Service Capped**
IAMAW	Multi-ER	6%	6%	No maximum (cap on contributions – *Income Tax Act*)	No
		DC Component – Based on years of service and employee's election: Less than 2=1.5% or 2%	DC Component – Based on years of service: Less than 2=100% match		

CUPE	Hybrid	2 to 5=1.5% or 2% 5 to 15=1.5%, 2% or 2.5% 15+=1.5%, 2%, 2.5% or 3.0% Members also contribute to DB Component between 2-3% depending on service	2 to 5=137.5% match 5 to 15=175% match 15+=175% match	$80,000	35 years
Unifor				CSS Agents: $68,000 Crew Schedulers: $70,000	35 years
CALDA	DC	Based on employee's election: 3%, 4%, 5% or 6%	Based on years of service: Less than 2=100% match 2 to 5=137.5% match 5+=175% match	No maximum (cap on contributions – *Income Tax Act*)	35 years
Pilots	Multi-ER	Based on years of service: Less than 2=6% 2 to 5=7.5% 5+=7.5%	Based on years of service: Less than 2=6% 2 to 5=8.25% 5+=10.5%	No maximum	No
Management and ATS (hired since 2005)	DC	Based on employee's election: 3% to 6%	100% match	No maximum	35 years

Further, the Company pointed in its submission to external comparators such as the Swissport Canada and IAMAW pension plan as follows:

SWISSPORT CANADA PENSION PLAN		
STATION	**TYPE OF PLAN**	**CONTRIBUTION**
YVR	IAMAW Pension plan (Ramp) RRSP (others)	4.2%; maximum $40/week Max $110 X month
YYC	IAMAW Pension plan	3% to 4%; maximum $24/week
YEG	IAMAW Pension plan	2.6% to 3.2%; maximum $24/week

YOW	RRSP	2.9% to 3.6% Company contribution maximum $52 bi-weekly
YUL	RRSP (Fuel)	Employer matching 2%
YHZ	RRSP	Employer matching up to $65/month if hired before 2013 Employer matching up to $85/month if hired before 2013

Decision re U1a – MEPP Contribution Increase at Service Milestones

While I accept that the details of the pension plans and the distribution of benefits within the various employee group plans vary as a result of individual and separate negotiations between the various unions, certainly, comparability with appropriate internal and external plans is a relevant consideration in this dispute.

When the MEPP Plan is examined next to other plans within the Company, it is notable that the contribution levels are comparable or better except in the case of the Pilots, which has not historically been a comparator to the IAMAW.

Given the similarity in contribution rates in agreements for other existing comparable employee groups, I do not accept that the Union has established there is a demonstrated need to increase the contribution rate at this time. I therefore decline to award the Union's proposal.

U1b – MEPP Inclusion of Overtime

The second part of the Union's proposal in respect of the MEPP is what it describes as an "administrative change" so that deductions automatically be

made from overtime earnings unless a member submits an application to exclude their overtime earnings from their pensionable earnings.

At present, members of the Union who participate in MEPP are entitled to exercise an option to make contributions to the plan on their overtime earnings within the first 90 days of their employment with the Company and may not change this election after that time.

According to the Union, the 90-day period is inadequate for employees beginning their career with Air Canada to fully understand and act on this option, as this issue "tends not to be the first item on their mind as they begin a new job". Further, the Union argues, many members have complained that the Company did not send them the requisite forms in a timely manner.

In summary, the Union asserts at para. 23 of its submission:

> This proposed administrative change would not alter any substantive right of the Company or employee, but would simply avoid circumstances in which a member's future pension benefits are determined for life by inadvertence, rather than choice. It is difficult to see any principled ground on which this amended proposal could be rejected.

The Employer's position is that the Union's proposal ought to be rejected because there are significant cost implications that will arise from this change.

Decision re U1b – MEPP Inclusion of Overtime

I find there is merit to the Union's proposal on this matter. Pension contributions are an important employment benefit and have significant consequences on an employee's future.

I believe it to be in both employees' and the Employer's interests to allow employees the opportunity to maximize pension contributions rather than to be locked into the present 90-day irreversible window. It will also assist in retention of employees by providing them with greater security and a more favourable pension.

In the result, I award the Union's proposal on this matter.

U12 – Regional Shop Committee Composition

The Union proposes a change to Article 19.03 which at present provides, in part, for one full-time chairperson in the Technical Services & Logistics & Supply section at the Dorval base and one full-time chairperson and an additional full-time employee in Winnipeg.

The Union's proposal is to downsize the Regional Shop Committee in Winnipeg to one full-time chairperson and to increase the Regional Shop Committee at the Dorval base by adding an additional full-time person.

In support of its position the Union asserts there are approximately 650 technical service members at the Dorval base being serviced by a single chairperson. Conversely, there are approximately 150 technical service members in Winnipeg being serviced by two full-time employees. The Union's proposal would balance out the service needs of the larger complement in Dorval without increasing the number of Regional Shop Committee employees.

The Employer urges me to reject the Union's proposal on this matter and states I should exercise caution against changing this longstanding arrangement.

In its submission, the issues with the Technical Services & Logistics & Supply section at the Dorval base are related to the multiplication of unresolved grievances, not the number of employees in the bargaining unit.

The Employer explains at para. 29 of its submission:

> As statistically demonstrated, when the current Union leadership for Technical Services and Logistics & Supply took office in Dorval in 2020, the percentage of resolved grievances diminished from 37.29% in 2019 to 8.7% in 2020. For the period between 2020 and 2023, the average percentage of grievances settled for the Technical Services and Logistics & Supply is a mere 12.5%. For the same period, the percentage of resolved grievances for the Dorval Airport group, which contains a much higher number of employees, is 50.7%. The Labour Relations representative for the Company is the same for both groups.

Decision re U12 – Regional Shop Committee Composition

In my view, the ratio of Union representation vis-à-vis the number of members it represents at Dorval vs. Winnipeg requires adjustment.

It must be recognized that the Union carries a legal obligation to represent its members. This requires that the Union provide its members fair and equal opportunity to participate and have their interests represented. I accept that this obligation can be better realized with more equitable representation at Dorval.

I therefore find the Union has established a demonstrated need to change the representation structure at Dorval. Accordingly, I award the Union's proposal on the Regional Shop Committee composition**.**

U15a – Effect of Discipline on Transfers and Promotions – *Article 17.01.03*

The Union objects to policies the Company has developed under which it will not consider an employee for transfer or promotion if the employee has a letter of discipline on file.

The Union's proposal seeks to amend Article 17 of the Collective Agreement to specify that letters of discipline shall not preclude the ability of an employee to transfer or be promoted.

In support of its proposal, the Union argues at para. 30 as follows:

> Under this Collective Agreement the Company policy can be wholly arbitrary in its effects where the letter of discipline is at the Step 1 or 2 level, since appeals against Step 1 and 2 discipline never move beyond the Shop Committee level. In practice, given the appeal process and the priority given to grievances involving loss of income, these letters are not subject to appeal.

The practical effect for a member with a Step 2 letter, the Union explains, is that they may be excluded from a position for discipline that is ill-founded or of no relevance to their suitability for transfer or promotion. The Union indicates that the Employer's policy means that a significant number of its members find themselves frozen for 14 months with no possibility of movement or advancement.

Put another way, the Union submits the Company's blanket policy is unreasonable and amounts in practice to an excessive disciplinary response beyond that contemplated under the Collective Agreement.

The Employer argues the Union's proposal to change this longstanding practice ought to be rejected by this Board.

