2019 Re-Opener Package

Air Canada Component of CUPE

June 21, 2022

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MEMORANDUM OF AGREEMENT

BETWEEN:

Canadian Union of Public Employees, Airline Division,
Air Canada Component
("CUPE" or the "Union")

-and-

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

-and-

Air Canada Rouge

WHEREAS the last Collective Agreement between the Company and CUPE was effective from April 1, 2011 until March 31, 2015 and therefore expired on April 1, 2015 (the "Collective Agreement");

WHEREAS Air Canada Rouge and the Union are parties to a Supplemental Agreement that also expired on April 1, 2015;

WHEREAS Air Canada, Air Canada Rouge and CUPE (the "Parties") have been meeting in order to renegotiate the terms and conditions of the Collective Agreement and the Supplemental Agreement, as applicable;

WHEREAS the Parties wish to provide for stability in their relationship until March 31, 2025, and, through substantial investment and growth, provide benefits for both the Company and Cabin Personnel represented by CUPE;

WHEREAS the Parties have agreed that the Collective Agreement and the Supplemental Agreement shall be renewed as set out in the present Memorandum of Agreement ("Memorandum");

AND WHEREAS the Parties wish to provide for the entering into of successive collective agreements which will be effective for the following periods: 1) from April 1, 2015 until March 31, 2019; and 2) from April 1, 2019 until March 31, 2022; and 3) April 1, 2022 until March 31, 2025.

NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:

Terms and Conditions applicable to Air Canada Rouge Employees

1. The Parties agree that the terms and conditions applicable to Air Canada Rouge Employees formerly contained in the Supplemental Agreement shall, as of the date of ratification of this Memorandum, be set out in a new Letter of Understanding #55 which shall form a part of each of the 2015 – 2019 Collective Agreement, the 2019-2022 Collective Agreement, and the 2022-2025 Collective Agreements.

The 2015-2019 Collective Agreement

2. The Collective Agreement shall be renewed with a term effective April 1, 2015 until March 31, 2019 (the "2015-2019 Collective Agreement"), without amendment, save as set out in Appendix A of this Memorandum or as the Parties may otherwise agree.

Lump Sums/Wages

3. Further, the following payments and wage and allowance increases shall form part of the 2015-2019 Collective Agreement:

    a. Air Canada shall pay the following lump-sum amounts, less statutory deductions, to each Air Canada Cabin Crew member who is active on the payroll on the payment date or who is inactive on that date for less than three (3) years on account of being either on WIP or on a Company-approved leave of absence.

Date	Lump Sum
Within 30 days of ratification	$5,000

    b. Cabin Personnel of Air Canada shall be granted the following wage increases:

Date	Increase
April 1, 2016	2%
April 1, 2017	2%
April 1, 2018	2%

    c. Air Canada Rouge shall pay the following lump-sum amounts, less statutory deductions, to each Air Canada Rouge Cabin Crew Member who is active on the payroll on the payment date or who is inactive on that date for less than three (3) years on account of being either on disability leave or on a Company-approved leave of absence.

Date	Lump Sum
Within 30 days of ratification	$1500
12 months following ratification	$1500
24 months following ratification	$1500

    d. Cabin Personnel of Air Canada Rouge shall be granted the following wage increases:

Date	Increase
April 1, 2018	2%

Canada/United States Meal Allowances

e. Article 7.02.02 of the Collective Agreement ("Canada/United States Meal Allowances") shall be amended to reflect the following increases for Air Canada Cabin Personnel:

Effective Date	Allowance Increase
First Block Month Following Ratification	2%
April 1, 2016	2%
April 1, 2017	2%
April 1, 2018	2%

f. Article 8 of Letter of Understanding #55 ("Per Diem") shall be amended to reflect a 2% increase, on each of the same dates as in paragraph 3 e, above, to Meal Allowances for Air Canada Rouge Cabin Personnel.

The 2019-2022 Collective Agreement

4. The Parties have agreed that the 2015-2019 Collective Agreement shall be renewed with a term effective April 1, 2019 until March 31, 2022 (the "2019-2022 Collective Agreement"), without amendment, save as the Parties may agree either while it is in effect or pursuant to the bargaining described below, in accordance with the following procedure:

   a. Either party may provide notice to bargain between December 1, 2018 and March 31, 2019, in which case the Parties shall each set a date and meet in good faith and make every reasonable effort to negotiate in relation to the changes to the 2019-2022 Collective Agreement sought by the Parties. Changes agreed to by the Parties shall be incorporated into the 2019-2022 Collective Agreement.

   b. If 90 days after the commencement of negotiations the Parties have failed to reach an agreement on all or any items, either Party may refer the outstanding items to mediation. The mediation will be before a mediator-arbitrator of the Parties' choosing. If the Parties cannot agree on a mediator-arbitrator within 30 days of referral to mediation-arbitration being received by the other Party, then either Party may request that the Federal Mediation and Conciliation Service make the selection, which selection shall be binding on the Parties.

   c. If after 15 days of mediation (a "day of mediation" being a day during which the mediator meets, at any time and for any duration, with both of the Parties), the Parties have failed to reach a comprehensive agreement, either may refer a maximum of 10 items that remain in dispute to interest arbitration ("Permissible Interest Arbitration Item"). Any unresolved item that is not a Permissible Interest Arbitration Item shall remain unresolved.

d. Each Article of the 2015-2019 Collective Agreement or of any Letter of Understanding, Memorandum of Understanding or Memorandum of Agreement ancillary to the 2019-2022, each single issue Collective Agreement and each Block Rule of the 2019-2022 Collective Agreement, constitutes a single Permissible Interest Arbitration Item; except that the following, whether in relation to Air Canada or Air Canada Rouge, are excluded as Permissible Interest Arbitration Items:

    i. Annual Wage Increase;
    ii. Meal allowances;
    iii. Term of this Memorandum;
    iv. Article 2 in its entirety;
    v. Pension– any aspects other than improvements to the existing defined contribution plan;
    vi. Job Security LOU in its entirety;
    vii. Flow Through LOU in its entirety; and
    viii. The duration of any of the collective agreements which will come into force pursuant to the Memorandum.

However, all provisions of the LOU applicable to Air Canada Rouge Cabin Personnel which either Party wishes to advance in arbitration can constitute one Permissible Interest Arbitration Item, from among the 10 that Party can advance.

5. The mediator-arbitrator shall have all of the powers and authority of an arbitrator pursuant to s. 60 of the *Canada Labour Code*.

6. The mediator-arbitrator shall determine his or her own procedure and shall issue a decision of the Permissible Interest Arbitration Items within 90 days of the referral to arbitration.

7. Subject to the second sentence of paragraph 8, below, in rendering a decision about a Permissible Interest Arbitration Item, the mediator-arbitrator shall have regard to the following:

    a. the replication principle;
    b. the terms and conditions of employment of comparable employees;
    c. the impact on Air Canada Mainline and on Air Canada Rouge and its ability to fulfill its mandate, as described in the Memorandum of Agreement of November 2, 2012, including, without limitation, the cost impact;
    d. any other factor that the arbitrator considers relevant.

8. The arbitrator will also consider the total cost of the proposal of each party 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 either the total cost of Air Canada Mainline or the total cost of Air Canada Rouge's obligations, except for the following items which Air Canada Rouge and CUPE 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 Rouge, at other low-cost carriers, or in Canada generally and/or cost of living (which shall be determined by the Bank of Canada Core Consumer Price Index – v41693242):

a. benefits;
b. sick leave for Air Canada Rouge Cabin Personnel;
c. credits, guarantees, and premiums for Air Canada Rouge Cabin Personnel;
d. vacation for Air Canada Rouge Cabin Personnel;
e. Article 14 and 15 of the Rouge LOU; and
f. any other items that the Parties agree is of mutual benefit to them.

9. The Collective Agreement will come into effect on April 1, 2019, notwithstanding that negotiations, mediation or arbitration as provided for herein may still be in progress. Once negotiation, mediation and/or arbitration have been completed, any change that has been agreed or awarded will be made to the provisions of the 2019-2022 Collective Agreement in effect and the terms of the agreement shall thereby be finalized.

10. Any terms awarded by the Arbitrator will be included in the 2019-2022 Collective Agreement.

Wages

11. Further, the following payments and wage and allowance increases shall form part of the 2019-2022 Collective Agreement:

    a. Cabin Personnel of Air Canada shall be granted the following wage increases:

Date	Increase
April 1, 2019	2%
April 1, 2020	2%
April 1, 2021	2%

    b. Cabin Personnel of Air Canada Rouge shall be granted the following wage increases:

Date	Increase
April 1, 2019	2%
April 1, 2020	2%
April 1, 2021	2%

Canada/United States Meal Allowances

    c. Article 7.02.02 of the Collective Agreement ("Canada/United States Meal Allowances") shall be amended to reflect the following increases for Air Canada Cabin Personnel:

Effective Date	Allowance Increase
April 1, 2019	2%
April 1, 2020	2%
April 1, 2021	2%

d. Article 8 of Letter of Understanding #55 ("Per Diem") shall be amended to reflect a 2% increase, on each of the same dates as in paragraph 11 c, above, to Meal Allowances for Air Canada Rouge Cabin Personnel.

The 2022-2025 Collective Agreement

12. The Parties have agreed that the 2019-2022 Collective Agreement shall be renewed with a term effective April 1, 2022 until March 31, 2025 (the "2022-2025 Collective Agreement"), without amendment, save as the Parties may agree either while it is in effect or pursuant to the bargaining described below.

13. Either party may provide notice to bargain between December 1, 2021 and March 31, 2022, whereupon the provisions of paragraphs 4-10 of this Memorandum, inclusive, shall apply as though they were set out hereunder in reference to the 2022-2025 Collective Agreement.

Wages

14. Further, the following payments and wage and allowance increases shall form part of the 2022-2025 Collective Agreement:

a. Cabin Personnel of Air Canada shall be granted the following wage increases:

Date	Increase
April 1, 2022	2%
April 1, 2023	2%
April 1, 2024	2%

b. Cabin Personnel of Air Canada Rouge shall be granted the following wage increases:

Date	Increase
April 1, 2022	2%
April 1, 2023	2%
April 1, 2024	2%

Canada/United States Meal Allowances

c. Article 7.02.02 of the Collective Agreement ("Canada/United States Meal Allowances") shall be amended to reflect the following increases for Air Canada Cabin Personnel:

Effective Date	Allowance Increase
April 1, 2022	2%
April 1, 2023	2%
April 1, 2024	2%

d. Article 8 of Letter of Understanding #55 ("Per Diem") shall be amended to reflect a 2% increase, on each of the same dates as in paragraph 14 c, above, to Meal Allowances for Air Canada Rouge Cabin Personnel.

No Strike or Lock-Out

15. There shall be no strike or lock-out during the Term of any of the 2015-2019 Collective Agreement, 2019-2022 Collective Agreement, or the 2022-2025 Collective Agreement.

Miscellaneous

16. The following Grievances are hereby withdrawn on a with prejudice basis:
    i. CHQ-14-20;
    ii. YUL-15-44 (and any other grievance addressing the language of instruction at Applause training); and
    iii. CHQ-14-17 and CHQ-14-49.

17. The Parties will collaborate to adjust all references and ensure accurate cross-referencing of all Collective Agreement language. Neither party shall have the authority to reinterpret or rewrite language which has not been signed and/or ratified.

18. The following Letters of Understanding, Memoranda of Understanding and Memoranda of Agreement shall be renewed and form part of each of the 2015-2019 Collective Agreement, 2019-2022 Collective Agreement, and the 2022-2025 Collective Agreement as follows, subject to any amendments agreed to in the present Memorandum and it Appendices or prior to this round of bargaining:

    a. LOU 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 25, 26, 27, 28, 30, 31, 33, 35, 38, 39, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 however, any provisions of these LOUs with a specified date upon which it ceases to have effect, including provisions which expired on March 31, 2015, shall cease to have effect on that date.

    b. Restructuring MOU May 29, 2003; Restructuring MOU May 18, 2004 (except A321 MOA dated May 18, 2004); Restructuring MOS June 18, 2004 and MOA June 18, 2004, however, any provisions of these Memoranda with a specified date upon which it ceases to have effect, including provisions which expired on March 31, 2011, shall cease to have effect on that date.

    c. Appendices I, II, III, IV, V, VI, VII, IX, X, XII, XIV, XV, XXIII

    d. Memoranda of Settlement 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26.

