

**Collective Bargaining Agreement Between  
Local 154, District Council 37, AFSCME  
and  
Empire Consulting Solutions  
July 1, 2017 – June 30, 2019**

ARTICLE I - RECOGNITION

The Company recognizes and acknowledges the Union as the sole and exclusive collective bargaining agent for all full-time and part-time AFIS/workstation operators employed at Company and assigned to work in the five boroughs of New York City under Contract C020877 between the New York State Office of Temporary and Disability Assistance (OTDA) and Cogent Systems; excluding all other employees, including office clerical employees, guards, professional employees and supervisors.

ARTICLE II -UNION DUES

The Company agrees to deduct from the salary of any present or future employee covered by this Agreement, as directed by the Union, the amount of dues and initiation fees the employee is required to pay to the Union. As to new employees, the Company will deduct from their salaries such amounts as the Union will bill the Company for the purposes hereinabove specified.

On a monthly basis, the Company will deliver the accumulated money required to be deducted from employee's wages to a duly authorized representative designated by the Union for said purposes. The aforementioned payment will be sent to the Union within five (5) business days of the end of the month in which the dues were collected. The Union agrees that it will file with the Company written authorizations for such deductions, which shall comply with the law.

The Union shall indemnify, defend and save the Employer harmless against any and all claims, demands, suits or other forms of liability that may arise out of or by reason of action taken by the Employer in reliance upon this article or payroll deduction cards.

ARTICLE III -HOURS OF WORK AND WAGES

All full-time employees will work a schedule totaling up to forty (40) hours per week which shall be scheduled by the Company in shifts that are normally within the operational hours of OTDA. Scheduled shifts may, in some cases exceed eight hours per day. Each shift shall be inclusive of a thirty (30) minute unpaid meal period. Shifts of more than eight hours shall be inclusive of a one hour (60 minute) unpaid meal period. Overtime at the rate of time and one-half shall be paid after forty (40) hours of work in a week.

Breaks shall be taken one and one-half hours after the start of shift, and one and one half hours prior to the end of the shift, unless otherwise scheduled with the supervisor.

**Wages** – Employees shall be compensated at the following hourly wage rates:

<b><u>Effective Date</u></b>	<b><u>Hourly Wage Rate</u></b>
October 1, 2017	\$13.25
April 1, 2018	\$13.50
September 1, 2018	\$14.00
December 1, 2018	\$15.00

The cost of living increase as directed by the State of NY after 12/31/2018 shall be separate from any additional negotiated wage increase the parties mutually agree to after 12/31/18.

#### ARTICLE IV – ANNUAL & SICK LEAVE FOR FULL TIME EMPLOYEES

- a) Full Time Operators will accrue paid time off of up to six (6) days per year. Such time shall be credited to employees on a biweekly basis at the rate of 1.85 hours per pay period..Such employees shall be permitted to roll over up to one half ( $\frac{1}{2}$ ) of this accrued and unused annual leave balance from one year to the next.

Full time employees may use this leave for vacation, personal illness or the care of a family member, bereavement, or other personal reason. Leave shall be requested two weeks' in advance except in the case of personal illness or bereavement leave. All leave shall be subject to the approval of a supervisor; which approval shall not be unreasonably withheld.

- b) Bonus Day. In addition to the paid leave provided above, Fulltime Operators with three (3) or more years of service shall accrue an additional leave day (8 hours) to be credited on their third work anniversary date and each anniversary day thereafter.
- c) Effective the pay period following contract ratification, full time employees shall be granted two (2) days of bereavement leave for the death of an employee's spouse, domestic partner, natural, foster or step parent, child, brother or sister, father-in-law, mother-in-law, grandchild, aunt or uncle or other relative residing in the household. In order to qualify for bereavement leave, the full time employee must produce satisfactory written proof to their supervisor that the death of a qualifying family member has occurred within 7 days of their return from the leave.
- d) Cash Out Option.