The Company submits that discipline is imposed for just and reasonable cause and is progressive and corrective in nature. According to the Employer, allowing employees to obtain promotions with active discipline on their file undermines the Employer's objective in correcting workplace misconduct.

The Company further argues that its longstanding policy is a justifiable exercise of its management rights to choose employees who are in good standing with the Company for the purposes of transfers and promotions. According to the Employer, promotions and transfers are a privilege properly reserved for employees who demonstrate good behaviour.

It is also asserted by the Company that this is a breakthrough item which represents a material change to this longstanding policy being applied to transfers and promotions and such a change would constitute a "breakthrough item not supported by replication principles".

Decision re U15a – Effect of Discipline on Transfers and Promotions

After carefully considering the submissions of the parties, I am not prepared to alter this longstanding practice.

In reaching this conclusion, I accept that an employee's complete employment record is generally considered when assessing an employee's suitability for promotions. While I question why the same fulsome inquiry is necessary in the case of lateral transfers, and whether the right to exercise a lateral transfer is properly characterized as a "privilege" as suggested by the Employer, the fact is, the parties have utilized this approach for many years, and ought to freely bargain any changes to this practice. I am not prepared at this time to alter the Collective Agreement as the Union has proposed.

Consistent with the principles applicable to the interest arbitration, I decline to award this proposal.

U15b – Effect of Absences on Transfers and Promotions

In this proposal, the Union seeks to amend Article 16.12.07 of the Collective Agreement by adding:

> …an employee's time and attendance record shall not be considered as a criteria for the ability to transfer.

Similar to proposal U15a above, the Employer has a longstanding policy of 25 years whereby the Employer will not consider an employee for transfer if the employee's time and attendance record is substandard, regardless of the legitimacy of the cause of such absences.

Simply stated, the Union submits this policy is outdated and not tenable in the current era in which members, and particularly younger members, of the unit are well aware of their right to be free from discrimination on human rights grounds.

The Union urges me to adopt its proposal because it is the only route to resolve this ongoing matter and because all labour relations principles support its adoption in this Award.

The Company makes similar arguments against the Union's proposal as it did in U15a, asserting that transfers and promotions are privileges that must be earned by bargaining unit members and that attendance issues are appropriate bars to being able to transfer or advance in positions with the Company and as such are properly considered by the Company when determining whether to grant transfers or award promotions. The Employer

further asserts that arbitral jurisprudence supports its position that a good attendance record is valid for employers to consider when filling job postings.

Decision re U15b – Effect of Absences on Transfers and Promotions

For similar reasons as set out above in respect to U15a, I decline to award this Union proposal as well.

My understanding of the Employer's policy is that it considers only culpable attendance issues, and that absences for short-term disability leave, workers' compensation, or other approved sick leave are excluded from the calculation of employee's absenteeism rates. In other words, only culpable attendance issues are considered under the Employer's policy, not non-culpable absences associated with injuries or illnesses.

In my view, applying replication and comparability, it is unlikely that the Employer would have agreed to alter this longstanding practice in the course of free collective bargaining. The Employer's policy on its face appears compliant with its human rights obligations and permissible under the existing Collective Agreement language. Given that, I find the Union has not demonstrated a need for its proposal to be awarded.

U15c – Vacancy Posting Period

In this proposal, the Union is requesting an extension of time for employees who request a transfer. At present, employees have five days to apply for a transfer within the Company. The Union wants it to be extended to fourteen days.

At present, an employee must change their mind about a transfer within the five day period. If they do so beyond the five day period and after the

Employer has approved the transfer, the employee may choose only to transfer to the new position or resign.

As the Union put it at para. 47 of its submission:

> As a result of the short period, members must make the decision to apply for a transfer very quickly or risk losing out on the opportunity, often without a reasonable chance to assess the personal viability of a transfer or consult with family members. In practice, members often apply hastily to vacancies and to multiple vacancies at a time because of the tight timeframe. This provision and practice has caused hardship for members who often have well-founded reasons for retracting their desire to transfer, including, but not limited to, changing personal and family circumstances, financial and housing difficulties, and health concerns.

Finally, in the submission of the Union, its proposal to extend the decision to fourteen days would serve to provide its members an opportunity to make more careful and considered decisions around vacancies and transfer applications and reduce the overall administrative burden of *ad hoc* applications.

Conversely, the Employer asserts that the proposal of the Union on this matter regarding the assertion that "…members must make the decision to apply for transfer very quickly or risk losing out on the opportunity often without a reasonable chance to assess the personal viability of a transfer or consult with family members", is incorrect and misleading.

The Company submits at paragraphs 50 and 51 of its submission:

> Indeed, the online system (HR Connex) allows employees to put in or remove transfer requests at any time, all year long. The period of five (5) days is simply the posting of the vacancy, not the period of time when employees can indicate their desire to transfer.

> When a vacancy is posted in the system, employees have already indicated their desire to apply for it.
>
> Allowing the Union's request is disadvantageous to employees wishing to transfer. It delays their entry into function after transfers and further delays the payment of their salary.

Finally, the Company argues that the extension of the posting period results in a delay in filling positions across the system by creating a domino effect every time a vacancy is posted, which continues until there is a hire from the street.

Decision re U15c – Vacancy Posting Period

Upon a careful review of the parties' submissions, I am not persuaded the Union has made out a demonstrated need to change Article 16.12.07 of the Collective Agreement. Rather, I accept that the HR Connex online system presently allows employees considerable time to consider and decide where and when to transfer within the Company's operations throughout the year.

In the result, I decline to award the Union's proposal on U15c.

U16 – Notification of Changes to Shift Schedules

The Union's position on this matter is set out at paras. 49-51 of its submission as follows:

> Under the terms of the Collective Agreement, if the Company makes a change to an employees' shift schedule it is required to give the employee a minimum of three calendar days notice of such change.
>
> The Company sends the notice of change to employees' work email addresses. Many members work a compressed work schedule and can be scheduled to have three or more days off in a row. As a

> result, the Company often sends the notification email on an employee's scheduled day off when they may not be checking their work email inbox.
>
> The Union proposes that the Company be required to provide such notice on a day when the employee is at work. The Union's proposal is in line with the increased recognition of employees' right to disconnect from work outside of their scheduled work hours, as reflected in recent legislation passed in Ontario. It would also help reduce the chance of an employee missing the notification and inadvertently failing to attend work resulting in operational disruptions.

In reply, the Company acknowledges it is not ideal for employees to briefly consult their corporate emails on days off; however, it states that there is simply no other way from an operational standpoint for it to respect the three days' notice period of Article 10.01.03.01. The alternative, says the Company, is the far more intrusive option of calling employees on their personal phone numbers.

The Company also asserts the following at paras. 57 and 58 of its submission:

> The Union's proposition to simply advise employees of schedule change when they are at work fails to consider the Company's operational constraints and the fact that it runs a 24/7 operation. While the Company tries to plan its operations in advance, schedule changes that are due to an anomaly or unplanned event unfortunately happen. With many employees on 4X4 shifts, waiting for said employees to be back at work before advising them of a schedule change does not allow the Company to ensure coverage for unforeseen events while at the same time respecting the three (3) days notice provided by the collective agreement.
>
> Shift trades also play a big role into when employees may actually be at work. At present, some employees "double-up" their shifts through shift trades to have extended periods of time away from the workplace. For example, employees on a 4X2 shift schedule may double up and end up on a 2X4 schedule instead. The Company is also aware of scenarios where employees shift trade

> on 4X4 schedules to have up to twelve (12) days off. Allowing the Union's proposal would force the Company to wait between four (4) and twelve (12) days before being able to advise those employees of a schedule change.