19. This Memorandum and its Appendix attached hereto will be unanimously recommended for acceptance by the Union Bargaining Committee to its members. Further, the Company's Executive Committee shall recommend acceptance to its Board of Directors.

20. The obligations of the Parties set out herein, except those in paragraph 19, are conditional upon acceptance by Air Canada's Board of Directors and Air Canada Rouge's Board of Directors and ratification by the Union's members.

21. Upon ratification by the Parties, this Memorandum constitutes an agreement under s. 79 of the *Canada Labour Code* respecting the renewal, revision and/or entering into a collective agreement for each of the periods stipulated herein.

22. As the Parties agree that the present Memorandum concerns matters respecting the renewal or revision of collective agreements and/or the entering into of new collective agreements, and further agree that any dispute about its interpretation, application or alleged contravention shall be referred to an arbitrator for final and binding determination. For this purpose, the Parties agree to adopt and follow the same procedure to address any dispute under this Memorandum as is set out in the collective agreement then in effect.

23. The Parties agree that in no event shall the Union engage in a strike or the employer engage in a lockout until the time this Memorandum is terminated pursuant to paragraph 244.

24. For clarity, the Parties agree that this Memorandum will terminate upon any of the following events occurring:

    a. The Parties agreeing in writing that this Memorandum should cease; or
    b. March 31, 2025.

25. The Parties further agree that the terms and conditions in this Memorandum of Agreement shall be incorporated into and form part of the Collective Agreements to which they apply.

26. Terms defined in the 2015-2019 Collective Agreement and used herein shall have the meaning ascribed to them by that agreement.

Signed this _____ day of October at Toronto, Ontario.

Air Canada

Per: Mike Abbott

Per: HARLAN CLARKE

Per: ANUP ANAND

Per: GIUSEPPE MORELLO

Per: ANTHONY BURSEY

Per: PHILIP BRENNAN

Per: VERONIQUE SAVÉ

Air Canada rouge

Per: Richard McCarthy

Per: Cory Mitic

Per: Emma Heslop

Per: Christopher James

Canadian Union of Public Employees, Airline Division, Air Canada Component

Per: MICHEL COUCHOYER

Per: Edith Gagnon

Per: Terri Nolan

Per: Antonius Lam

Per: DENIS MONTPETIT

Per: Anna Clauser

Per:

ALEJANDRA DING

Per:

Per: Alison Kjertinge

Per: GUILLAUME LEDUC

Per:

Mainline Agreed to Items

Collective Agreement Reopener 2019-2022
CUPE and Air Canada and Air Canada Rouge

FINAL LANGUAGE
Mainline Proposals

The parties agree that the Collective Agreement amendments contained in this document are those that have been agreed and signed by the parties during negotiations.

Amended Language:

L8.01.04 **Rest Periods**: A ten (10) hour rest period will be granted to each ~~employee~~ **Regular Blockholder and a twelve (12) hour rest period will be granted to each Reserve Blockholder** commencing with release from training session or on arrival at Home Base where travel was involved. Where the rest period commences after travel and arrival at Home Base and such rest period overlaps into a blocked flight, the employee will be subject to Article B6.03 - Reassignment, on termination of the ten (10) hour rest period. No employee shall be required to travel to training within a ten (10) hour rest period after a duty period. **No reserve blockholder shall be required to travel to training within a twelve (12) hour rest period after a duty period.**

Amended Language:

4.c. **Guaranteed (inviolate) Days Off Bid – Set Condition Maximum Number of Guaranteed Days Off:**
i. An employee may set this value with a minimum of ~~two (2)~~ **zero (0)** days off and a maximum of eleven (11) guaranteed days off.

Rouge Agreed to Items

Collective Agreement Reopener 2019-2022
CUPE and Air Canada and Air Canada Rouge

FINAL LANGUAGE
Rouge Proposals

The parties agree that the Collective Agreement amendments contained in this document are those that have been agreed and signed by the parties during negotiations.

New Language:

L55.06.09 **GROUND CREDITS**- Where a departure is delayed and an employee is required by the Company, to provide meal, bar or beverage service to passengers on the ground, whether the flight operates or not, or if an employee is required by the Company to remain onboard upon arrival, they shall be paid one-half (½) of their hourly rate of pay, including the Lead Premium to the Employee operating as Lead Flight Attendant for the applicable flight.

Ground Credits shall be calculated to the nearest minute, however an entitlement to Ground Credits will only exist for periods of thirty (30) minutes or more.

Employees who claim to have an entitlement to Ground Credits must advise the Company within forty-eight (48) hours of their return to home base.

The Employee shall receive the greater of:

(a) The combined Ground Credits and actual scheduled flight time contained in the pairing;
(b) Four (4) hours; or
(c) (50%) of actual duty period worked applied for pay purposes only and not for flight time limitation purposes.

Ground Credits shall not be flight-time limiting.

New Language:

L55.14.01.01 **PBS COMMITTEE**

L55.14.01.01.01 The PBS Committee will consist of a maximum of two (2) Union representatives.

L55.14.01.01.02 The PBS Committee will provide bidding assistance/education on the functions of the system on an ongoing basis.

L55.14.01.01.03 The PBS Committee will consult with the Company representatives during block building and will work to resolve blocking issues that result from contesting.

L55.14.01.01.05 The Company shall allocate $1,000 per calendar year for the purpose of purchasing new PBS bidding features and improvements. The feature(s) to be purchased will be decided by the PBS Committee. Any remaining or unused yearly amounts shall carry over into the next calendar year.

LETTER OF COMMITMENT – PBS Information

[date]

Wesley Lesosky
Air Canada Component President
Air Canada Component of CUPE ("CUPE")
25 Belfield Rd
Etobicoke, On
M9W 1E8

Dear Mr. Lesosky:

This letter confirms that the parties agree that while the current NAVBLUE PBS system is being utilized by Air Canada Rouge, the company will provide the PBS Committee with the following information on a monthly basis:

- Pairing files
- Employee checklist per base (list of active employees per base for each language and qualification)
- Monthly run details
- PBS award results
- PBS reasons reports
- PBS contest forms
- Unstacking reports

The parties agree that the above will be effective following the ratification of the 2019-2022 collective agreement.

Yours truly,

Giuseppe Morello

Director, Labour Relations

LETTER OF COMMMITMENT – BLOCKING WINDOW

Wesley Lesosky
Air Canada Component President
Air Canada Component of CUPE ("CUPE")
25 Belfield Rd
Etobicoke, On
M9W 1E8

Dear Mr. Lesosky:

As you know, Air Canada Rouge determines the range of block hours necessary ("Blocking Window") to build legal blocks for each Employee so that operational requirements are met.

This is to confirm that the Blocking Window used by the Company in any particular block month will be no less than five (5) hours.

Further, the Company commits that beginning twelve (12) months after the implementation of the Rouge Reserve/Blockholder concept, the Company will publish, in advance, the monthly blocking window.

Yours truly,

Giuseppe Morello
Director, Labour Relations

Amended Language:

L55.25.01 ~~**ISSUE RESOLUTION MEETINGS - The Union and the Company agree to meet on quarterly basis to address miscellaneous issues to attempt to find mutually satisfactory solutions to matter of concern to Employees. The Company shall pay the Local President and two (2) designated Union representatives a minimum of four (4) hours of flying credits to attend these meetings.**~~

UNION-EMPLOYER- LABOUR RELATIONS MEETINGS – The Union, the Company, and the Company's Labour Relations representatives will schedule monthly meetings ("LR Meetings") to discuss issues affecting Employees or the workplace, with the ultimate objective of maintaining positive labour relations.

A maximum of four (4) representatives on behalf of the Union and four (4) representatives on behalf of the Company/Labour Relations may attend an LR Meeting, unless otherwise agreed.

The parties will exchange agenda items one week prior to any LR Meeting date. An issue for which a grievance has been filed will not be discussed in this forum unless otherwise agreed.

An LR Meeting may be cancelled or rescheduled upon agreement of the parties.

Amended Language:

L55.01.02.04 ~~**"Block"** means a series of pairings, reserve days and time off awards that have been assigned to Employees in any given monthly bid period;~~

Regular Blockholder: an Employee awarded or assigned Regular Block

Reserve Blockholder: an Employee awarded or assigned a Reserve Block

[…]

L55.01.02.23 **"Standby** Reserve Day Assignment ~~**Duty**~~**"** means a time period during which an Employee must be available for stand-by duty;

[…]

L55.06.02 **Monthly Pay Guarantee —** Employees who are available for duty for an entire month shall receive a monthly pay guarantee of:

-Regular Blockholders: seventy-five (75) hours;

-Reserve Blockholders: eighty (80) hours.

L55.06.02.01 The monthly pay guarantee shall be reduced by two hours and thirty-five minutes (2:35) for Regular Blockholders and two hours and forty minutes (2:40) for Reserve Blockholders for each day off of the payroll for reasons such as sickness (without sick credits remaining) unavailable for duty and leave of absence.

[…]

~~L55.06.07~~ ~~**Reserve/Standby Duty —** Employees shall be guaranteed a credit of four (4 hours) for each standby duty day.~~

L55.06.0~~8~~7 When required by the Company to travel to and from the training location away from home base, the Employee will be credited, for pay purposes only, two (2) hours for each calendar day of travel and the Per Diem provided by Article 7.

[…]

L55.11 **SICK LEAVE**

[…]

L55.11.04 One (1) hour of sick leave credits is equivalent to one (1) hour of flight time credits.

L55.11.04.01 Where an Employee on Standby Reserve Day Assignment reports unavailable for duty as a result of sickness, he/she shall be charged four (4) hours of sick leave credits for each period of twenty-four (24) hours or less.

[…]

L55.14.02 **Monthly Schedules —** Monthly blocks will be prepared by the Company.

~~L55.14.02.01 Monthly blocks may contain scheduled pairings, or a combination of scheduled pairings and reserve duty days.~~

L55.14.02.0~~2~~1 For blocking purposes, an Employee may be scheduled up to a maximum of six (6) consecutive duty days followed by a minimum of one (1) day off.

L55.14.02.0~~3~~2 For blocking purposes, in any fourteen (14) consecutive calendar days, an Employee will have a minimum of four (4) clays off.

L55.14.02.03 Regular blockholders will have the ability to waive articles L55.14.02.02 and/or L55.14.02.03 when bidding for their schedule. A reserve blockholder may waive one of the provisions of L55.14.02.02 or L55.14.02.03.

L55.14.02.04 Each reserve block will contain alternate sets of duty days designated as Call-in Reserve or standby reserve.

L55.14.02.05 - **Reserve at Destination -** A pairing may include a reserve duty day (“layover reserve assignment”) if the following criteria are met:

L55.14.02.05.01 There shall be no more than one (1) cabin crew member scheduled to each layover reserve assignment. For example, on an aircraft with a crew of six (6), only one (1) crew member may be scheduled for a layover reserve assignment.

L55.14.02.05.02 Each layover reserve assignment shall contain only one 24-hour standby reserve day ("reserve duty day") and each reserve duty day shall commence immediately following crew rest. If the Company does not assign a flight during the reserve duty day, the cabin crew member will resume the remainder of their layover until their next scheduled flight, subject to the terms and conditions of the Collective Agreement.

L55.14.02.05.03 Employees on standby reserve at layover destination will be paid the greater of:

- A four (4) hour credit for each 24 hour period on standby reserve at layover destination;
- The actual flight credits operated; or
- Fifty percent (50%) of the actual duty period worked.