Effective upon execution of this agreement, one day of Annual and Sick Leave may be cashed out at the end of the leave year by full time employees. The employer shall provide eligible employees with 30 days notice before the end of their leave year so that employees may exercise this option.

e) Paid Family Leave Act

All applicable provisions of the NYS Paid Family Leave Act are incorporated herein and made a part hereof. The terms of the Act shall be available to employees subject to the following conditions:

- i) Full time employees shall be eligible for the provisions of the Act following six (6) months of employment.
- ii) Part time employees who work or have worked at least 175 days in a 52 week period, retroactive to July 1, 2017, shall be eligible for the provisions of the Act.
- iii) Effective January 1, 2018, employees shall be subject to a bi-weekly payroll deduction of .1260%.
- iv) The provisions of the Act shall be detailed in a Notice to Employees – which shall be an exhibit to the Agreement. Such notice shall be provided to employees on or before January 1, 2018.

ARTICLE V – PART TIME EMPLOYEE SICK LEAVE POLICY

I. This article is only applicable to part time employees.

- (i) Part Time Employee Sick Leave: Part time employees shall be eligible for the accrual of Sick Leave for the purposes of:
  - a. Personal illness;
  - b. Doctor's appointments including preventative medical care;
  - c. Illness of a family member, including employee's child, spouse, domestic partner, parent, sibling, grandchild, grandparent, or a child or spouse of a domestic partner; and
  - d. Bereavement associated with the death of an immediate family member as defined in (c) above.
- (ii) Sick Leave accruals shall be administered and credited in the following fashion:
  - a. Empire shall track hours worked by part time employees.
  - b. Time worked shall be reviewed on a quarterly basis (Calendar Quarters)
  - c. Employees will be credited with one (1) hour for every thirty (30) hours worked during the preceding quarter.
  - d. Employees shall begin to accrue sick leave on their first day of work and are eligible to begin using sick leave 120 days after the start of their employment.
  - e. On request – DC-37 will be provided a copy of this analysis.
  - f. Residual work hours, if any, resulting from this quarterly review shall be carried over and considered in next quarter. (i.e.: where an employee works thirty-five (35) hours

during a quarter – they will receive one hour of credited Sick Leave and the remaining five (5) work hours are carried over to be counted in the next quarter).

Accumulated Sick Leave may be carried over from one year to the next – but accruals shall be capped at and may not exceed 80 hours at any point. Unused accruals exceeding 80 hours will be lost.

(iii) Sick Leave use shall be handled as follows:

- a. An employee may charge time in increments of no less than one scheduled workday unless the floater has less than one scheduled workday of sick leave accrued in which case they shall use the remaining balance.
- b. Barring unforeseen and exigent circumstances – an employee should request sick leave as soon as possible and at least seven (7) days in advance of the requested time off.
- c. Where seven (7) days advanced notice is not possible – an employee must advise a supervisor of the need for the leave as soon as is possible and no less than 2 (two) hours prior to the start of a scheduled work shift.
- d. Untimely requests for leave may result in a denial of same.
- e. Where sick leave exceeds three (3) consecutive days, an employee shall be required to furnish a note from a licensed medical provider attesting to the need for the leave taken, the amount of hours and/or days the employee will be absent and the date upon which the employee will be cleared to return to work. Employees will have (7) days from the date the Employee returns to work to submit such documentation.
- f. Maximum leave that may be used in any calendar year is forty (40) hours.
- g. No employee shall be subjected to discipline or other adverse action for legitimate usage of Sick Leave. Failure to communicate and notify a supervisor of one's absence shall continue to be considered misconduct and shall be subject to disciplinary action.
- h. Employee's use of sick leave shall not be conditioned on searching for or finding a replacement worker.