In short, the Company urges me to reject the Union's proposal.

Decision re U16 – Notification of Changes to Shift Schedules

I accept that the Union's proposal to have the Employer notify employees of shift changes while they are at work would create operational challenges for the Employer and would unduly restrict the flexibility it currently has, and needs, to address unforeseen events.

It needs to be understood that scheduling employees of an international airline is a fluid process which by its very nature requires the Employer to respond to unforeseen operational events in a timely and efficient manner.

In my view, the Union has not established a sufficient need for this change to be made. For those reasons, I decline to award the Union's proposal.

U25 – MOA – Conditional Recall

The Union is proposing to eliminate a Memorandum of Agreement the parties negotiated in 2008 which established a process for the conditional recall of laid off employees. The purpose of the Agreement was to reduce delays in the regular recall process.

It is clear from the submissions that the Memorandum of Agreement is seldom used since it was signed by the parties in 2008. However, it was utilized in the recall of employees who were laid off during the recent Covid-19 pandemic.

The thrust of the Union's argument for elimination of this Memorandum of Agreement is that the conditional recall process is convoluted and causes serious confusion to employees who became mired in an unfamiliar process, i.e., regarding the different categories of recall and the consequence of declining a recall to their home base. According to the Union, the process provided for in the Memorandum of Agreement has caused several employees to unwittingly lose their employment with the Company.

Finally, the Union submits the process requires employees to accept or decline a recall, often to a different geographic location, without knowing whether a senior employee's future decision may undermine that election.

The Company disputes the Union's assertion that the Memorandum of Agreement allows it to recall individuals without regard to seniority. It points to the provision in the letters of recall which state that recalls under the Memorandum of Agreement are "conditional upon the decision of a senior employee for the position offered".

The Employer asserts further that if, as suggested by the Union, there is confusion resulting from the recall, it can be remedied by more education or improved language in the conditional recall letters, rather than total elimination of the Memorandum of Agreement.

Elimination of the Memorandum of Agreement, in the submission of the Employer, would constitute a breakthrough and should be rejected under the principles of interest arbitration.

Decision re U25 – MOA – Conditional Recall

My first observation on this matter is to work from the assumption that there was a mutual need that motivated the parties to establish a process for conditional recall and, secondly, there is no dispute it is seldom invoked.

Third, its purpose is to reduce delays in the completion of recalling employees to fill out vacancies instead of delaying the process when vacant positions are not fully filled during a first round of recall.

Fourth, the letters of recall are conditional upon the decision of a senior employee for the positions being offered.

Given the above, I am not persuaded there is a demonstrated need to eliminate the Memorandum of Agreement. The Company operates a time sensitive business and the purpose of the Memorandum of Agreement, at least in part, is to avoid delays in filling positions not fully filled during a first round of recall.

That said, I do, however, accept there exists some confusion over the current process but that can be eliminated by modification of the conditional letters of recall.

I so direct the parties to do so.

U26 – Active Memoranda of National Scope

The Union's proposal in this matter is that the parties compile all Memoranda of Agreement between them with a national scope and incorporate them into the Collective Agreement.

The Company proposed a joint committee be struck to interpret Memoranda and decide jointly which ones should be incorporated into the Collective Agreement and which ones to either discontinue or amend.

Decision re U26 – Active Memoranda of National Scope

As is often the case, there is merit in both parties' positions. On the one hand, the Union's proposal is to compile all of the Memoranda developed over the years to be incorporated into the Collective Agreement for transparency and better understanding of the terms and conditions governed by those Memoranda.

On the other hand, the Company's suggestion of forming a joint committee to review such Memoranda and make recommendations as to whether they should be continued, amended or discontinued and/or integrated into the Collective Agreement, is also a sound proposition in the circumstances.

I make that observation for the following reasons:

1) These parties have a longstanding relationship and have executed a considerable number of Memoranda which deal with various operational issues;
2) Many of the items dealt with in Memoranda may still be governed by those Memoranda and many may well be stale dated or may need modification, etc.

For these reasons, I award that a joint committee be struck to review all outstanding Memoranda and jointly decide the status and continued application with a view of either continuing, amending, discontinuing and/or integrating them into the Collective Agreement.

Further, this process should be completed within twelve (12) months from the date of this Award.

U27 – Article 20.14.02 – Off Duty Status Limits

The Collective Agreement allows the Employer to place employees on “off-duty status” as outlined in Article 20.14 of the Collective Agreement. For the purposes of this proposal, the relevant provisions are as follows:

> 20.14.01 The Union acknowledges the Company's right to place employees on "off-duty status without pay" under circumstances where the Company discontinues its revenue operations due to an Act of God, national war emergency, revocation of the Company's operation certificates or certificate, strike, lockout or picketing of the Company's premises, grounding of a substantial number of Company aircraft or other circumstances over which the Company has no control.
>
> 20.14.02 The General Chairpersons will be informed of the Company's intention to place employees on "off-duty status without pay" and the general handling of employees covered by the Agreement will be reviewed. At each point where employees are affected, local Union representatives will be advised of detailed handling.

This procedure is separate and distinct from the layoff procedures in the Collective Agreement and the Company can deem employees off duty on the basis of classification seniority without any bumping rights.

In its submission, the Union states this Article was invoked in 1998 during a six-day strike by the Company’s pilots and has not been used since then until the Covid-19 pandemic when the Company placed employees on off duty status in the spring of 2020 and then again in early 2021.

The Union's position on this matter is succinctly summarized at paragraphs 64 and 65 of its submission as follows:

> While the Union's position remains that the existing provision requires Air Canada to transition to the Collective Agreement's layoff provisions as soon as possible after invoking Article 20.14's emergency provisions the Union proposes for additional clarity to place an express upper time limit of thirty days on the Company's use of Article 20.14. The Union also proposes to prohibit the use of Article 20.14 once layoff procedures have already begun.
>
> This approach would protect the seniority rights of the Union's members and inhibit the Company from using the emergency provisions of Article 20.14 as a means of avoiding the appropriate layoff procedure, which Arbitrator Schmidt's award warns against.

The Employer strongly objects to the Union's position. It argues the off-duty status provisions are meant to be applied in exceptional circumstances and, prior to Covid-19, have rarely been applied. Not knowing the future and the challenges that may arise, the Company asserts it would not and does not agree to remove its ability to use this Article of the Collective Agreement nor is it willing to limit the time period during which it can use the off duty status provisions without a similar offset from the Union.

Third, the Company states that I should reject the Union's proposals under the guiding arbitral principle of replication and gradualism and further the removal of such an important right for the Company is a breakthrough item which the parties would never agree to in the context of collective bargaining.

Decision re U27 – Article 20.14.02 – Off Duty Status Limits

I accept that this is a rarely-used clause that provides flexibility to the Employer in certain rare and unusual cases. In the circumstances, I am not

prepared to award the change sought by the Union, as a demonstrated need for it has not been established. Thus, I decline to award the proposal.

U17 – Article 10.06 – Relief Shift Schedules

At present, the Company is permitted to set out and post operational lines which employees can bid on twice per year.

In addition, the Company can create relief lines outside of the set operational lines to address operational needs arising from absences. Employees can bid on relief lines, which are built on an *ad hoc* basis by the Company.

The foregoing process, argues the Union, often results in the creation of relief lines with a schedule that is different than the operational lines and which was not originally available for bidding, resulting in senior employees who were successful on the operational line bid, losing out on the opportunity to work a more preferable schedule.

The Union's proposal would require the Company to develop relief lines that are consistent with and mirror the operational lines.