In addition, cell phone charges for the reserve duty day will be reimbursed as per Company policy.

L55.14.02.05.04 When a cabin crew member on a layover reserve assignment is assigned to operate a flight, the Company will make best efforts for the cabin crew member to return as scheduled on or before the date on which their pairing was scheduled to conclude.

L55.14.02.05.05 The layover reserve assignment shall not be scheduled to include more than two (2) duty periods and the reserve duty day shall always be in between the two (2) duty periods.

[…]

L55.14.09.~~01~~ ~~Reserve Rules~~ **Reserve Blockholder and Standby Reserve Day Assignment Rules**

L55.14.09.01 Standby Reserve days are a period of 24 hours.

L55.14.09.02 An Employee on a Standby Reserve Day will be considered on call at all time during her/his reserve period.

L55.14.09.03 Two ~~2~~ hours and thirty minutes (2:30) from the first call as per L55.14.09.05 is the minimum advance notice to report for flight departure.

L55.14.09.04 Crew Scheduling will make every effort to contact the Employee on a Standby Reserve Day ~~reserve~~ as far in advance as possible and the Employee will make every effort to report for flight departure in less than two hours and thirty minutes (2:30) ~~2 hours~~ if required.

L55.14.09.05 Employees will provide a telephone number at which they may be reached at all times. An Employee who cannot be reached at their designated phone number(s) after two (2) calls from the Company, no less than fifteen (15) minutes apart, will be considered unavailable for duty.

~~Employees who are on standby reserve day will not be allowed to bid open flying.~~

L55.14.09.06 If a ~~Standby~~ Reserve Blockholder is flown into a day(s) off it/they ~~do not~~ will slide and commence after legal crew rest at Home Base (~~minimum 10 days off~~).

L55.14.09.07 The ~~Standby~~ Reserve Blockholder with the lowest projected hours is assigned first, subject to optimum use of reserves considering reserve day patterns and language qualifications. Regular Blockholders reassigned to Standby Reserve Days may be assigned prior to Reserve Blockholders.

L55.14.09.08 Airport Standby is a duty where an employee is required to report to work for possible flight assignment in order to protect the operation for that day

L55.14.09.09 Employees must be reachable at all times while on Airport Standby

L55.14.09.10 Employees on Airport Standby must be released by Crew Scheduling

L55.14.09.11 Employees who are assigned to a pairing that conflicts with another pairing will operate the assigned pairing and drop the other pairing and will be assigned Standby Reserve days instead on the affected days.

L55.14.09.12 **AIRPORT STANDBY AFTER FLIGHT:** A Reserve Blockholder may, on arrival at Home Base after a flight, be required to remain on standby at the airport for a maximum of one (1) hour if his/her duty period on arrival is ~~ten (10)~~ eight (8) hours or less. S/he may be assigned to a flight departing within or after the one (1) hour period and if no assignment is made, s/he must be released for a legal rest. The duty period, for pay and limitation purposes, will end at release time.

L55.14.09.13 An Employee on Standby Reserve Day Assignment who has not been awarded an assignment may, on request, be granted a release of up to six (6) hours for personal reasons if it is operationally practicable.

Once assigned to a pairing, s/he may also request to be released until the required report time if it is operationally practicable to do so.

L55.14.09.14 **CALL-IN RESERVE:** An Employee who is scheduled on Call-in Reserve will be required to contact the Company the day prior to his/her duty day for flight assignment. The Call-in time will be established at each Base by mutual agreement between the Company and the Local President. The call-in time will be published with the monthly block package at each Base.

L55.14.09.15 An Employee while on call-in may be requested to call back provided the call back time is within the specified call-in period.

L55.14.09.16 An Employee on Call-in Reserve must call in the day prior to a scheduled duty day even if the call-in time falls on a day off, or vacation day. However, the Employee may request to be placed on ready reserve on his/her first duty day following any time off in order to preclude the requirement of making a call-in prior to the first duty day. Such arrangement must be made in advance with the Company.

L55.14.09.17 At call-in time, the Company will assign the Employee either:

i) a pairing;
ii) Airport Standby;
iii) a release from reserve duty until their next call-in time; or
iv) A Standby Reserve period of up to sixteen (16) ~~ten (10)~~ consecutive hours.
   a. Standby Reserve start time will be assigned at Company discretion.
   b. Standby Reserves will not be obligated to remain available outside of the sixteen (16) ~~ten (10)~~ hour period, however an assignment may be given outside of that period if contact is made with the employee.
   c. If an employee has been awarded a pairing which departs at 1200 hours or later, s/he may be released upon request until the required report time. The assignment may subsequently be changed if the employee can be contacted prior to the report time or at report time.
   d. If an employee has been awarded a pairing which departs prior to 1200 hours, s/he may be released upon request from reserve duty for the remainder of the day on which s/he made his/her call in.

L55.14.09.18 An Employee on Call-in Reserve assigned to a Standby Reserve period of up to sixteen (16) ~~ten (10)~~ hours may be assigned a pairing that departs within or after the Standby Reserve period.

L55.14.10 **AIRPORT STANDBY RULES**

L55.14.10.01 ~~An Employee on airport standby will be assigned a report time by Crew Scheduling and s/he will be on airport standby for a period not exceeding four (4) hours following that report time. Assignment may be made to a flight departing within or after the four (4) hour period. If no assignment is made s/he will be released for a legal rest. The duty period, for limitation purposes, will begin at the required reporting time.~~ A Reserve Blockholder may be required to report to the airport to remain on standby for possible flight assignment. The duty period, for limitation purposes, will begin at the required reporting time. If a flight is operated, the duty period will be applicable for pay purposes.

L55.14.10.02 An Employee will not be required to report for airport standby more than three (3) times in any block month. An Employee may exceed this limitation on a voluntary basis.

L55.14.10.03 ~~The standby duty credit provided by L55.06.07 will not apply when Employees are assigned to airport standby.~~ Airport standby will be for a maximum of four (4) consecutive hours. Assignment

may be made to a flight departing within or after the four (4) hour period. If no assignment is made s/he will be released for a legal rest.

L55.14.10.024 Employees on airport standby will be paid the greater of:

- A four (4) hour credit;
- The actual flight credits operated; or
- Fifty percent (50%) of the actual duty period worked.

L55.14.10.045 Employees must be reachable at all times while on airport standby.

~~L55.14.10.05 Employees on airport standby must be released by Crew Scheduling before leaving the airport.~~

L55.14.11 **AWARD OF OPEN FLYING -** Open pairings not awarded through the blocking process or pairings that become open following the blocking process will be made available and awarded utilizing available technology (Globe or any subsequent technology chosen by Air Canada Rouge ("Globe")) for bidding and awarding purposes.

L55.14.11.01 **Award procedure**

An Open pairing will be awarded, in accordance with the sequence below, to an Employee, if it meets his/her specifications and the Employee is legal in all respects:

(a) a pairing that is open more than twelve hours prior to departure:

(i) Will be awarded in priority to an Employee with less than ninety (90) block hours in that block month. If there is more than one Employee with less than ninety (90) hours who has bid for, and is legal for, the pairing, it will be awarded to the employee with the lowest number of projected flying hours at the time of the award;

(ii) If there are no Employees who have bid for, and are legal for, the pairing who have less than ninety (90) block hours in that block month, the pairing will be awarded to an Employee with block hours equal to or greater than ninety (90) in that block month, in seniority order.

(b) a pairing that is open twelve (12) hours or less to departure will be awarded at Air Canada Rouge's discretion.

NOTE I: Reserve can be used at any time in the award process at Air Canada Rouge's discretion.

NOTE II: A cabin crew member volunteering for open flying can only be awarded a pairing on the day(s) they volunteered for that match their preferences. Crew Scheduling may offer a pairing

that is longer or does not match their preferences, but the cabin crew member will be able to refuse the assignment.
If awarded a pairing, the Employee will be notified via Globe, and the pairing will then form part of the Employee's block. Employees who have not acknowledged the fact that they have been awarded a pairing on Globe will receive a courtesy crew call, but are, in any case, expected to report for work. Employees will be considered unavailable for duty if they have not acknowledged their bid via Globe and have not answered the courtesy crew call.

NOTE III: Reserve Blockholders can volunteer for open flying once they have completed all their Reserve Day Assignments in the Block month.

[…]

L55.14.13 **GDO/UDO**

L55.14.13.01 **Guaranteed Days Off —** ~~Employees~~ Regular Blockholders shall receive a minimum of ten (10) guaranteed days off per block month.

Reserve Blockholders shall receive a minimum of ~~eleven (11)~~ twelve (12) guaranteed days off per block month. In a thirty-three (33) day block month, they shall receive a minimum of ~~twelve (12)~~ thirteen (13) guaranteed days off.

On a voluntary basis, Reserve Blockholders may waive their minimum days off. ~~in order to accept an assignment.~~ Days off in that month will not be reduced to less than five (5) full twenty-four (24) hour periods.

L55.14.13.02 For blocking purposes, a Guaranteed Day Off shall commence at 00:01 and end at 23:59.

L55.14.13.03 Of those ~~ten~~ Guaranteed Days Off, Employees will have the ability to bid up to five (5) days as untouchable Guaranteed Days Off at the time of the award. These untouchable Guaranteed Days Off will be awarded in seniority order to Regular Blockholders, subject to operational requirements. Air Canada Rouge will not assign flying, or draft an Employee, on an untouchable Guaranteed Day Off. However, should an Employee be flown into an untouchable Guaranteed Day Off due to unforeseeable circumstances (i.e. Mechanical away from home base), this Guaranteed Day Off will commence after legal crew rest at Home base.

L55.14.13.04 **Untouchable Guaranteed Days Off Bid for Reserves -**

i. Reserves may bid up to a maximum of seven (7) untouchable guaranteed days off.
ii. The default value is two (2) untouchable guaranteed days off.
iii. The maximum allowable seven (7) untouchable guaranteed days off shall be prorated for any partial reserve month. A Reserve whose request for untouchable guaranteed days off exceeds their prorated maximum allowable untouchable guaranteed days off, shall be awarded/assigned untouchable guaranteed days off based on the proration.

L55.14.13.05 **Untouchable Guaranteed Days Off Awarding for Reserves** –

Untouchable Guaranteed Days Off – Untouchable guaranteed Days Off shall be awarded/assigned after the legal Reserve block is created by converting regular days off into untouchable guaranteed days off.

i. Up to three groups of untouchable guaranteed days off will be awarded.

ii. PBS will convert days off into untouchable guaranteed days off in order of preference until the requested number of untouchable guaranteed days off is reached, unless, adding additional untouchable guaranteed days off would cause the number of untouchable guaranteed days off groups to exceed three (3) groups.

iii. The preference ordering will be derived from the "Prefer Off" bids order in the Employee's reserve bid. A default value of two (2) untouchable guaranteed days off will be used if an Employee does not request any untouchable guaranteed days off.

L55.14.13.06 **Reserve Minimum Days Off -** Reserve blocks shall be constructed with a minimum of two (2) consecutive Reserve Days Off.

Note: Notwithstanding the above, less than two (2) Reserve Days Off shall be permitted at the beginning and at the end of the block month in order to facilitate the completion of a legal reserve block.

L55.14.13.047 When forfeiting days off for open flying bidding purposes, days off in that month will not be reduced to less than five (5) full twenty-four (24) hour periods. An Employee cannot be drafted if the draft would result in his/her days off being reduced to less than ten (10) full twenty-four (24) hour periods. Twenty-four (24) hour periods commence from the end of the last duty period to the commencement of the next activity in his/her schedule.

[…]

L55.15.02 Legal Rest Periods — Home base: Upon return to home base, Regular Blockholders shall be entitled to a rest period of ten (10) hours and Reserve Blockholders shall be entitled to a rest period of twelve (12) hours. The rest period following an Overseas operation shall be eighteen (18) hours for both Regular Blockholders and Reserve Blockholders.