(iv) Retroactive Sick Leave:

- a. Upon ratification of a successor CBA, ECS shall run an analysis of hours worked by Floaters from August 7, 2015 to present. All active Floaters who worked during this period will receive and be credited with one (1) hour of Sick Leave for each thirty (30) hours worked with a maximum accrual of forty (40) hours.
- b. Floaters will then receive payment for such retroactive hours at the hourly rate of pay in effect at the time they would have otherwise been accrued.

Miscellaneous Rules Pertaining to the Use of Leave for Full and Part-time Employees.

Employees shall not be subject to disciplinary action for the approved use of leave time twice in one month.

VI. SHIFT SWAP PILOT PROGRAM:

There shall continue to be a pilot program for full time employees to swap shifts or days with the following provision; (1) no more than one (1) swap per region per month on a first come first served basis and (2) a minimum of one (1) weeks advance notice to the supervisor and written approval from both of the employees' supervisors. If the operator who agreed to work the shift does not appear for work they shall be subject to regular time and attendance disciplinary rules and procedures. At the conclusion of this pilot period, there shall be an evaluation to determine whether to extend the program.

VII. HOLIDAY LEAVE:

Fulltime employees shall receive the following paid holidays and they will be recognized on the dates indicated:

2017 Holidays

<u>Day</u>	<u>Date Observed</u>	<u>Holiday</u>
Monday	January 2	New Year's Day
Monday	January 16	Martin Luther King, Jr. Day
Monday	February 20	George Washington's Birthday
Monday	May 29	Memorial Day
Tuesday	July 4	Independence Day
Monday	September 4	Labor Day
Monday	October 9	Columbus Day
Tuesday	November 7	Election Day
Friday	November 10	Veteran's Day
Thursday	November 23	Thanksgiving Day
Monday	December 25	Christmas Day

2018 Holidays

<u>Day</u>	<u>Date Observed</u>	<u>Holiday</u>
Monday	January 1	New Year's Day
Monday	January 15	Martin Luther King, Jr. Day

Monday	February 19	George Washington's Birthday
Monday	May 28	Memorial Day
Wednesday	July 4	Independence Day
Monday	September 3	Labor Day
Monday	October 8	Columbus Day
Tuesday	November 6	Election Day
Monday	November 12	Veteran's Day
Thursday	November 22	Thanksgiving Day
Tuesday	December 25	Christmas Day

ARTICLE VIII - JOB SECURITY

If reductions in staffing are required due to changes in food stamp requirements:

- Seniority as a full-time Operator shall be the determining factor;
- The least senior full-time Operators shall be offered floater positions;
- Any full-time staff persons laid off shall be eligible to be recalled to the first available full-time vacancy by seniority. The recall list shall be in effect for one year; and
- The employer shall provide the Union with notice of any layoffs that are to be put into effect. Such notice shall be made within one (1) business day of the employer being notified by either HRA or OTDA of the layoffs.
- Part-time/floaters will be offered full time operator positions should their past performance make them eligible for such status change.

ARTICLE IX - ATTENDANCE AND PUNCTUALITY

The grace period for lateness shall be extended to ten (10) minutes. Lateness shall be deducted on a minute for minute basis.

In the event that an employee calls out for an unscheduled absence less than two (2) hours prior to the start of a shift, the employer may require written proof of the reason for the call out. Any call out within one (1) day of a scheduled holiday (before or after the paid holiday) and the employee shall forfeit the paid holiday leave, unless proof as described above is provided.

Floaters are expected to accept assigned shifts, sites, or regions when necessary.

All technical efforts will be made in scheduling for Floaters who indicate, at least one week in advance, of an "unavailable day", to continue to keep such Floater on the schedule for the remainder of such week.

Employees who return to work from a period of Leave Without Pay shall be restored to the schedule as quickly as possible, with every effort being made to return such person in less than ten (10) days from when they notify the Employer they are ready and available to work. Employees who have not worked in ninety (90) days must be recertified and will be scheduled promptly for such testing.