The Union submits its proposal would provide transparency to its members at the time of operational line bidding as to which work schedules are available and, at the same time, protect the seniority rights with respect to bidding priority.

Finally, in support of its proposal, the Union points to the terms of the Collective Agreement with Unifor, which contains similar language and restrictions with respect to relief shifts.

The Company asserts it cannot agree to this proposal because it goes against the purpose of relief lines and reduces its flexibility in facing unforeseen events.

At para. 80 of its submission, the Company lays out four scenarios where relief schedules are created:

> Scenario 1 – Short Term Illness Relief: this relief line allows the Company to cover for short term absences. The schedule covers fixed times and shift patterns bid lines.
>
> Scenario 2 – Vacation Relief: this relief line covers regular employee vacations. The schedule is fixed ahead of time and is based on the schedule of employee on vacations being replaced.
>
> Scenario 3 – Other Relief: this relief line covers shifts that are vacant due to the absences of employees on long term leaves such as parental leave or GIDIP.
>
> Scenario 4 – Miscellaneous: this last relief line covers changes to the flight schedule or scenarios which could not be foreseen when the schedules were built (at the frontend). For example, additional flights to cover the Christmas influx of travel or flights coming in later than anticipated. It is not a complete shift, and it is not required for a whole bid season.

The Company argues further that the first three scenarios outlined above already mirror operational lines and that the fourth scenario is needed for the Company to adjust to unforeseen events and therefore needs flexibility to meet its operational needs.

Decision re U17 – Article 10.06 – Relief Shift Schedules

While I can appreciate the Union's desire for greater transparency around relief schedules at the time of operational line bidding, I am not inclined to award this proposal at this time.

In reaching this decision, I accept that the Employer uses relief positions for micellaneous coverage that cannot reasonably be forseen at the time the schedules are built, and that requiring relief shifts to always mirror operational lines would unduly restrict the Employer's ability to cover shorter term needs that may not cover an entire bid season.

Although this may, on ocassion, create the situation where a less senior employee is working a more desirable shift than a more senior employee may have bid on had they known it was available, this ought to occur only in cases where the need is unforseen and the shifts are not expected to last an entire shift bid under the Employer's practice.

In sum, I decline to award the Union's proposal.

UA3 – Article 20.22 – Traded Shift Ownership and Partial Shifts

Traded Shift Ownership

There is a longstanding practice of shift trading which is governed by Article 20.22.04(a).

The issue addressed in the Union's proposal arises when an employee has traded their shift to another employee and the employee subsequently cannot attend work for the traded shift, i.e., due to illness or injury.

The Company's practice in such circumstances is to make it the responsibility of the employee who originally had the shift, to work that shift or to find someone else to cover the shift. This practice, says the Union, is problematic because employees usually trade shifts in order to take time off, which can involve travelling or being otherwise unavailable to attend work

and/or make arrangements for someone new to work the shift. If they are unable to attend work or make alternate arrangements, the Company records them as absent without permission.

In sum, the Union asserts its proposal on this matter would simplify the process by deeming the employee who accepted the traded shift as responsible for any obligations arising from their inability to attend work. In the submission of the Union, its proposal would reduce the risk of the Company's operational needs not being met and would prevent employees from being penalized for non-culpable absences.

The Employer urges me to reject the Union's proposal which effectively makes the person who agreed to the shift trade the owner of the traded shift and therefore responsible for finding another employee to cover the shift.

The Employer argues that the Union, under the "guise" of simplifying the shift trade process, is effectively proposing to decrease operational coverage.

At paras. 88 and 89 of the Company's submission, it summarized its position this way:

> Indeed, if the employee who accepted the shift trade is ill, they are entitled to protections for illness under the *Canada Labour Code* and cannot be coded absent without permission (AWP) or Unauthorized Absence (AX). The net result of this proposal is that the employee who traded the shift stays off work to pursue their personal endeavor, the person who accepted the shift trade cannot be addressed or mitigated and the shift is left uncovered by anyone. This results in decreased operational coverage.
>
> In this vein, it is worth noting that the spirit of shift trades is to allow employees to trade their shifts while ensuring complete operational coverage. The mechanism proposed by the Union burdens the Company by making it responsible for ensuring

> operational coverage, which was never intended by the Parties when allowing shift trades.

Decision Re Traded Shift Ownership

I am persuaded that the Union has demonstrated a need for this change. Certainly, one can understand why employees who secure coverage for time off are disadvantaged by the current practice. It is completely outside the control of an employee whether another employee does or does not attend work as scheduled. Once a commitment is made by one employee to work, though, it is unfair, in my view, to require the employee who originally owned the shift to re-assume responsibility for covering the shift. One can see how this would lead to unauthorized absenteeism as an employee is left scrambling to try and rearrange their affairs.

Given that the Employer is responsible for filling all other short notice absences and in light of challenges posed to both the Employer and the employees by the current practice, I believe it is likely that the Union could have achieved this change in free collective bargaining. For those reasons, and consistent with the applicable arbitral principles, I award the proposal.

Partial Shift Trades

The Union is proposing an additional element of shift trading to allow partial shift trading.

The Union describes its proposal at paras. 74 and 75 of its submission this way:

> The Union proposes a system whereby employees could trade less than their whole shift. It includes several limitations to make the process uniform and tenable for the Company. For example,

> shifts could only be split into a maximum of two parts, be covered by a maximum of two employees, and the split shift must be at least one hour in length. The employee donating their shift could not leave their assigned work until the colleague that is covering the rest of the shift arrives.
>
> With respect to enforcement, employees who do not follow the rules around partial shift trades would be at risk of having their partial shift trade privileged reviewed and revoked by the Company and could be subject to administrative suspension. The Union's right to grieve such situations would be limited to grieving whether a violation of the rules occurred.

In sum, the purpose of the Union's proposal on partial shift trades is to allow its members more flexibility to meet personal needs such as medical/dental appointments, family responsibilities and unexpected obligations.

The Company strongly objects to the concept of partial shift trades.

The Company asserts that considering how complex regular shift trades are to manage at this time, the Company would never agree to a proposal involving partial shift trades because they break operational continuity, i.e., when working on a departing or arriving flight, continuous flow is of the utmost importance, both for safety reasons and to ensure the flight departs on time.

With respect to the Union's stated reason for the need of partial shift trades, the Company counters by stating the Collective Agreement already provides a "plethora" of leaves aimed at covering these types of situations, such as family responsibility days, family responsibility leave shift trades, reduced overtime, etc.

Decision re Partial Shift Trades

The Union, in my view, has not established a demonstrated need for this change. I accept that there are a number of leave provisions that allow for an employee to leave work if they are unable to complete a shift, or to trade a shift if they are unable to work a full shift.

Further, I accept that granting the Union's proposal to allow for partial shift changes would create significant operational and logistical challenges for the Employer.

All things considered, I declined to award the Union's proposal.

AIR CANADA PROPOSALS

1. C1 (Compression Levels) Memorandum of Agreement No. 12 – Shift Schedules

2. Sick Part Shift

Air Canada is seeking to adjust the existing airport scheduling compression levels in the Collective Agreement found in MOA 12 by having a different percentage range at each station and for each position to align with airport traffic.

The existing compression levels were bargained by the parties in the 2011 round of collective bargaining to replace the normal scheduling provisions found in Article 10 of the Collective Agreement. These compression levels were based on the historical averages of 2011. With the exception of Toronto and Montreal where the compression levels are maximum levels, all other compression levels are set as minimum numbers.