A rest period following an operation from Central America/ South America/Caribbean where the duty period is greater than thirteen (13) hours shall be twelve (12) hours for both Regular Blockholders and Reserve Blockholders.

The minimum Legal Rest Period at a layover point shall be ten (10) hours. ~~unless reduced to nine (9) hours for operational reasons.~~

[…]

L55.15.07 **Reassignment —** Employees who are no longer required for a pairing or part of a pairing shall be given another assignment or will revert to standby status for any calendar day involved in the original blocked pairing. Employees who are reassigned to standby duty shall complete their standby duty within the originally blocked pairing day(s).

Employees who are converted to standby status shall receive the greater of four (4) hours pay per day or ~~Article [standby premium article] or~~ the value of the re-assigned pairing.

Mainline Housekeeping Items

Collective Agreement Reopener 2019-2022
CUPE and Air Canada and Air Canada Rouge

FINAL LANGUAGE
Mainline Housekeeping Proposals

The parties agree that the Collective Agreement amendments contained in this document are those that have been agreed and signed by the parties during negotiations.

Amended Language:

5.04 PURSER E175, E190, A319, A320, 737

YEARS OF SERVICE	Effective April 1, 2015	Effective April 1, 2016	Effective April 1, 2017	Effective April 1, 2018	Effective April 1, 2019	Effective April 1, 2020	Effective April 1, 2021	Effective April 1, 2022	Effective April 1, 2023	Effective April 1, 2024
I (1st year)	$53.73	$54.80	$55.90	$57.02	$58.16	$59.32	$60.51	$61.72	$62.95	$64.21
II (2nd year)	$57.99	$59.15	$60.33	$61.54	$62.77	$64.03	$65.31	$66.62	$67.95	$69.31
III (3rd year)	$61.11	$62.33	$63.58	$64.85	$66.15	$67.47	$68.82	$70.20	$71.60	$73.03

5.11 **MINIMUM MONTHLY GUARANTEE** - Where an employee is available for duty for a full month, s/he shall receive a minimum monthly guarantee as follows:

5.11.01 **Purser - Regular Blockholder** - sixty-five (65) hours at the applicable jet aircraft hourly rate.

Purser Reserve Blockholder – seventy-five (75) hours at the applicable jet aircraft hourly rate.

NOTE: Where a Purser operates both other jet aircraft and B767, B777, **B787,** A330 aircraft in a month, the minimum monthly guarantee will be prorated between the applicable other jet aircraft and B767, B777, **B787,** A330 aircraft hourly rates on the basis of hours credited on each aircraft in that month.

EXAMPLE:
Flight Time Credits:
60 hours
20 hours on B777
40 hours on other jet aircraft
Ratio: 1/3

Minimum Monthly Guarantee Paid:

33-1/3% at B777 rates
66-2/3% at other jet aircraft rates

L2.02.02 Cabin crews originating, terminating or transiting at a point in the Province of Quebec or Ottawa including flights originating Montreal or at a point in the Province of Quebec through Toronto to South and Florida:

B777	6
A330**, 787**	4
B767	3
A319, A320, A321**, E190, E175, B737**	2

L2.02.03 Cabin crews on all other flights:

B777/A330/B767**/B787**	2
A319/A320/A321**/E175/E190/B737**	1

Amended & Renumbered Language:

5.13 **PAY PROGRESSION** - For the purpose of progression within the schedule of hourly rates of pay:

5.13.01 Each 6 month period = 26 calendar weeks
Each 1 year period = 52 calendar weeks

~~**5.13.02**~~ ~~**An employee placed at a higher level in the schedule on his/her assignment to line duty shall progress through the schedule on that basis.**~~

~~**5.13.03**~~ **5.13.02** An increase within a schedule shall become effective with the duty period following the anniversary date of the Employee's report to initial training, or the adjusted service date regardless of the block month start date.

~~**5.13.04**~~ **5.13.03** Absence from the payroll for up to fifteen (15) calendar days will not retard an increase, but an absence of between sixteen (16) and thirty (30) calendar days will retard such increase by one (1) full pay period and thereafter by one (1) pay period for each additional thirty (30) calendar days or major portion thereof.

EXCEPTION: Absences covered by Workers' Compensation or account maternity will not retard an increase.

Collective Agreement Reopener 2019-2022
CUPE and Air Canada and Air Canada Rouge

Amended Language:

22.02.01 Expenses incurred for paramedical services of Chiropractors, Osteopaths, Naturopaths and Podiatrists**/Chiropodists** in Provinces where such services are not covered by the Provincial Medicare Plan will be covered to a maximum of fifty dollars ($50.00) per visit to a maximum of one thousand dollars ($1,000) per person per year or two thousand dollars ($2,000) per family per year. In Provinces where the Provincial Medical Plan partially covers the fees for the eligible paramedical services, the Company Supplemental Health Plan will cover the difference between the actual fee and the amount covered by the Provincial Medical Plan provided that the applicable provincial legislation permits such coverage.

NOTE: Coverage for Podiatrist/Chiropodist is combined.

Amended Language:

L18.03.02 On board crew rest will be ~~three hours and thirty (3:30) minutes~~ **four hours (4:00)** per operating employee when the scheduled duty day is fifteen (15) hours or more and a minimum ~~two (2) hours~~ **two hours and thirty minutes (2:30)** for scheduled duty days of fourteen hours and fifty-nine (14:59) minutes or less applicable to flights listed in L18.02;

L22.05.01 On duty periods of 16:16 to 17:10 hours, the on board crew rest will **be** ~~three hours and thirty minutes (3:30)~~ **four (4:00)** consecutive **hours** for each cabin crew member. Meal breaks are to be taken separately.

On duty periods of 17:11 to 18:00 hours, the on board crew rest will be four **hours and thirty minutes (4:30)** consecutive ~~hours (4:00)~~ for each cabin crew member. Meal breaks are to be taken separately.

L22.09.01 On duty periods of 18:01 to 18:45 hours on board Crew Rest will be ~~four~~ **five** hours ~~thirty minutes (4:30)~~ **(5:00)** consecutive for each cabin crew member. Meal breaks are to be taken separately.

On duty periods of 18:46 to 19:30 on board rest will be five hours **thirty minutes (5:30) consecutive** ~~(5:00)~~ for each cabin crew member. Meal breaks are to be taken separately.

The Company shall provide a mutually agreed upon Crew Rest Unit(s) for use on these flights;

~~L60.04.06 An additional thirty (30) minutes of on board crew rest will be applied to LOU 18, LOU 22A and LOU 22B flights.~~

Collective Agreement Reopener 2019-2022
CUPE and Air Canada and Air Canada Rouge

Amended Language:

LOU 28

Note 2: Crew will be permitted to sleep for a period of no longer than one hour, during their crew break, in accordance with Company policy as published in ePub on any non-long range flight leg scheduled or re-forecast, on the day of departure, to exceed 7 hours but be less than 8 hours **and 1 minute (8:01)** from gate to gate. Where crew rest units are available on the aircraft type, crew sleep shall only be permitted in the crew rest unit.

Amended Language:

LOU 58

For the term of the Collective Agreement, the Company shall allocate $3,000 per calendar year for the purpose of purchasing new PBS bidding features ~~from the PBS Catalogue~~ **and improvements**.

The feature(s) to be purchased will be decided by the Joint PBS Committee consisting of both Company and CUPE representatives. Any remaining or unused yearly amounts shall carry over into the next calendar year

Amended Language:

L60.04.02

The crew complement on Overseas wide-body operations that fall within B5, B14, LOU 18, LOU 22A and LOU22B operations shall be as follows:

Aircraft Type	Overseas Flying B5 1 Crew Member: 40 Passenger Ratio (All doors Covered)	B14	LOU 18	LOU 22A	LOU 22B
767	6	7	X	X	X
330	8	~~X~~ 9	X	X	X
787-8	8	8	8	9	9
787-9	8	9	9	10	10
777-2	8	9	10	11	12
777-3	10	11	12	13	13
777P	12	13	13	15	16

Collective Agreement Reopener 2019-2022
CUPE and Air Canada and Air Canada Rouge

Amended Language:

B2.10 ~~A duty period which contains a flight leg which is scheduled to depart between 21:00 and 02:00 local time, will not contain more than two (2) flight legs.~~ A duty period which is scheduled to end after 03:00 local arrival time: and

i. Contains flight legs which are scheduled to depart on two (2) different calendar days, or,
ii. Has a leg that operates through any portion of the 00:01 to 04:30 timeframe,

will not contain more than two (2) flight legs. This shall apply to both Reserve and regular Blockholders. The Company will endeavor to secure an appropriate rest area at all Canadian stations for any pairing that falls within the above parameters.

Note: For blocking purposes, the PBS committee will identify any pairing that falls within the above description and will work with the Company to rework these pairings.

Amended Language:

B8.20.04 If s/he does not operate a flight, an employee shall receive a credit of ~~one half (½) of the actual time involved in the duty period~~ the total duty period minus four (4) hours with a minimum credit of four (4) hours. This credit will be applicable for both pay and limitations.

Amendment to Appendix III:

APPENDIX III
SUMMARY OF LEGAL REST PERIODS (Cont'd)

AWAY FROM HOME BASE	PLANNED/ SCHEDULED REST PERIODS MINIMUM	MINIMUM REST PERIODS IRREGULAR OPERATION
At airport hotel - B5.05.01	10 hours	10 hours
Away from airport - B5.05.01	10 hours	10 hours
North American layover point after overseas flight-B5.05.01	12 hours	12 hours
Following 12 hours duty (in one duty period) - B5.05.02	12 hours	10 hours at airport 10 hours away from airport
Between two consecutive duty periods totalling twenty (20) hours or more - B5.05.02	12 hours	10 hours at airport 10 hours away from airport
Canada-London (Eng-Can) turnaround - B5.05.01	12 hours	12 hours in LHR

B14	**12 hours** **18 hours (L31)**	**12 hours** **18 hours (L31)**
Following LOU 18 & LOU 22 Flights Layover point	24 Hours	18 Hours

Rouge Housekeeping Items

Collective Agreement Reopener 2019-2022
CUPE and Air Canada and Air Canada Rouge

FINAL LANGUAGE
Rouge Housekeeping Proposals

The parties agree that the Collective Agreement amendments contained in this document are those that have been agreed and signed by the parties during negotiations.

Amended Language:

L55.10.02 **Annual Vacation —** The vacation period entitlement shall be applicable in accordance with completed years of continuous Company service prior to April 30th each year:

Less than 1 complete year	.83 day per full calendar month
1 to **less than** 3	10 calendar days
3 to **less than** 12	15 calendar days
12 or more	20 calendar days

Amended Language:

L55.20.03 During an interview between the Company and the Employee where disciplinary action is contemplated, or where a performance meeting is held, the Employee may request the presence of a Union representative. If practicable, the Company shall provide the Employee with reasonable prior notice of the interview in writing informing the Employee of the alleged misdemeanour(s) and of his or her right to have a Union representative present. The Company will also, if practicable, notify the Union's Local Base President and the Component President of the interview via e-mail.

Amended Language:

L55.22 **LAYOFF AND RECALL – Article 17 of the Air Canada Mainline Collective Agreement will apply.**

Amended Language:

L55.23.02 **Saving Clause -** Where the provisions of this Agreement are at variance with the Company policy, this Agreement shall ~~be~~ prevail.

Interest Arbitration Award

IN THE MATTER OF AN INTEREST ARBITRATION
UNDER THE *CANADA LABOUR CODE*, R.S.C., 1985, C. L-2

BETWEEN:

AIR CANADA

(the "Employer" or "Company")

AND:

CANADIAN UNION OF PUBLIC EMPLOYEES, AIRLINE DIVISION
AIR CANADA COMPONENT

(the "Union" or "CUPE")

(Interest Arbitration)

ARBITRATOR:	Vincent L. Ready
COUNSEL:	Christopher D. Pigott and Lennie Lejasisaks for the Employer Megan Reid and Brett Hughes for the Union
HEARING VIA VIDEO CONFERENCE:	March 29 and 30, 2022
WRITTEN SUBMISSIONS:	February 28, March 16, 17, 22, 24 and April 6 and 13, 2022
DECISION:	May 20, 2022

33543

I was retained by the Parties to conduct mediation and interest arbitration pursuant to the 2015 Memorandum of Agreement, which sets out a framework for successive Collective Agreements from April 1, 2015 to March 31, 2019; April 1, 2019 until March 31, 2022; and April 1, 2022 until March 31, 2025 (the "2015 MOA").