## ARTICLE X - DUE PROCESS CLAUSE

The Employer shall have the right to discipline/discharge employees for just cause. Discipline steps normally provided will be:

- Written Warnings (2)
- Unpaid Suspension (up to one (1) week)
- Discharge

The Employer shall adhere to the tenets of the progressive discipline but shall have the right to advance the level of discipline to whatever step it believes is appropriate under the circumstances up to and including immediate discharge. It may also utilize an unpaid investigatory suspension whenever it believes it is necessary in order to take proper action with regard to an employee. The Union reserves all rights to immediately grieve, and process through the grievance procedure, any such unpaid investigatory suspension.

Any disciplinary action or measure imposed by the Company on a non-probationary employee, which cannot be adjusted between the parties, may be processed as a grievance through the regular grievance process detailed in the GRIEVANCE AND ARBITRATION PROCEDURE section of this agreement.

The Employer shall have the right to establish and enforce reasonable rules of conduct and to discipline employees for the violations of same.

Disciplinary actions shall be removed from employee's Active File after they are eighteen (18) months old and thereafter shall not be used as a basis of establishing progressive discipline.

Notwithstanding the foregoing, the parties acknowledge that the Employer's subcontract with Empire Consulting Solutions (ECS) and Cogent Systems obligates it to comply with the provisions of a Prime Contract with New York State. Such Prime Contract explicitly provides for the removal of project personnel, where directed by New York State. This provision does not require the State to provide a reason for the requested removal nor does it grant ECS any discretion in this regard. All new Employees shall be subject to a probationary period of ninety (90) days during which they shall not be entitled to the due process protections of this provision.

## ARTICLE XI -CONFIDENTIALITY AND NON-DISCLOSURE

The Company shall have the right to implement policies and procedures to require employees to acknowledge their obligation to protect the confidentiality of all system information, including individually identifying information relating to any eligible client or provider, which information may not be disclosed without the prior written approval of OTDA.

## ARTICLE XII- CONTINUITY FOR OPERATIONS

The Union agrees that neither it nor any of the employees in the bargaining unit covered by this Agreement will collectively, concertedly or individually participate or assist in any slowdown, strike or any other form of work interruption during the term of this Agreement. If any slowdown, strike, or any

other form of work interruption should occur, The Union agrees that it will take immediate and affirmative action to effect termination of all activities which constitute a violation of this Article.

The Company agrees that there will be no lockout during the term of this Agreement.

#### ARTICLE XIII- SAVINGS CLAUSE

Should any provision of this Agreement or any portion therein contained be rendered or declared illegal or unenforceable by a Court of competent jurisdiction, or by the decision of any authorized governmental agency, then such determination shall not render the remaining provisions of this Agreement invalid and they will continue to remain in force and effect.

#### ARTICLE XIV - MANAGEMENT RIGHTS

The parties agree that the Company retains the exclusive right to manage its operations and work force, except to the extent that such right is explicitly limited by the provisions of this Agreement. The Union recognizes that the Company's rights include, but are not limited to, the right to manage its business; direct, select, decrease and increase the workforce, including hiring, promotion, training, demotion, transfer within and between classifications, suspensions, discharge or layoff; the right to make-all plans and decisions on all matters involving the provision of services, including the methods and means of all services to the Client, the location of operations, the scheduling of operations, the materials and equipment to be used; the right to introduce new and improved methods and to change existing methods; to maintain discipline and efficiency of employees; to prescribe work rules and regulations; to regulate quality; to schedule overtime.

#### ARTICLE XV - WAIVER ZIPPER

This Agreement constitutes the entire agreement between the Company and the Union and settles all demands and issues with respect to all matters subject to collective bargaining. Therefore, both the Company and the Union, for the duration of this Agreement, waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter which is subject to collective bargaining, whether or not such subject or matter is specifically referred to herein. Changes or amendments to the terms of this Agreement may be made if mutually agreed to by the Company and the Union, reduced to writing, and executed in the same manner as this Agreement.