According to the Company, these adjustments to compression levels are required to meet the operational needs of the Company. It submits that the existing compression levels agreed to in 2011 simply no longer reflect the nature of the flying engaged in by the Company. Specifically, Air Canada points to changes in respect of its fleet, which it described at paragraph 35 of its submission as follows:

> Indeed, with respect to Air Canada's fleet:
>
> - Air Canada had a total of 56 widebody aircraft in 2011. As of June 2023, Air Canada has a total of 87 widebody aircraft. This number is predicted to increase to 94 widebody aircraft by December 31, 2024.
>
> - Air Canada's narrowbody aircraft totaled 134 in 2011. As of 2023, the narrowbody fleet grew to 200 aircraft. This number is predicted to increase to 206 by December 31, 2024.
>
> - Air Canada's regional fleet was comprised of 162 aircraft. As of 2023, the regional fleet was comprised of 114 aircraft…
>
> - In addition, Air Canada anticipates adding the following to its fleet in the next few years:
>
> (i) 27 Airbus A220-300 aircraft remain to be delivered between 2024 and 2026;
> (ii) 3 additional Boeing 767 freighters remain to be delivered between 2024 and 2025;
> (iii) 30 ES-30 electric hybrid aircraft to be used for regional flying…;
> (iv) Air Canada has recently announced a firm order of 18 Dreamliner (787) widebody aircraft to be delivered between 2025 and 2027….

In the Employer's submission, interest arbitration principles support granting its proposal and its proposal would have likely been achieved in collective bargaining. Further, it contends it has demonstrated a need for the changes being sought and that there are both internal and external

comparators that provide an employer with the ability to schedule employees having regard to the commercial schedule of the operations.

The Union vigorously disputes every aspect of Air Canada's submission. According to the Union, in agreeing to MOA 12, the Union gave up significant control that it previously held over the Company's access to compressed work schedules. It did so, the Union asserts, in exchange for agreed upon local levels of compression that were arrived at based on the Union's experience with local agreements that had proved these levels to be acceptable to its members. In the Union's submission, the Company's proposal seeks to take from the Union and its members the benefit of that bargain.

The Union states that there is no basis whatsoever for Air Canada's submission that the Union would agree in open bargaining to give up its members' control over their working lives so that Air Canada could be free to vary its use of compressed work schedules to most effectively minimize its costs. The Union notes that it expressly rejected this proposal in the bargaining round that introduced MOA 12. In the Union's submission, Air Canada's compressed work week proposal is important to the lives of Union members and constitutes a breakthrough item that should not be awarded in an interest arbitration context.

The Union rejects the Employer's assertion that MOA 12 can be read as expressing a mutual agreement to "set compression levels having regard to the nature of the flying engaged in by the Company", arguing that there would be no need for all the substantive restrictions found in MOA 12 if the Employer's interpretation were correct. The Union also notes that local variation in the level of compression and shift composition in MOA 12 is based on local preferences of the Union's membership and not flight schedules.

The Union argues it is critical to its members that there be some stability between shift bids so that members can reasonably predict whether they will be able to continue with a shift pattern they have built their lives around. It notes its local shop committees and bargaining committee have a close understanding of the needs and desires of each local membership. While the Union acknowledges that MOA 12 is not perfect and has been the source of considerable controversy within the membership over the years, it has largely met the members' needs and continues to do so. The Union points to a previous arbitration decision by Arbitrator Teplisky as further support for its interpretation.

Decision re Compression Levels

I am not persuaded the Employer has established a demonstrated need for its proposal. In support of its request for change to the compression levels, Air Canada points to only two examples of when it had to pay extra money to cover shifts. Those examples, in my view, fall short of demonstrating a need sufficient for this Board to intervene and change the Collective Agreement. Further, it is apparent compression levels are not a significant issue in the Toronto/Montreal terminals.

Greatly undermining the Employer's position on its proposal is that the historical compression levels were not negotiated with regard to flight patterns. Also, it is not disputed that the Union extended an offer during negotiations to deal with identifiable problems advanced by the Employer with regard to this matter without any serious take up by the Employer.

In light of these factors, along with the application of the recognized arbitral principles set out above, I find no compelling basis to grant the Employer's compression proposal.

Sick Part Shifts

The current language applicable to employees who become ill while working is found in Appendix I – sick leave and can be summarized as follows:

- an employee who begins a shift and must leave work because of illness before the midpoint of the shift is to be paid for all hours worked;

- An employee who begins a shift and must leave work because of illness after the midpoint of the shift is paid for a full shift;

Prior to Appendix I, if an employee needed to leave work due to illness, the Employer paid them for the full duration of their shift regardless of when they left work, even if they had not reached the mid-point of their shift. These absences were not deducted from employee's paid sick bank however, this practice was not enshrined in the Collective Agreement.

According to the Employer, this language has created unintended consequences as well as significant costs to the Company. Thus, the Employer seeks to remove Appendix I – sick leave from the Collective Agreement and instead provide for the following:

- Partial days of absence will be entirely paid [for the whole day] but would result in a full day being deducted from the employees' total days of medical leave with pay;

- Any partial absences beyond the employees' medical leave with pay allotment would be paid strictly based on the number of hours worked by the employee. The company estimates that this proposal would bring savings of approximately $950,000 per year, for a total of $4,712,681.00 5 years.

The Union opposes this proposal. In its submission, like MOA12, the sick part shift provision was a negotiated compromise in which the Union gave up better financial terms for its members in order to get recognition of paid sick day entitlements.

This is another provision which the Union states it would not agree to, give up or amend in the suggested manner in open bargaining. According to the Union, it is a very valuable condition of employment for the Union's members and its elimination would be a major breakthrough item. The Union submits that the Company has not provided any reason, compelling or otherwise, for this change apart from costs.

Decision re Sick Part Shifts

The Employer has not established a demonstrated need for this proposal, nor do I believe it is one likely to have been achieved in bargaining. Applying the relevant principles, I decline to award the proposal.

Comprehensive Proposal

As previously indicated, the Employer tabled a comprehensive proposal on November 2, 2023, which included specific proposals on the following items:

- Category 38 training (E-M2 bridging course)
- endorsement revisions
- retirement phase-in
- Technical Services classification and pay grade

The Employer additionally included in its comprehensive proposal the following proposals which it characterized as "off-sets" to the above:

- the introduction of a stockkeeper 8 position
- a Tank Entry premium
- a Lead Planner and Lead Licensed Planner premium
- a Lead Technical Data Controller premium
- A Dangerous Goods premium; and
- Adjustment of the Wage Scale for Technical Services

Below, I summarize the Employer's November 3, 2023 proposal, the Union's position on the Employer's proposal as a whole, and my decision on this multi-faceted proposal.

Enhancement of Category 38 Training

Air Canada seeks to require all Category 38 employees to participate and achieve a passing grade in the Company provided E-M2 bridging course. Under this proposal, they would also need to complete all requirements within two years of completion i.e., filling out logbooks, submitting to Transport Canada and finalizing completion of the M2 license. For all purposes relating to the application of the Collective Agreement, the rights of employees holding the Category 38 classification would remain the same. In other words, Category 38 employees would not be integrated to another Category of employees such as Category 1 employees.

The Company proposes a new wage scale for employees holding the Category 1 and Category 38 classification, and revision of Memorandum of Agreement 10 to provide for the introduction of Aircraft Maintenance Engineer Level 6 (LAT 6) and Aircraft Maintenance Engineer Level 7 (LAT 7). The Employer sets out in its proposal the specific criteria for attaining these Levels.

The Employer also proposes that grievance 202004103715 related to the layoff or recall of Category 38 employees be withdrawn, and that any other grievances related to layoffs or recall of Category 38 employees, should they exist, also be withdrawn.