This award pertains to bargaining for the April 1, 2019 to March 31, 2022 Collective Agreement.

The 2015 MOA is a unique agreement, effectively setting out the terms of a ten-year Collective Agreement subject to two limited opportunities for collective bargaining during the agreement. The portions of the 2015 MOA relevant to this interest arbitration are reproduced below:

> WHEREAS the last Collective Agreement between the Company and CUPE was effective from April 1, 2011 until March 31, 2015 and therefore expired on April 1, 2015 (the "Collective Agreement");
>
> WHEREAS Air Canada rouge and the Union are parties to a Supplemental Agreement that also expired on April 1, 2015;
>
> WHEREAS Air Canada, Air Canada rouge and CUPE (the "Parties") have been meeting in order to renegotiate the terms and conditions of the Collective Agreement and the Supplemental Agreement, as applicable;
>
> WHEREAS the Parties wish to provide for stability in their relationship until March 31, 2025, and, through substantial investment and growth, provide benefits for both the Company and Cabin Personnel represented by CUPE;
>
> WHEREAS the Parties have agreed that the Collective Agreement and the Supplemental Agreement shall be renewed as set out in the present Memorandum of Agreement ("Memorandum");
>
> AND WHEREAS the Parties wish to provide for the entering into of successive collective agreements which will be effective for the following periods: 1) from April 1, 2015 until March 31, 2019; and

2) from April 1, 2019 until March 31, 2022, and 3) April 1, 2022 until March 31, 2015.

NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:

Terms and Conditions applicable to Air Canada rouge Employees

1. The Parties agree that the terms and conditions applicable to Air Canada rouge Employees formerly contained in the Supplemental Agreement shall, as of the date of ratification of this Memorandum, be set out in a new Letter of Understanding #55 which shall form a part of each of the 2015-2019 Collective Agreement, the 2019-2022 Collective Agreement, and the 2022-2025 Collective Agreements.

The 2015-2019 Collective Agreement

2. The Collective Agreement shall be renewed with a term effective April 1, 2015 until March 31, 2019 (the "2015-209 Collective Agreement"), without amendment, save as set out in Appendix A of this Memorandum or as the Parties may otherwise agree.

…

The 2019-2022 Collective Agreement

4. The Parties have agreed that the 2015-2019 Collective Agreement shall be renewed with a term effective April 1, 2019 until March 31, 2022 (the "2019-2022 Collective Agreement"), without amendment, save as the Parties may agree either while it is in effect or pursuant to the bargaining described below, in accordance with the following procedure:

   a. Either party may provide notice to bargain between December 1, 2018 and March 31, 2019, in which case the Parties shall each set a date and meet in good faith and make every reasonable effort to negotiate in relation to the changes to the 2019-2022 Collective Agreement sought by the Parties.

      Changes agreed to by the Parties shall be incorporated into the 2019-2022 Collective Agreement.

   b. If 90 days after the commencement of negotiations the Parties have failed to reach an agreement on all or any

items, either Party may refer the outstanding items to mediation. The mediation will be before a mediator-arbitrator of the Parties' choosing. If the Parties cannot agree on a mediator-arbitrator within 30 days of referral to mediation-arbitration being received by the other Party, then either Party may request that the Federal Mediation and Conciliation Service make the selection, which selection shall be binding on the Parties.

c. If after 15 days of mediation (a "day of mediation" being a day during which the mediator meets, at any time and for any duration, with both of the Parties), the Parties have failed to reach a comprehensive agreement, either may refer a maximum of 10 items that remain in dispute to interest arbitration ("Permissible Interest Arbitration Item"). Any unresolved item that is not a Permissible Interest Arbitration Item shall remain unresolved.

d. Each Article of the 2015-2019 Collective Agreement or of any Letter of Understanding, Memorandum of Understanding or Memorandum of Agreement ancillary to the 2019-2022, each single issue Collective Agreement and each Block Rule of the 2019-2022 Collective Agreement, constitutes a single Permissible Interest Arbitration Item; except that the following, whether in relation to Air Canada or Air Canada rouge, are excluded as Permissible Interest Arbitration Items:

   i. Annual Wage Increase;
   ii. Meal allowances;
   iii. Term of this Memorandum;
   iv. Article 2 in its entirety;
   v. Pension – any aspects other than improvements to the existing defined contribution plan;
   vi. Job Security LOU in its entirety;
   vii. Flow Through LOU in its entirety; and
   viii. The duration of any of the collective agreements which will come into force pursuant to the Memorandum.

However, all provisions of the LOU applicable o Air Canada rouge Cabin Personnel which either Party wishes to advance in arbitration can constitute one Permissible Interest Arbitration Item, from among the 10 that Party can advance.

5. The mediator-arbitrator shall have all of the powers and authority of an arbitrator pursuant to s. 60 of the *Canada Labour Code*.

6. The mediator-arbitrator shall determine his or her own procedure and shall issue a decision of the Permissible Interest Arbitration Items within 90 days of the referral to arbitration.

7. Subject to the second sentence of paragraph 8 below, in rendering a decision about a Permissible Interest Arbitration Item, the mediator-arbitrator shall have regard to the following:

   a. the replication principle;
   b. the terms and conditions of employment of comparable employees;
   c. the impact on Air Canada Mainline and on Air Canada rouge and its ability to fulfill its mandate, as described in the Memorandum of Agreement of November 2, 2012, including, without limitation, the cost impact;
   d. any other factor that the arbitrator considers relevant.

8. The arbitrator will also consider the total cost of the proposal of each party 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 either the total cost of Air Canada Mainline or the total cost of Air Canada rouge's obligations, except for the following items which Air Canada rouge and CUPE 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 rouge, at other low-cost carriers, or in Canada generally and/or cost of living (which shall be determined by the Bank of Canada Core Consumer Price Index – v41693242):

   a. benefits;
   b. sick leave for Air Canada rouge Cabin Personnel;
   c. credits, guarantees, and premiums for Air Canada rouge Cabin Personnel;
   d. vacation for Air Canada rouge Cabin Personnel;
   e. Article 14 and 15 of the rouge LOU; and
   f. any other items that the Parties agree is of mutual benefit to them.

9. The Collective Agreement will come into effect on April 1, 2019, notwithstanding that negotiations, mediation or arbitration as provided for herein may still be in progress. Once negotiation, mediation and/or arbitration have been completed, any change that has been agreed or awarded will be made to the provisions of the 2019-2022 Collective Agreement in effect and the terms of the agreement shall thereby be finalized.

10. Any terms awarded by the Arbitrator will be included in the 2019-2022 Collective Agreement.

Wages

11. Further, the following payments and wage and allowance increases shall form part of the 2019-2022 Collective Agreement:

    a. Cabin Personnel of Air Canada shall be granted the following wage increases:

Date	Increase
April 1, 2019	2%
April 1, 2020	2%
April 1, 2021	2%

    b. Cabin Personnel of Air Canada rouge shall be granted the following wage increases:

Date	Increase
April 1, 2019	2%
April 1, 2020	2%
April 1, 2021	2%

Canada/United States Meal Allowances

    c. Article 7.02.02 of the Collective Agreement ("Canada/United States Meal Allowances") shall be amended to reflect the following increases for Air Canada Cabin Personnel:

Effective Date	Allowance Increase
April 1, 2019	2%

April 1, 2020	2%
April 1, 2021	2%

d. Article 8 of Letter of Understanding #55 ("Per Diem") shall be amended to reflect a 2% increase, on each of the same dates as in paragraph 11 c, above, to Meal Allowances for Air Canada rouge Cabin Personnel.

…

No Strike or Lock-Out

15. There shall be no strike or lock-out during the Term of any of the 2015-2019 Collective Agreement, 2019-2022 Collective Agreement, or the 2022-2025 Collective Agreement.

…

23. The Parties agree that in no event shall the Union engage in a strike or the employer engage in a lockout until the time this Memorandum is terminated pursuant to paragraph 244.

24. For clarify, the Parties agree that this Memorandum will terminate upon any of the following events occurring:

a. The Parties agreeing in writing that this Memorandum should cease; or
b. March 31, 2025.

25. The Parties further agree that the terms and conditions in this Memorandum of Agreement shall be incorporated into and form part of the Collective Agreements to which they apply.

26. Terms defined in the 2015-2019 Collective Agreement and used herein shall have the meaning ascribed to them by that agreement.

A. BACKGROUND

Air Canada is Canada's largest airline. With a fleet of approximately 211 aircraft, it has an extensive domestic and international route network,

providing both passenger and cargo flight service across Canada and around the world. In 2019, Air Canada and Air Canada Rouge served more than 210 airports on six continents and more than 50 million customers.

Air Canada operates passenger flights under two brands: Air Canada ("Mainline") and Air Canada Rouge ("Rouge"), which it launched as a low-cost carrier ("LCC") in July 2013.

The Union is the bargaining agent for a bargaining unit comprised of all cabin personnel employed by Air Canada, including those employed to work at Air Canada Rouge. For perspective, before the COVID-19 pandemic in March 2020, Air Canada employed approximately 9,750 cabin personnel: 8,201 at Mainline and 1,549 at Rouge.

Although employees for both Rouge and Mainline belong to one bargaining unit, the terms and conditions applicable to cabin crew employees working at each are different, with the terms applicable to employees at Rouge set out in a Supplementary Agreement attached to the Mainline Collective Agreement. While some provisions for Rouge are similar or identical to those applicable to Mainline, there are many notable differences such that the Parties have treated them discretely in collective bargaining.

Collective Bargaining for 2019-2022 Agreement

In 2018 and 2019, the Parties engaged in collective bargaining for the 2019-2022 Collective Agreement. Bargaining for this round was subject to a Procedural Agreement for the 2019 Reopener agreed to by the Parties which sets out as follows:

> Air Canada, Air Canada Rouge, and the Canadian Union of Public Employees, Air Canada Component (the "Parties") are scheduled to

> conduct negotiations to renew the 2019-2022 Collective Agreement during, among other times, the week of October 21-25, 2019.
>
> The Parties agree that in the spirit of good faith, none of the Parties reserve the right to introduce as "Permissible Interest Arbitration Items" (as set out in the October 2015 Memorandum of Agreement) items not presented to the other Parties prior to the conclusion of the negotiations during the week of October 21-25, 2019 ("Proposal Deadline"). For greater clarity, this Agreement does not prevent any of the Parties from responding to a proposal or presenting a counter proposal after such date.
>
> In the event that the negotiations scheduled for the week of October 21-25, 2019 are postponed or cancelled, the Parties agree that the Proposal Deadline will be postponed until the earlier of the conclusion of the next week of negotiations or the date of the referral of outstanding items to mediation pursuant to paragraph 4.b of the October 2015 Memorandum of Agreement establishing the process by which the 2019-2022 and the 2022-2025 collective agreements will come into force.
>
> Nothing in this Agreement alters the terms and conditions set out in that October 2015 Memorandum of Agreement.

Despite best efforts at concluding bargaining, the Parties agreed in December 2019 that they were at impasse. Pursuant to the process set out in the 2015 MOA, the Parties agreed to advance outstanding areas of disagreement to mediation, which was scheduled to be held in April 2020. Due to the COVID-19 pandemic, however, mediation did not commence until November 2021 with the substantive discussions taking place in January 2022.

Although the Parties were able to resolve more issues in mediation, they ultimately reached impasse, and the remaining areas of dispute were advanced to interest arbitration and are the subject of this Award.