#### ARTICLE XVI - GRIEVANCE AND ARBITRATION PROCEDURE

A grievance by an employee, except for a grievance alleging a wrongful discharge, shall be adjusted in the following manner:

Contract Grievance Definition.



For purposes of this section, a grievance shall be defined as a dispute or dispute(s) concerning an alleged wrongful disciplinary action, or the interpretation, application or claimed violation of a specific term or provision of this Agreement.

## Section 1.

Step I - Within thirty (30) work days of the date of the cause of the grievance, the Employee shall present the matter to the Employee's Authorized Supervisor, who shall attempt to settle it.

Step II - The grievance will have been deemed to have been satisfactorily disposed of under Step I unless within five (5) work days from the date of the decision of the Employee's authorized supervisor or within ten (10) work days after the grievance was submitted to said supervisor (whichever time period shall expire first) the employee presents a written statement of the grievance to the AFIS Project Manager with a request for a hearing. A hearing shall be held within ten (10) work days. Following hearing, a decision shall be rendered within five (5) work days. Each party shall have the opportunity to request one extension of the time period. If the employee does not attend the scheduled hearing after an extension has been granted, the grievance will be considered withdrawn.

Step III - The grievance will have been deemed to have been satisfactorily disposed of under Step II unless within five (5) work days from the date of the decision of the Employee's authorized supervisor or within ten (10) work days after the grievance was submitted to said supervisor (whichever time period shall expire first) the employee presents a written statement of the grievance to the Director of Human Resources with a request for a hearing. A hearing shall be held within ten (10) work days. A decision shall be rendered within five (5) work days.

Step IV - A grievance will have been deemed to have been satisfactorily disposed of under Step III unless with ten (10) work days after receiving the determination of the Human Resources Director, or within thirty (30) days from the date the grievance was submitted to the Director, the Union files a request for arbitration to the American Arbitration Association in accordance with the Association's rules for impartial binding arbitration. A copy of the request for arbitration shall be forwarded to the Employer within one (1) business day of the filing of the request thereof. The cost and fees of such arbitration, including the cost of a stenographer, if any, shall be borne equally by the Union and the Employer. The decision and award of the Arbitrator shall be final and binding in accordance with applicable law. The decision of the arbitrator shall be enforceable in accordance with the laws of the State of New York.

## Section 2.

A grievance by an employee against the Employer in connection with the Employee's discharge from employment for just cause shall be adjusted in the following manner:<sup>1</sup>

Step I - Any employee discharged for cause shall at the time of discharge be informed of a date for a grievance hearing to be held within 48 hours of the date of such discharge. The grievance shall be heard by the AFIS Project Manager for settlement of the matter. The Employer shall render a decision within 24 hours.

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<sup>1</sup> All other disciplinary grievances shall be adjusted in the manner prescribed in Section 1.

Step II - Any discharge of an Employee may be submitted by the Union for binding arbitration to the American Arbitration Association in accordance with the Association's rules for impartial binding arbitration within ten (10) working days of receipt of the Step I decision. A copy of the request for arbitration shall be forwarded to the Employer within one (1) business day of the filing of the request thereof. The cost and fees of such arbitration, including the cost of a stenographer, if any, shall be borne equally by the Union and the Employer. The decision and award of the Arbitrator shall be final and binding in accordance with applicable law. The decision of the arbitrator shall be enforceable in accordance with the laws of the State of New York.

Grievance Hearings shall be held on work time.

#### ARTICLE XVII - SELECTION OF THE ARBITRATOR

Where necessary and as set forth above, Arbitrators shall be selected from lists provided by the American Arbitration Association in accordance with the Voluntary Arbitration Rules of said Association.

##### Authority Of The Arbitrator

Arbitrators shall confine themselves to the precise issue or issues submitted for arbitration and shall have no authority to determine any issues not so submitted to them nor shall they make observations or declarations of opinion which are not essential in reaching a determination.