According to the Employer, this aspect of its proposal is advantageous for both the Company and the Union in that it provides employees holding a Category 38 classification with enhanced signing authority and provides the Company enhanced flexibility.

Endorsement Revisions Proposal

Presently, Article 4.04.05 of the Collective Agreement provides as follows:

> Personnel in Categories 1, 4, 38 and in the Planning and the Technical Writing categories holding up to four (4) active "Aircraft Certification Authority" (ACA) for aircraft currently operated by the Company, will receive an endorsement premium of four hundred-fifty ($450.00) per month, in addition to their normal rate of pay. This premium will increase by one hundred-fifty ($150.00) per month for each active "Aircraft Certification Authority" (ACA) in excess of the first four (4) ACA.

Air Canada proposes to replace the language of Article 4.04.05 for a payment of $150 per month per endorsement, up to a maximum of five endorsements, for aircrafts currently operated by Air Canada. Under the Employer's proposal, employees who currently have more than five endorsements will be grandparented and paid $150 per month per endorsement.

The Company further proposes that employees currently employed at the time of the interest arbitration award maintain the current payment of $450 per month for a period of three years with the expectation that they register for

additional endorsements. The Company will provide the opportunities for endorsements. Should the Company be unable to provide endorsement opportunities, employees will maintain the $450 per month until endorsement opportunities become available.

Retirement Phase-in

With this proposal, Air Canada seeks to revise Letter of Understanding No. 26 which is currently exclusive to the Airports and Cargo Operations to include all employees from the technical services classification. The Employer proposes that this revision be in place until the renewal of the current Collective Agreement (2002- 2026).

In the Company's submission, allowing this proposal would permit the Company to maintain the expertise of its most senior employees who would otherwise retire, while allowing them to work on a part-time schedule for limited time. It would also allow Air Canada to retain its most senior employees instead of potentially losing them to a competitor according to the Employer.

Technical Services Classification and Pay Grade

Air Canada's proposal regarding this item is twofold:

- **New Classification and Wage Scale for CAT 13 employees**: the Company proposes to remove CAT 13 employees from the current wage scale for technical services and to create a new wage scale for this classification. It notes the wage scale created for CAT 13 employees would provide for a fifth step to the current wage scale with an increase of $3 per hour over the current fourth step. Aircraft technicians would be integrated into the CAT 13 employees wage scale.

The Company proposes to enhance the training of CAT13 employees to allow them to do elementary work within cabins such as but not limited to repairing and replacing coffee makers, ovens chillers, SVD use, toilets and faucets. The maintenance release would, however, remain unchanged under the Employer's proposal.

- **New Wage Scale for Remaining Technical Services Employees**: For the remainder of employees in the technical services wage scale (CAT 14, 21, 23, 24, 25, 26, 27, 36, 37), the company proposes to eliminate the first two steps of the wage scale and to raise anyone below the current step III, to the current Step III. The Company additionally proposes to add $3.00 per hour to the current step III and $3.00 per hour to the current step IV.

COUNTER-PART OF AIR CANADA'S PROPOSALS

As earlier indicated, the Company proposed what it characterized as "financial offsets" that, in its submission, take into account the cost neutrality provisions of the Framework Agreement. These are particularized below.

Introduction of a Stockkeeper 8 Position

The Company proposes a new step in the wage scale for stockkeepers. The criteria for eligibility would be capacity for complex assembly and receiving. The capacity to handle dangerous goods is also a prerequisite. Employees holding the stockkeeper eight position would receive an additional $1.50 per hour above the wages provided at step VII of the wage scale.

Tank Entry Premium

The Company proposes to revise Article 5. 05 a) of the Collective Agreement to eliminate the current $150 monthly premium and replace it with a $100 per day premium for each day of fuel tank entry. For the purposes of

this modification, the term “day” is defined as a period of twenty-four (24) hours from the commencement of the employee’s shift.

Lead Planner and Lead Licensed Planner Premium

The Company proposes to create the position of Lead Planner and Lead Licensed Planner and proposes to provide a $1.50 per hour premium over the top rate of the Planner position for Lead Planners and a premium of $1.50 per hour over the top rate of Licensed Planners for Lead Licensed Planners.

According to the Employer, the objective of creating the Lead Planner and Lead Licensed Planner is to provide a career path that recognizes the professionalism and value of the Planner within Air Canada. In the proposal, the Lead Planner and Lead Licensed Planner must have the qualification of a Planner or Licensed Planner and, as a working member of a group, have the ability to train and satisfactorily direct the work of others with minimum supervision. According to the Employer’s proposal, the initial advancement to Lead Planner will be based on passing an LOU 4 process and obtaining or maintaining the performance metrics of AME 5. Maintaining Lead Planner and Lead Licensed Planner may be based on annual performance and technical evaluations which will be made by a recognized manager. On an individual basis, the Company proposes it may waive the annual performance and technical readiness evaluations based on the Manager’s field assessment.

Dangerous Goods Premium

The Company proposes to provide $150 per month for stockkeepers designated by the company to handle dangerous goods.

Adjustment of Wage Scale for Technical Services

The Company proposes a new wage scale for employees holding the Category 1 and Category 38 classification, and revision of Memorandum of Agreement 10 to provide for the introduction of Aircraft Maintenance Engineer Level 6 (LAT 6) and Aircraft Maintenance Engineer Level 7 (LAT 7). The details of this proposal are as follows:

AME6

The advancement to AME level 6 will be based on passing an LOU 4 process. Maintaining AME level 6 status may be based on passing an annual performance and technical readiness evaluations. Evaluations will be made by recognized Team Leaders. (Evaluations may not be required annually, but will be at the Company discretion)

- AME 6 Personnel in Categories 1, & 38 categories must hold minimum two (2) active "Aircraft Certification Authority" (ACA) for aircraft currently operated, for revenue, by the Company.

- AME 6 will require to hold Ground Run/Taxi on a minimum of two (2) of the applicable fleet types, held under their ACA and any one (1) of the following:

  a) Borescope or Complex Borescope,
  b) Fuel Tank Entry,
  c) D qualification,
  d) Evaluator/Trainer

  The company reserves the right to limit the number of Qualifications at point of base.

  Furthermore, AME 6 in

  Performance

  a. The Performance evaluation will be recorded on ACF6355 form
  b. The passing grade will be achieved or higher

AME's who do not pass the requirements of an AME 6 evaluation, or fail to maintain their qualifications, will be placed on 90-day AME 6 monitoring. During the monitoring period, AME 6 status will remain. If the AME 6 corrects the identified performance items within the 90-day monitor period, AME 6 status will remain. If after 90 days the AME 6 has not rectified the identified performance items, the AME 6 will be moved to AME 5. AME 6 who does not maintain their qualifications, but maintains their performance criteria, will be placed on AME 5 until such time their AME 6 qualification standard is met.

An AME 6 who is put on AME 6 monitoring for performance on two (2) or more occasions in a 24-month period will be moved to AME 4 and will not be eligible to be reassessed for AME 6 for a period of one (1) year.

AMEs who have not successfully met the requirements during the initial evaluations will be given the opportunity to re-apply three (3) months following their initial attempt. A twelve (12) month period will be the standard between assessments. The union will not initiate or proceed with any grievance whatsoever regarding this last element.

Aircraft Maintenance Engineer Level 6 (LAT 6) shall receive a $2.50 per hour incremental increase above the rate of pay of an Aircraft maintenance Engineer 5 (LAT5).