Proposals Advanced to Interest Arbitration

The Union has advanced six proposals to interest arbitration, four pertaining to Mainline and two in respect of Rouge.

Union's proposals

(a) Mainline

1. Vacated vacation – Article 8.11.10
2. On-Board Crew Rest – LOU 28: Crew Breaks
3. Language Positions – Article B4.02.02.01
4. Name Brevet – Article 7.03.05

(b) Rouge

1. Duty Overtime Premium – Article L55.07.06
2. Parking – Article 55.08.07

Employer's proposals (all Mainline)

The Employer has brought forward four proposals to interest arbitration, all of which pertain to Mainline:

1. Maximum Monthly Limitation (MML) – Article B5.01.01
2. Award Sequencing – Article B7.04
3. Duty Period Guarantee – Article 6.03
4. Crew Rest – Articles L18 and L22

As noted, at the outset the Parties have also agreed on several amendments to the Collective Agreement in bargaining and have agreed these changes are to be included in this Award.

B. UNION'S PRELIMINARY OBJECTION TO THE EMPLOYER'S ADVANCEMENT OF ITS PROPOSALS

The Union takes the position that the Employer is not permitted to advance its four concessionary proposals to interest arbitration. In its submission, the Parties agreed on September 27, 2019 that no further items would be introduced to interest arbitration after October 2019 except for "responding to a proposal or presenting a counter proposal".

The Union states the Employer repeatedly represented its Mainline proposals as being meant to "offset the costs of CUPE proposals" and made clear that they were not concessionary demands. According to the Union, it withdrew its proposals that were purportedly being offset, thus the Employer's offsets are no longer in play. In its view, the Employer's maintaining of its proposals violates the Parties' agreement as well the statutory duty to bargain in good faith.

Alternatively, the Union submits the Employer's proposals are unwarranted breakthrough items that would never have been achieved in collective bargaining and for which there is no demonstrated need. The Union points to the fact that the Employer saved hundreds of millions of dollars in labour costs by relying on the Canada Emergency Wage Subsidy (CEWS) and laying off most cabin personnel.

Further, the Union argues, it would be "unprecedented and unwarranted for one of Air Canada's employee groups to provide concessions while other groups do not". On this point, it asserts none of the Employer's other employee

groups have been required to make concessions in bargaining or interest arbitration during the COVID-19 pandemic. While the Union acknowledges that executive compensation was reduced during the pandemic, the Employer recently announced it plans to return to normal compensation programs this year.

Employer's position on Union's preliminary objection

The Employer characterizes the Union's preliminary objection as "incorrect and baseless". It states its proposals were presented to the Union on October 17, 2019 – in other words, before the October 21-25, 2019 deadline established by the Parties in the Procedural Agreement for the 2019 Reopener. In its submission, nothing prevents the Employer from advancing its four proposals to interest arbitration.

In the Employer's submission, the fact that the Union withdrew certain proposals has no impact on its ability to advance these proposals. The Employer rejects the notion it has failed to bargain in good faith, observing that the Union first made this allegation "on the eve of interest arbitration". In its view, such an allegation is meritless, and harmful to labour relations. The Employer further alleges that the Union, in fact, violated the 2019 Reopener by bringing forward an amended version of its Mainline on-board crew rest proposal presented after the deadline.

The Employer asserts the financial situation at Air Canada is highly relevant in this interest arbitration in that it speaks directly to its ability to operate profitably and be competitive. It notes that Government credits are not "free money"; rather, they are a form of loan which must be repaid with interest. The fact is, it states, the COVID-19 pandemic has had enormous impact on the airline industry and this financial context must be taken into consideration. The Employer rejects the notion that the Parties agreed to cost

neutrality in respect of Mainline, stressing there is nothing in the 2015 MOA prohibiting the arbitrator from awarding proposals which result in cost savings. For all those reasons, the Employer states its proposals are valid and ought to be considered in this interest arbitration.

Decision on Preliminary Objection

There can be no dispute that the Employer's proposals were presented to the Union prior to the agreed upon deadline. The question is whether the Employer's characterization of them as offsets to the Union's monetary proposals at the time they were proposed prevents it from pursuing them as stand-alone proposals in interest arbitration now that the Union has withdrawn its significant monetary proposals for Mainline.

In considering this, I note that under point 8 of the MOA, I am required to consider the "total cost" of proposals and their "impact on total compensation". I am prohibited from issuing an award that "increases either the total cost of Air Canada Mainline or the total cost of Air Canada Rouge's obligations" except for specified exceptions in the case of Rouge. Nothing in that language explicitly prohibits me from considering whether cost savings are appropriate. To the contrary, the Parties have made clear I am required to consider the impact of awarding proposals on Air Canada Mainline and in the context of all other factors I consider relevant.

In the circumstances, I am not prepared to find the Employer is barred on a preliminary basis from pursuing its proposals in interest arbitration. While I accept its proposals were presented as offsets to be considered by the Union in exchange for its monetary proposals (it has since withdrawn), I cannot find on a preliminary basis this bars the Employer from requesting these proposals be considered in the overall framework of interest arbitration.

More appropriate, in my view, is that the Employer's proposals be considered on their merits in the specific and limited context of the 2015 MOA and through the lens of interest arbitration generally which requires me to consider all of the relevant factors.

The Union's preliminary objection is accordingly dismissed.

C. FRAMEWORK FOR ANALYSIS

Interest Arbitration Principles

Before delving into the specific proposals, it is useful to set out the principles and analytic framework applicable to this interest arbitration.

Article 7 of the 2015 MOA sets out that the arbitrator shall consider:

a. the replication principle;

b. the terms and conditions of employment of comparable employees;

c. the impact on Air Canada Mainline and on Air Canada Rouge and its ability to fulfill its mandate, as described in the November 2, 2012 MOA, including, without limitation, the cost impact; and

d. any other factor that the arbitrator considers relevant.

In addition, Article 8 provides that the interest arbitration award cannot increase the total cost of Air Canada's Mainline obligations but can for Rouge if warranted.

a. The Replication Principle

Replication is the foundational principle applied by arbitrators to determine interest disputes.

It is well established that, when settling collective agreements, an arbitrator should endeavour to fashion an award that replicates to the greatest extent possible the agreement that the parties would have reached if negotiations had not broken down and collective bargaining had continued to an agreement. Arbitrator MacPherson described the principle of replication in the 2011 interest arbitration award between these Parties as follows:

> It has long been recognized that, when settling collective agreements, interest arbitrators should endeavour to award a collective agreement that most closely approximates the result that would have been achieved by the parties if they had access to free collective bargaining, including the right to strike or lockout.
>
> *(Air Canada v. CUPE* (Unreported decision of Arbitrator MacPherson, November 7, 2011) at para. 10)

Put another way, an arbitrator is required to determine what "deal" the parties would have reached on the issues in dispute had they been able to conclude an agreement without arbitral intervention. In making this determination, an interest arbitrator will consider the bargaining history between the parties, the terms of settlement with unions representing other employees in the employer's workforce, industry benchmarks, and the economic viability of the employer in endeavouring to replicate the result of collective bargaining.

The task of an interest arbitrator was summarized by Arbitrator Sims in *Canadian National Railway Co. v. Teamsters Canada Rail Conference,* [2010] C.L.A.D. No. 20 at para. 6:

> …There are well established indicia of what would influence parties negotiating freely. Many of those indicia can be found in the objective evidence of existing internal and external comparators, economic trends, the economic viability of the enterprise and so on. Such factors are in a state of constant flux. The arbitrator's task is to try to replicate what the parties could have been expected to do in the prevailing environment.

The principles of replication were explained by Arbitrator Burkett in *Air Canada and CAW* (unreported decision dated September 16, 2011), which involved a final offer selection arbitration, and summarized the principles of replication, gradualism and demonstrated need as follows:

> The terms replication, gradualism and demonstrated need are used to describe the guiding principles of boards of interest arbitration. Replication refers to the objective of fashioning an award that, to the extent possible, replicates the settlement the parties would have reached had the dispute been allowed to run its full course. In this regard, interest arbitrators look to benchmarks in the community…and to the bargaining history between the parties….
>
> The principle of gradualism reflects the reality that collective bargaining between mature bargaining parties, as these are, is a continuum that most often accomplishes gradual change as distinct from drastic change. It follows that absent compelling evidence, an interest arbitrator will be loath to award "breakthrough" items….
>
> The principle of demonstrated need, as applied to a major economic item, provides a counterbalance to the principle of gradualism. It does so by establishing the basis upon which a board of interest arbitration will award a "breakthrough" item. A party seeking a major or even a radical change must convincingly establish the need for such change; hence the term demonstrated need….

It is clear that replication must be determined based on objective facts about what the parties themselves would have achieved in bargaining. This point was emphasized by Arbitrator Picher in *Canada Post Corporation v.*

CPAA, 2016 CanLII 104050, who quoted the arbitration board in the 1985 decision of *Beacon Hill Lodges of Canada Employees Union*:

> …it is essential to realize that a board of arbitration is not expected to embark upon a subjective or speculative process for defining what might have happened if collective bargaining had run its full course. Arbitrators are expected to achieve replication through an analysis of objective data from which conclusions are drawn with respect to the terms and conditions of employment prevailing in the relevant labour market for work similar to the work in issue.

Below, I discuss the objective facts relevant to the replication principle in the context of each of the Party's proposals. Certainly, the impact of the pandemic makes it difficult and daunting to replicate a collective agreement which would have resulted from free collective bargaining.

However, as a general observation, I note the Employer's decision to pursue its proposals in interest arbitration following the Union's withdrawal of its Mainline monetary proposals requires examination of whether it has established some material change or demonstrated need for each of its proposals which would warrant ordering them as cost-savings measures for the Employer now even though they were not being pursued in bargaining. In other words, in the normal *quid pro quo* of collective bargaining, once the Union took its cost items off the table for Mainline, is it unlikely the Employer would have successfully pursued these significant changes to the Collective Agreement.

b. The Terms and Conditions of Employment of Comparable Employees

Comparability is at the heart of replication. Indeed, in seeking to replicate the agreement the parties would have reached in free collective bargaining, arbitrators consider other relevant and freely negotiated collective agreements. The Parties in this case have explicitly agreed this is a factor to be considered by the Arbitrator in the 2015 MOA.

To this end, arbitrators look to both external comparators (e.g., collective agreements of competitors or employers in the same industry or sector) and internal comparators (i.e., collective agreements negotiated by the same employer for other bargaining units) as evidence of what parties would have negotiated in free collective bargaining.

The Parties in this case disagree on the appropriate comparators to be considered in this interest arbitration. I have summarized their positions in respect of external and internal comparators below.

Summary of Arguments – Re External Comparators

The Union points to WestJet, Air Transat, and Sun Wing as the appropriate external comparators for Rouge, noting these were found in 2013 by Arbitrator Keller to be Air Canada's "principal" low cost carrier ("LCC") competitors. It stresses that there have been no new domestic LCCs introduced since 2013.

While the Union acknowledges several "ultra-low cost carriers" ("ULCC"s) have launched since that time, such as Swoop (a WestJet subsidiary) and Flair, in its submission, these ULCCs operate in a different market segment from LCCs and are thus not direct competitors of Air Canada. Consideration of the working terms and conditions at those airlines, in the Union's view, serves only as "a point of reference" in the present case. According to the Union, Rouge is already "indisputably competitive with other domestic LCCs". In its submission, if both Parties' proposals are consistent with the competitiveness of Rouge relative to other domestic LCCs, then the inquiry turns to all other relevant interest arbitration factors.

The Employer disagrees, noting that while only WestJet may be a direct comparator on financial terms, all the LCCs and ULCCs represent comparators when it comes to examining the need for Air Canada to gain operational flexibility to compete. In its submission, this is "an inescapable reality in the Canadian airline industry" at the present time, and the Parties have elevated competitiveness with other LCCs as a guiding principle in this interest arbitration through explicit inclusion of this consideration in the terms of the 2015 MOA. In the Employer's submission, with increasing downward price pressure likely to occur due to the competition as the industry recovers from the COVID-19 pandemic, this interest arbitration must take into consideration both LCCs and ULCCs as comparators of Rouge to properly recognize and acknowledge Rouge's fundamental objective of remaining competitive with the low-cost segment.