Arbitrators selected shall have no power to add to, subtract from or modify the terms or provisions of this Agreement. They shall confine their decision and award solely to the application and or interpretation of this Agreement.

Arbitrators selected to hear disciplinary cases relating to and implemented as a result of a contractual project mandate directing the removal of an employee shall limit their decisions to the actions and options properly available to the Employer.

#### ARTICLE XVIII- Labor Management Meetings

The parties agree to meet at regular and agreed upon intervals – beginning biweekly, to discuss the terms of this agreement and its administration and matters of other mutual concern and interest..

#### ARTICLE XIX - HANDBOOK MODIFICATIONS

On page 17 “Employee Conduct and Work Rules” will be amended to prohibit leaving a workstation early prior to the end of their shift without the express written permission of the project manager. Further, all floaters/part time employee schedules are to be confirmed or declined by text to their supervisors. Every operator/floater is required to speak or text their supervisor when calling out. Every employee is required to give time off requests directly to their supervisor and not through a third party. Every operator/floater is required to enter their workstation login/logout time as their LATS work time for payroll purposes.

On page 20 "Proper Dress and Appearance will be amended to prohibit the wearing of torn attire, pants with holes, exercise pants and yoga pants or tops.

## ARTICLE XX – OTHER PROVISIONS

### Successor Clause

In the event that the work of finger imaging is transferred to another vendor, the terms of this agreement shall continue for the duration of this agreement and the representation of the employees by Local 154 shall continue with the successor vendor.

### Employee Referral Program

Employees who refer a candidate for a position with Empire shall receive a referral bonus of one hundred (\$100.00) dollars upon such candidates successful completion of a ninety (90) day probationary period.

### Other: Specific Waiver of the NYC Earned Sick Leave Law

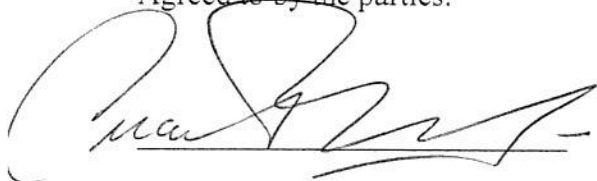
- a. The sick leave benefit contained in Article V will be in lieu of and supersede in all respects any and all sick or bereavement leave compelled by Federal, State, City or Local Law. The parties hereby expressly waive any and all of the provisions of the "Earned Sick Time Act" a/k/a the "Paid Sick Leave Law" as contained in Chapter 8 of Title 20 of the Administrative Code of the City of New York and as amended thereafter.

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ARTICLE XXI - DURATION OF THE AGREEMENT

This agreement shall continue in full force and effect from July 1, 2017 – June 30, 2019. It is hereby agreed that upon expiration of this agreement, all of the terms and conditions contained herein shall remain in full force and effect until a successor agreement is in place or the agreement has been terminated by either party.

Agreed to by the parties:



On behalf of Local 154, DC 37, AFSCME

11/28/17

Date

JUAN FERNANDEZ, PRESIDENT

(Print Name & Title Here)



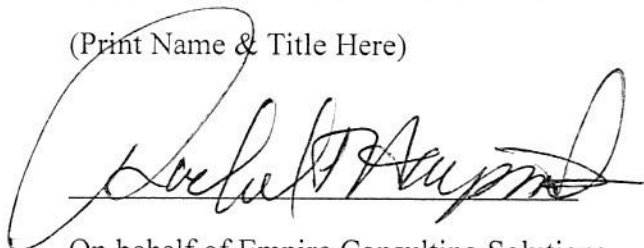
On behalf of District Council 37, AFSCME

Date

11/29/17

Moira John Sr. Asst Director, Research + Negotiations

(Print Name & Title Here)



On behalf of Empire Consulting Solutions

Date

12/4/17

Rachel Hupothian/CEO

(Print Name & Title Here)