Note: CAT 19 employees will have access to LAT 6 level of the wage scale but in order to achieve this level, they must hold a minimum of two (2) of the following skills:

- Permaswage
- Composite
- FTE

AME 7

The objective of the AME level 7 is to recognize the professionalism and value of the Aircraft Maintenance Engineer within Air Canada Maintenance.

The advancement to AME level 7 will be based on passing an LOU 4 process. Maintaining AME level 7 status may be based on

passing an annual performance and technical readiness evaluations and maintaining additional required authorizations. Evaluations will be made by recognized Team Leaders. Evaluations will be at the company discretion.

The criteria to be eligible for Aircraft Maintenance Engineer Level 7 (LAT 7) will require the following additional skills/accreditation beyond the current requirements of an Aircraft maintenance Engineer Level 6:

- AME 7 Personnel in Categories 1, & 38 categories must hold minimum three (3) active "Aircraft Certification Authority" (ACA) for aircraft currently operated, for revenue, by the Company;

- AME 7 must hold M2 Transport Canada License;

- AME 7 will require to hold and maintain Ground Run/Taxi on a minimum of two (2) of the applicable fleet types, held under their ACA, and any 1 of the following:

    a) Borescope or Complex Borescope;
    b) Fuel Tank Entry;
    c) D qualification (YUL is Required to hold D qualification as part of employment);
    d) Evaluator;

  The company reserves the right to limit the number of Qualifications at point of base.

Performance

a. The Performance evaluation will be recorded on ACF6355 form;
b. The passing grade will be achieved or higher.

AME's who do not pass the requirements of an AME 7 evaluation or maintaining their qualifications, will be placed on 90-day AME 7 monitoring. During the monitor period, AME 7 status will remain. If the AME 7 corrects the identified performance items within the 90-day monitor period, AME 7 status will remain. If after 90 days the AME 7 has not rectified the identified performance items, the AME 7 will be moved to AME 5. An AME 7 who does not maintain their qualifications, but maintains their

performance criteria, will be placed on AME 5 until such time their AME 7 qualification standard is met.

An AME 7 who is put on AME 7 monitor for performance, 2 or more times in a 24-month period will be moved to AME 4 and will not be eligible to be reassessed for AME 7 for 1 year.

AMEs who have not successfully met the requirements during the initial evaluations will be given the opportunity to re-apply 3 months following their initial attempt. A twelve (12) month period will be the standard between assessments. The union will not initiate or proceed with any grievance whatsoever.

Aircraft Maintenance Engineer Level 7 (LAT 7) shall receive a $5.00 per hour incremental increase above the rate of pay of an Aircraft maintenance Engineer 6 (LAT 6).

The Lead AME classification will be eliminated and all current Lead AMEs will be integrated into the AME7 wage level.

Note- Letter of Understanding No 20 – Aircraft Taxi Authority is not applicable to AME 6 and AME 7

The new wage scale proposed by the Company for CAT 1 and CAT 38 employees is as follows. As explained above, CAT 19 employees may also attain Level 6 of the below wage scale. The table demonstrates how the new wage scale compares to other airlines:

It's the submission of the Employer that the wage rates set out in its November 3, 2023 comprehensive proposal will bring wage rates for skilled tradespeople and technicians in line with those of similar employees at comparable airlines.

Union's Position on Employer's November 3, 2023 Proposal

The Union opposes aspects of the Employer's new proposal while indicating that it would accept some of the proposed changes provided they are not "offset" by other undesirable changes, as described below.

The Union acknowledges that the Employer's proposal provides for wage increases for some employees and includes the addition of two new wage steps, LAT 6 and LAT 7, for Category 1 and 38 employees, but takes issue with the fact that, if granted, it would make Category 1 and Category 38 employees indistinguishable from one another in regard to the qualification and functions of the employees.

The Union further points out that the wage increases under the Employer's proposal are conditional on employees having or obtaining an M2 license and specific training and certifications subject to Air Canada's discretion and the "right to limit the number of Qualifications at point of base." The Union objects to what it describes as the lack of detail on how the proposal would be implemented such as exactly how the selection process would be amended or adapted and how technical readiness would be assessed, or what authorizations or how many authorizations an employee would be required to have to maintain their LAT 6 or LAT 7 wage rate, or whether these requirements could change from time to time at Air Canada's discretion. In short, the Union states that such a radical change in how an employee's rate of pay is set is something that Air Canada would never be able to achieve in collective bargaining.

According to the Union, the wage grid in the Collective Agreement has always been based on length of service and never on acquiring additional qualifications or Employer discretion. The Union submits that the categories under the Collective Agreement have always delineated employees who hold different qualifications and perform distinct functions, and notes that Category 19 employees under the Employer's proposal would be ineligible to move to the LAT 7 grid step. The Union strongly opposes the Company's proposition to isolate the progression of affected employees to LAT 6 and LAT 7 from the grievance procedure with respect to Category 19 employees, pointing, in part, to the difficulty the Company is having attracting Category 19 employees.

The Union indicates that, in its view, Category 19 employees must be treated the same as Category 1 and Category 38 employees on the wage grid, i.e., LAT 6 and LAT 7, pointing to a recent example at Toronto where the Company grounded aircraft due to a shortage of available employees with Category 19 qualifications available to inspect and service the aircraft. The Union further illustrates this point by noting that the Company recently requested and, with agreement of the Union, started hiring Category 19 employees at LAT 5 wages on the grid rather than the Category 1 wage rate.

According to the Union, Air Canada's new items are for its benefit and therefore would not require offsets. The Union's position is that, if Air Canada's proposal to pay Category 1 and Category 38 employees higher wages is considered in this interest arbitration, there should under no circumstances be any offset for this. Rather, the Union states that paying employees in these categories higher wages is not a concession, since it is primarily proposed to achieve the melding of Category 1 and Category 38 functions to create a Multi-Disciplinary Technician position.

The Union disputes that the Employer's proposal to wage rate rates means it will be "industry best wages" for Category 1 and 38 employees, suggesting that the proposed wages for these employees are still well below WestJet, Transat and Porter. Further, according to the Union, Air Canada's proposal would radically undermine the seniority rights of Category 1 and Category 38 employees and could affect job security, shift scheduling, and other seniority rights of employees in these categories.

The Union states at paragraph 25 of its submission:

> As stated above, the Union does no dispute that Air Canada needs to be pay higher wages in order to keep and attract new

employees. As also stated above, this is true of all classifications in the bargaining unit. It is the position of the Union that if wages are now to be increased, then reasonable wage increases must be implemented across the bargaining unit and not just large increases for employees in two categories. Accordingly, if wages are now to be increased, the Union proposes:

- Air Canada's proposed wage increases for Cat 1 and Cat 38 employees also apply to Cat 19 employees, and that these increases not be subject to any offset including that Cat 38 employees not be required to obtain an M-2 license and a Multi-Disciplinary Technician not be created at Air Canada, and

- The "B" wage scale be eliminated, and employees on the "B" scale be migrated to the "A" scale.

The Union justified the above proposal at para. 26 this way:

> The Union makes these wage proposals based on Air Canada having now proposed to increase wages for its own benefit to keep and attract employees and having, as a consequence, now waived the provisions (paragraphs 7.f.i. and 7.k.) in the Framework Agreement that exclude Rates of Pay (Articles 5, 7 and 9) as permissible Interest Arbitration items and that prohibit an Interest Arbitration award that increases the total cost of Air Canada's obligations. To be clear, the Union makes these wage proposals only on the basis that Air Canada has waived these provisions of the Framework Agreement and that no offsets for these wage increases are required. If the Union's position that no offsets are required is found not to be the case, then the Union withdraws this wage proposal.