The Union notes Air Canada has at least six other bargaining units whose members perform services in respect of both Mainline and Rouge operations. These employees, it observes, are subject to essentially the same terms and conditions of employment for both – i.e., a mechanic is not paid a lower hourly rate for servicing a Rouge aircraft rather than a Mainline aircraft. The Union argues none of these groups were required to take concessions in bargaining, and thus, examination of these comparators supports its position that none of the Employer's concessionary proposals ought to be accepted in this interest arbitration.

The Union stresses that cabin personnel at Rouge already receive lower compensation than comparator employee groups in many respects despite the fact that, in the intervening nine years outside of the COVID-19 pandemic, Rouge has added dozens of new routes and significant market share. The Union produces the following wage grid to highlight this point:

Period of Service	Rouge[43]f	Mainline[44]	WestJet[45]	Air Transat[46]	Sunwing[47]
Year 1 (Month 0-6)	$23.92	$27.19	$25.80	$28.95	$27.64
Year 1 (Month 6-12)	$23.92	$27.19	$25.80	$28.95	$28.82
Year 2 (Month 13-18)	$25.01	$28.46	$28.66	$30.14	$30.00
Year 2 (Month 19-24)	$25.01	$29.68	$28.66	$30.14	$30.00
Year 3 (Month 25-30)	$27.20	$30.93	$30.49	$31.41	$34.71
Year 3 (Month 31-36)	$27.20	$33.21	$30.49	$31.41	$34.71
Year 4 (Month 37-42)	$34.25	$38.94	$32.44	$34.47	$38.23
Year 4 (Month 43-48)	$34.25	$41.29	$32.44	$34.47	$38.23
Year 5 (Month 49-54)	$37.49	$42.63	$34.51	$41.27	$40.58
Year 5 (Month 55-60)	$37.49	$44.09	$34.51	$41.27	$40.58

The Employer disputes the Union's claim that there have been no other concessions by other Air Canada employee groups, asserting there have, in fact, been several necessary for Air Canada to maintain operations despite significantly reduced passenger loads. The Employer points to salary reductions of at least 10% at points during the pandemic for excluded management employees. The Employer also notes it negotiated concessions with the Air Canada Pilots Association (the "ACPA") including a temporary reduction in pay and a reduction in the minimum block guarantee of hours.

Further, the Employer objects to any internal comparison between Mainline employees and Rouge employees, given that Rouge was launched with the fundamental objective of being competitive with other domestically registered low-cost carriers, and in light of the fact the Parties have explicitly agreed different working conditions at each in advancement of that objective. For the purposes of collective bargaining, the Employer asserts, Air Canada Mainline and Air Canada Rouge are two distinct employers. The Employer indicates the relationship between the two is unique in the Canadian airline industry in that it allows employees to "flow through" Mainline and Rouge while maintaining their seniority – an important consideration in evaluating the terms and conditions of employment at Rouge. Although the Employer acknowledges that WestJet recently concluded a flow through agreement for its employees, it states this agreement is not comparable and should not be taken into consideration.

Decision on Appropriate Comparators

In my view, whether one classifies a carrier as "low cost" or "ultra low cost" is a somewhat arbitrary and unhelpful distinction. No evidence was tendered that the Parties discussed or discerned where the line for appropriate comparators and inappropriate comparators would be drawn when they agreed to the creation of Rouge and the differing working conditions applicable its cabin crew employees.

Rather than refusing to consider any evidence about the working conditions of employees at ULCCs outright, I find it preferable to weigh this evidence in the full context of interest arbitration and with consideration of the bargaining relationship between these Parties along with all the other relevant criteria. Where the operations and/or bargaining relationships of other airlines are vastly different, this evidence will accordingly be of little value.

In respect of the appropriateness of internal comparators for Rouge, I find the Parties clearly intended different working conditions for employees at Rouge for it to offer competitive and low cost flights as discussed in more detail below. Thus, as discussed below, the actual terms and conditions of other Air Canada employees are of little assistance given the Parties explicit agreement to different working conditions for Rouge employees to fulfill the objective behind Rouge.

c. The impact on Air Canada Mainline and on Air Canada Rouge and its Ability to Fulfill its Mandate, as Described in the November 2, 2012 MOA, Including, Without Limitation, the Cost Impact

There can be no dispute that the discrete terms and conditions applicable to Rouge were negotiated by the Parties to allow Air Canada to

compete with other domestically registered LCCs and that the different working conditions at each reflects the Parties' mutual commitment to this fundamental objective.

I am buttressed in this finding by the comments of Arbitrator Keller, who concluded in his April 2013 interest award regarding the Supplementary Agreement between Air Canada Rouge and CUPE that:

> …it was the manifest intention of both parties to negotiate distinct and separate terms and conditions of employment for flight attendants working for rouge that would provide the new airline with what is required to compete successfully in the low-cost carrier segment. This means that my considerations must focus on what other low-cost carriers do and provide. I accept the premise of the Employer that the focus must be outward and not inward. An inward focus ultimately ends up with a replication of the mainline agreement and not other low-cost carrier agreements.

Quite simply, the working conditions of employees working for Mainline Air Canada are not appropriate comparators for considering proposals pertaining to Rouge. As stated, the Parties in the 2012 MOA explicitly recognized that Air Canada Rouge was established with the purpose of allowing Air Canada to compete for a different segment of the airline market. Consistent with Arbitrator Keller's comments above, I agree the focus in respect of Rouge is appropriately outward facing.

d. Other Relevant Factors – The Financial Landscape of the Airline Industry

Both Parties addressed the current state of the airline industry and the impact of the COVID-19 pandemic.

According to the Employer, the COVID-19 pandemic devasted the airline industry. Air travel plummeted because of public health restrictions put into

place around the world. While the Employer acknowledges that at various points over the last two years there have been various upticks in air travel, it states that the onset of subsequent waves of the pandemic have deterred any sustainable recovery towards pre-pandemic volumes. The Employer points to the release of its fourth quarter and full year 2021 financial results, which shows it entering 2022 having suffered operating *losses* of $3.049 billion in 2021 and $3.776 billion in 2020. By comparison, the Employer observes, in 2018 and 2019, Air Canada had reported operating income of $1.496 and $1.650 billion, respectively

The Employer outlines how cabin crew staffing has been affected by the pandemic, noting staffing as of February 2022 had still not returned to pre-pandemic levels. It predicts its recovery will be slow, pointing to the variability in ticket sales caused by the numerous waves of the pandemic.

In the Employer's submission, competition across every segment of the airline industry has increased and the need for cost competitiveness and operational flexibility is more evident now than ever before. The Employer stresses that this is the lens through which the Parties' proposals must be evaluated in this interest arbitration – which covers the period in which the pandemic shook the airline industry and will provide the foundation for Air Canada's and Air Canada Rouge's recovery in the years ahead.

In addition to the financial losses incurred by Air Canada over 2020 and 2021, it states Air Canada faces significant and increasing inflationary pressures in 2022 and onwards. These pressures, the Employer submits, were already mounting prior to the Russian invasion of Ukraine on February 24, 2022, which has resulted in a recent and drastic surge in the price of oil and jet fuel. Indeed, according to the Employer, aircraft fuel and wages, salaries and benefit-related expenses are its first and second largest operating costs. In 2019, of $17.481 billion in operating expenses, Air Canada had aircraft fuel

expenses of $3.862 billion, and wages, salaries and benefit-related expenses of $3.184 billion. Aircraft fuel and wages, salaries and benefit-related expenses represent 22.09% and 18.04% of Air Canada's total operating expenses, respectively.

While the Union acknowledges that Air Canada experienced significant losses during the COVID-19 pandemic, it submits these were not materially related to cabin personnel labour costs since it used the federal Canada Emergency Wage Subsidy (CEWS) to cover much of its payroll in 2020. For the period ending September 30, 2020, the Union notes Air Canada received $492 million through CEWS, the largest of any public company.

In the Union's view, Air Canada's financial position is largely irrelevant to the present interest arbitration because:

- Its Mainline proposals are no cost and its Rouge proposals have only a modest cost.

- As Rouge operations were suspended or otherwise extremely limited during the pandemic, the proposals will have a negligible retroactive effect. Going forward, the cost will only increase if and when Rouge operations (and revenue and profit) increase.

- Air Canada is emerging from the pandemic in a strong financial position. Although it had access to $3.975 billion in funds through a federal government credit facility, it chose not to draw on the funds as it did not require them. It has unrestricted liquidity of $10.4 billion and saw "robust" advance ticket sales in the fourth quarter of 2021, which grew almost $400 million.

- Air Canada is continuing a long-term trend of decreasing its cost per average seat mile (CASM) through the purchase of newer more fuel-efficient aircraft and other operational changes. As Air Canada's operations become more profitable on a unit (seat) basis, labour should receive a share of the increased profits.

Simply put, the Union states that in some years, Air Canada makes billions in profits. In other years, it loses billions. Air Canada does not offer outsized compensation increases to cabin personnel during profitable years, and there is no basis for it to obtain concessions during unprofitable years, particularly when its long-term financial position is secure and there have been no concessions for other employee groups.

Further, the Union objects to the fact that the Employer has not produced documents or data to support its cost estimates for its Mainline offset proposals, which it says violates the production order dated February 16, 2022. It notes that the Employer's cost estimates are based on the period April 1, 2022 to March 31, 2025 rather than the terms of the Collective Agreement at issue in this interest arbitration, which runs from April 1, 2019 to March 31, 2022.

The Employer's response on this, is that it produced costings for the years 2022-2025 because the terms of the 2019-2022 Collective Agreement are being decided by this interest arbitration on what are literally the final days of that Collective Agreement, and its proposals are not retrospective in nature. Rather, Air Canada's proposals, like the Union's proposals, are forward looking.

Decision Re Relevance of Air Canada's Current Financial State and State of the Airline Industry Generally

I accept the COVID-19 pandemic has had a major impact on airlines and has resulted in significant financial losses and operational changes in the industry and for this Employer specifically. The availability of Government subsidies to minimize this impact simply cannot negate this fact, nor does it appear the end of this pandemic and its affect on airline travel is imminent.

The financial situation of the Employer is clearly relevant to this interest arbitration. Applying the replication principle, an interest arbitrator must have regard to the entire factual landscape in order to determine what an agreement reached in collective bargaining would look like. Certainly, the massive changes caused by the pandemic influenced negotiations and the bargaining climate within which these negotiations took place and ought to be taken into consideration in this interest arbitration.

That being said, however, I note that other employee groups at Air Canada that have concluded collective agreements during the pandemic have not been subject to permanent concessions and have, in come cases, even won modest gains. Also, I am very cognizant of the fact that the Employer was clear in bargaining that it was not going to pursue its proposals on their own, but rather, they were available to the Union if it wished to agree to one or more of them in exchange for their monetary proposals to achieve cost neutrality. Thus, I have fully considered the financial information submitted by the Employer along with all other relevant factors in applying the replication principle to the proposals as set out below.

D. ANALYSIS OF PROPOSALS AND DECISIONS ON OUTSTANDING ISSUES

Having set out the framework and relevant factors for this interest arbitration, I now turn to the Parties' specific proposals.

Union's Mainline Proposals

1. Vacated vacation – Article 8.11

Both parties proposed changes to Article 8.11 of the Collective Agreement in bargaining and were able to largely agree on revisions to this provision.

For reference, Article 8.11 requires the Employer to publish a monthly list of vacation periods that have been "vacated" as a result of retirements and permit cabin personnel to switch their vacation periods to the vacated periods based on their seniority.

Both Parties acknowledge the benefit to employees of being able to access vacated vacation and, as noted, are largely in agreement in respect of the Union's proposed Article 8.11 language with a few minor differences.