With respect to the Employer's proposal that I order the withdrawal of grievance 20200410371 and Category 38 matters, it is the Union's position that I lack jurisdiction to hear these matters as they are currently seized by another arbitrator.

According to the Union, the Company's proposal to reduce pay endorsements has the effect of decreasing pay for the majority of affected

employees who possess endorsements. The Union suggests the Employer's proposal is "false on its face", in that it reduces incentive for employees to obtain additional endorsements, and amounts to "simply a cost savings" for the Company. The Union takes the same position with respect to the Employer's proposal in respect of pay for Ground Run/Taxi training.

With respect to Air Canada's "Retirement Phase-in" proposal, the Union alleges this is another one that would negatively impact the seniority rights of employees if awarded. The Union explains that in its view, the Employer's proposal would cause it to lose employees because it would deny younger, full-time workers access to good shifts, making it more likely they will seek better work with other airlines. Further, according to the Union, this new proposed item, if adopted, would introduce part-time workers into the technical operations workforce at Air Canada, which it describes as yet another breakthrough change that Air Canada has sought and the Union rejected for many years.

The Union does not object to the Company's proposal for Category 13 and other Technical Services employees providing that no offset is required for these Employer-requested changes. The Union takes the same position in respect of the proposal to introduce the Stockkeeper 8 position, stating it does not oppose this proposal so long as no offsets are required. The Union rejects the Employer's proposal to reduce pay for tank entry, describing it as an attempt at cost savings by the Employer and indicating it is inconsistent with the Employer's acknowledged need to keep and attract skilled workers.

The Union is not conceptually opposed to the creation of the Lead Planner or Licensed Planner positions, observing the proposal is consistent with the principle of having higher pay for classifications requiring additional and/or greater skills. However, the Union opposes the conditions attached to the proposal that "maintaining Lead Planner and Lead Licensed Planner may

be based on annual performance and technical evaluations", and that "[o]n an individual basis, the Company may waive the annual performance and technical readiness evaluations".

In short, the Union summarized its position on this matter at para. 46 of its reply submission as follows:

> The Union submits that Air Canada is attempting here again to introduce into this bargaining unit and collective agreement a management right to remove an employee from their classification based on discretionary annual evaluations by management. The Union further submits that this is yet another breakthrough change that Air Canada is attempting to achieve through these after-the-last-minute interest arbitration proposals and are changes that Air Canada would never be able to achieve through collective bargaining.

Finally, the Union does not oppose the dangerous goods premium proposal providing that no offset is required.

Decision Re Employer's November 3, 2023 Comprehensive Proposal

As with all of the proposals considered in this proceeding, I have taken into consideration the factors agreed to by the parties including the cost neutrality requirement in 7(k) of the Memorandum of Agreement in deciding whether to award the various components of the Employer's multifaceted proposal.

As already stated, I have considered the proposal because it includes monetary increases to employees during the term of the Agreement and because the proposals contribute to greater comparability with other competitive airlines and will enhance the Employer's ability to attract and retain skilled employees.

Enhancement of Category 38 Training and Adjustment of Wage Scale for Technical Services

I award the Employer's proposal to enhance the skillset of Category 38 employees by requiring all Category 38 employees to participate and achieve a passing grade in the Company provided E-M2 bridging course. In my view, this proposal is of mutual benefit to employees and the Employer and provides an opportunity for skills enhancement.

I find I lack the jurisdiction and, moreover, the required information, to grant the Employer's request for an order that any grievances related to layoffs or recall of Category 38 employees be withdrawn.

I decline to adjust the Employer's proposed wage scale as suggested by the Union to maintain the historical alignment between Categories 1 and 38 employees and Category 19 employees. I do so because Category 19 employees are not required to obtain the same endorsements as the Category 1 and Category 38 employees.

With respect to the Union's concerns about the lack of detail in the Employer's proposal to change the requirements for Category 38 employees and the annual performance and technical readiness evaluations along with other issues (i.e., scheduling, vacation and seniority matters), I order that the parties work together to resolve any outstanding issues arising out of the granting of this proposal within 60 days of this Award. I remain seized to determine any issues remaining between the parties after those discussions.

I decline to exempt challenges to the evaluation process for the progression to LAT 6 or 7 from the grievance procedure as the Employer appears to propose and note that any discretion exercised by the Employer in

assessing employee movement between wage rates must be exercised reasonably and in accordance with the Collective Agreement.

With respect to the Union's proposal to amalgamate wage scales A and B, it is important to note the history of the double scale, which was negotiated between the parties during the period in which Air Canada was going through bankruptcy proceedings. It was a compromise that provided lesser wages for new hires while ensuring that regular employees at the time remained on the A scale. It is the proposal of the Union that I ought to combine the B scale and place all employees on the A scale.

While I understand the strong desire of the Union to amalgamate the scales, I have reviewed the cost implications of doing so and they do not fit within the cost neutrality restriction in the Memorandum of Agreement, which, as already referenced, prohibits the arbitrator from increasing costs without corresponding offsets from the Union. For these reasons, I am unable to award the Union's proposal.

Decision Re Endorsement Revisions

Given the significant wage increases awarded for employees in Technical Services, and applying the relevant interest arbitration principles, I am prepared to award the Employer's proposal in respect of endorsement revisions, which I note provides for the grandparenting of existing employees presently holding additional endorsements.

Decision Re Retirement Phase-in

Given the significant impact that awarding this proposal could have on other rights in the Collective Agreement, I am not prepared to award it in this forum.

It is my view that a change of this significance is best left to the parties to discuss in free collective bargaining.

Decision Re Technical Services Classification and Pay Grade

After careful consideration, I have decided to award the Employer's proposal regarding the new classification and wage scale for Category 13 employees including the enhanced training for these employees.

Further, I award the new wage scale for remaining technical services employees as proposed by the Employer.

Decision Introduction of a Stockkeeper 8 Position

I am persuaded that it is appropriate to award this proposal. In my view, it is likely the parties would have agreed to the creation of this new position in free collective bargaining, and such a change is consistent with the applicable principles in this interest arbitration.

Decision Re Tank Entry Premium

I am not, however, prepared to award this proposal to reduce the premium provided for in Article 5.05(a) of the Collective Agreement. In my view, the Employer has failed to demonstrate a need for this change to be made. Further, I believe it is unlikely the Employer would have achieved this concession in bargaining had the parties freely renewed the Collective Agreement.

Decision Re Lead Planner, Lead Licensed Planner and Lead Technical Data Controller

I award the Employer's proposal to create the positions of Lead Planner, Lead Licensed Planner, and Lead Technical Data Controller and to pay the premiums as set out for these positions.

Decision Re Dangerous Goods Premium

I award the Employer's proposal to provide a $150 per month premium to Stockkeepers who are designated by the Company to handle dangerous goods.

CONCLUSION

As earlier set out, the limited mandate for this interest arbitration board in this final reopener period within the ten-year framework is clearly set out in the Memorandum of Agreement. To the greatest extent possible, I have – as I am required to do – adhered to these guidelines in determining the appropriate terms of the renewed Collective Agreement.

All agreed upon items in direct negotiations and/or during the mediation process are to be incorporated by reference into the renewed Collective Agreement.

I retain jurisdiction to resolve any disputes arising from the interpretation of this Award. This includes, but is not limited to, jurisdiction over implementation of the various components of the Employer's comprehensive proposal that I have awarded.

I wish to thank the parties and their respective legal counsel and spokespersons for their assistance and candour during the mediation-arbitration process.

It is so awarded.

Dated at the City of Vancouver in the Province of British Columbia this 29th day of December, 2023.

Vincent L. Ready