The major point of contention between the Parties is the Employer's desire to remove the reference to the "Globe" system from Article 8.11.02 as the means of communicating vacated vacations to cabin crew. Globe was an internal Air Canada communication system utilized by Air Canada up until 2017. In 2017, the Employer stopped publishing vacated vacation awards through the Globe system and began instead to include this information into its "MoveMeNews" newsletter, a decision that was grieved by the Union and ultimately ended in a settlement on November 25, 2020. Amongst other things, this settlement required the Employer to "on a monthly basis…publish a list of vacated vacation periods resulting from crew members retirement via a separate Globe message".

The Union seeks to amend Article 8.11 as follows:

8.11 VACATED VACATION AWARDS

8.11.01 On a monthly basis, the Company shall ~~Crew Planning to~~ publish a list of vacated vacation periods resulting from retirement via Globe message.

8.11.02 Within 7 days of the Globe ~~message issuance~~ publication of vacated vacation periods, Cabin Personnel interested in switching their vacation will submit a vacated vacation switch form to Crew Planning (via eForms).

…

8.11.10 If an employee is awarded a portion of a published vacated vacation period, the remaining balance of the published vacated vacation period shall be re-published at the next bid, provided that the remaining balance of the vacated vacation period is equal to or greater than seven (7) calendar days.

The Union notes it also requires the Employer to notify employees of the opportunity to switch their existing vacation to a vacated slot so that they can, in fact, exercise the right established by Article 8.11.

The Union states its proposal replicates what the Parties would have agreed to in collective bargaining. In its submission, it represents gradual change – merely seeking to clarify and re-confirm the Employer's existing obligations under the Collective Agreement. The Union points to the fact that it had to file and settle a grievance in respect of the Employer's previous attempt to abdicate its responsibility under Article 8.11 to notify employees of vacated vacation.

The Employer accepts the Union's proposed changes; however, as indicated, seeks through its counterproposal to remove reference to the Globe system from Article 8.11.02. According to the Employer, this change is necessary for maintaining flexibility in the method of technology or system it uses to publish vacated vacation. In the Employer's submission, such a counterproposal is reasonable in that it does not unduly restrict it in the future.

In addition, the Employer's counter proposal stipulates that "the Union will withdraw grievance CHQ-18-17, Vacated Vacations Art. 8.11 (via Globe Message) on a with prejudice basis".

Decision Re Vacated vacation – Article 8.11

There is really very little difference between the Parties' positions. Essentially, the Union wants to not commit the Employer to any particular proprietary software or system, but to ensure that its members continue to receive personal messages to an employment-related information system. With that understanding, I find it appropriate to retain the reference to Globe in Article 8.11.02 in this round of bargaining,

It is evident that a message individually sent to employees by their Employer setting out vacated vacation will have far larger readership than a small reference buried in a corporate newsletter. I find this is a real benefit to employees, and that removing the requirement for individualized messaging on this important subject is consequently a substantive concessionary change. I am not satisfied that the Employer has demonstrated the need for such a significant change, nor that it would likely have achieved this outcome in bargaining. Thus, I order Article 8.11 be amended to the language proposed by the Union as set out above.

My understanding is that the grievance referred to in the Employer's proposal has already been settled. Thus, I find it unnecessary to include any reference to its withdrawal.

2. On-Board Crew Rest – LOU 28: Crew Breaks

Under the current language in Articles B14, L18, L22A, and L22B, the Employer must provide cabin personnel with between 2h00m and 5h30m of on-board crew rest, depending on the length of the duty period, for long-range flights with duty periods or 11h30m or longer. This crew rest is guaranteed.

The Union proposes to amend L28.02 by adding the stipulation that crew will be permitted to sleep for one hour during their crew break as well as adding the following language:

> If flight conditions allow and if the requirements of on-board service permit (and without modification to the service specifications), Crew will be provided an additional thirty (30) minutes of break during which they are permitted to sleep, for a total of one hour and thirty minutes.
>
> …
>
> On all night flight pairings defined in B8.18, crew will also be permitted to sleep for one hour, during their crew break, in accordance with Company policy as published in ePub on any non-long range flight leg scheduled or re-forecast, on the day of departure, to exceed 4 hours but be equal to or less than 7 hours from gate to gate.

In the Union's submission, its proposal simply codifies aspects of the *status quo* and provides modest conditional enhancements. In support of its proposed amendment, the Union emphasizes that working as a cabin crew member for an international airline is physically and mentally draining, and that cabin personnel are on their feet for hours providing meal and beverage service and addressing passenger needs. The Union notes they often travel between different time zones and work at odd hours of the day, and many transatlantic flights have a flight time in the range of seven to nine hours and operate as "overnight" or "red-eye" flights.

The Union contends that its proposal replicates what the Parties would have agreed to in bargaining, given the need for adequate breaks and sleep recognized in the Collective Agreement and the Employer's policies. It stresses there is a demonstrated need for adequate breaks and sleep given the fatigue arising from this type of work and its impact on the body's biological or circadian rhythms.

The Employer has two preliminary objections to this proposal. First, it states, the Union's proposal is monetary in nature, given that it provides for an additional 30-minutes of breaktime. Second, the Employer objects that the version of the proposal the Union has forwarded to interest arbitration is not the same proposal as it presented in bargaining. Thus, the Employer takes the position that the deadline for making such a proposal has passed.

With respect to the merits of the proposal, the Employer takes the position there is no demonstrated need for the Union's proposal. Moreover, it opines, the inclusion of the additions proposed by the Union would have a detrimental effect on customer service. While the Employer does not disagree with the Union about the importance of cabin crew having adequate breaks and rest; it, however, submits the Collective Agreement already provides for adequate breaks and rest.

There are two aspects of the Union's proposal the Employer finds particularly concerning. First, in the Union's proposed revisions to the first Note in Letter of Understanding 28, cabin crew would receive an additional 30-minute break, during which they are permitted to sleep, on top of the one (1) hour break they already receive, during which they are permitted to sleep. Second, the Union proposes to extend Note 2 to all night flight pairings defined in Article B8.18 and permit crew to sleep for one (1) hour on flights as short as four (4) hours. The all night flight pairings defined in Article B8.18 include a single duty-period with a minimum four (4) hours falling between 22:00 and 08:00 hours, during which cabin crew are on duty for at least six (6) hours and during which the cabin crew has four (4) or more actual flying hours.

In the Employer's submission, sleeping for up to one (1) hour on a flight as short as four (4) hours is not operationally feasible. Indeed, it asserts the

operational and customer service impact of the Union's proposal is significant, and that the *status quo* ought to be maintained.

Decision On-Board Crew Rest – LOU 28: Crew Breaks

After carefully considering the submissions of the Parties, I find this proposal must be rejected. Frankly stated, I do not accept the Union would have achieved this significant gain in free collective bargaining in all of the circumstances.

Further, I accept the proposal could have monetary consequences due to the fact that the Employer may be required to upstaff certain flights to maintain service levels if the Collective Agreement were to be amended as proposed. For those reasons, I decline to award this proposal.

3. Language Positions – Article B4.02.02.01

The Union seeks to reduce the percentage of positions that may be awarded out of seniority order based on route languages other than English or French.

Under the current language in Article B4.02.02.01, the Employer may designate up to 40% of the blocked pairing positions rounded to the nearest number, on any flight, to languages other than English or French.

The Union proposes to reduce the existing 40% to 10% of the blocked pairing positions and that this be rounded up to the nearest number.

While the Union accepts the Employer needs to ensure cabin personnel on each flight have relevant language qualifications, it asserts that the existing 40% threshold for route languages is too high. The Union takes issue with the

fact that language requirements undermine seniority for cabin personnel – both by awarding more desirable pairings to junior flight attendants with relevant language abilities and by forcing senior flight attendants with relevant language abilities to operate less desirable pairings than junior flight attendants who lack the requisite language skills. The Union observes that seniority is one of the most important and far-reaching benefits the trade union movement has been able to secure for its members.

The Union stresses that on most flights to countries that speak languages other than English, the percentage of passengers who only speak the route language (as in, no English or French) is far lower than 40% and that cabin personnel are rarely called upon to actually speak the route language to passengers. The Union observes the Employer's failure to produce any statistics regarding the percentage of passengers who only speak route languages.

The Employer strongly opposes this proposal. In its view, this proposal should be denied based on the replication principle as Air Canada would never agree to this reduction in free collective bargaining. According to the Employer, reducing the percentage of the blocked pairing positions it may designate to languages other than English or French from 40% to 10% would have significant negative repercussions on its ability to remain competitive by servicing customers in their language of choice across international routes as a mainline carrier.

While the Employer acknowledges this article is a minor limitation on seniority, it notes the Parties have previously agreed it is a necessary one for Air Canada's competitiveness. The Employer states the ability to speak languages other than English and French may have been an important factor for cabin crew to have been hired in the first place and that the Union is seeking to shift the foundation of Air Canada's language requirements without

a reasonable basis for doing so, while ignoring the benefits gained by the many bargaining unit members who speak route languages. The Employer emphasizes recent news articles related to bilingualism, suggesting changes to its ability to offer route languages would likely result in a great deal of negative publicity and noting its requirements under the *Official Languages Act*.

Decision Re Language Positions – Article B4.02.02.01

In my view, there is no basis to amend Article B4.02.02.01 as the Union has proposed. The Employer has a legitimate business reason for having a certain percentage of crew be competent in route languages. These percentages the Union seeks to amend were previously agreed-to by the Parties with full knowledge that such provisions would impact the seniority rights of bargaining unit members who lack certain language skills.

The Union has put forward no compelling change in circumstances since it struck that bargain with the Employer that would warrant departure from the agreed to percentage. Certainly, I find it is unlikely the Union would have achieved this change in free collective bargaining. I therefore decline to award this proposal.

4. Name Brevet – Article 7.03.05

The Union seeks to confirm that cabin personnel cannot be required to wear a name brevet pursuant to Article 7.03.05 of the Collective Agreement.

There is a long history behind whether the Employer can require cabin personnel to wear name brevets – commonly known as “name tags” or “wings”. In 2002, the Employer first issued a directive to cabin personnel to wear name brevets displaying their first names. After the Union objected, the Employer advised cabin personnel they could use fictitious names rather than their real

names. That practice was incorporated into the Collective Agreement during collective bargaining in 2011, at which time the Parties negotiated a tentative agreement that included language proposed by Air Canada:

> **Air Canada Name Brevet**
>
> Employee will use his/her name or reasonable alternative name in addition to classification.

This tentative agreement, however, was rejected by the Union's members, who the Union states strongly opposed a name brevet requirement even with the pseudonym option included. The Parties continued to bargain, the Employer ultimately withdrew its name brevet proposal, and the *status quo* continued.

During collective bargaining in 2015, the Employer once again proposed a requirement for name brevets but this proposal was ultimately withdrawn. Another grievance was filed in 2016, after the Employer again decided to introduce a name brevet requirement.

The grievance resulted in an interim award being issued by Arbitrator Davie on August 2, 2016, in which she ordered that the Employer maintain its policy that the wearing of a first name only and position title brevet or an approved first name pseudonym and position title brevet is voluntary. For the term of the award, cabin personnel were to continue to have a choice of wearing a first name only and position title brevet, an approved first name pseudonym and position title brevet, or to not wear a brevet at all. Arbitrator Davie later issued a further award in which she reiterated the Employer could not impose a mandatory name brevet requirement for the duration of the Collective Agreement.

On October 17, 2019, the Employer served the Union with an estoppel letter indicating that:

> …effective the date that the terms of the 2019-2022 collective agreement are finalized, the Company intends to require all Cabin Personnel to wear a brevet at all times while on duty in such form and with such information as the Company considers appropriate.

The Union stresses that for 40 years, the Union and its members have successfully sought to protect their privacy and safety by resisting Air Canada's attempts to require them to wear name brevets. It notes the Employer has sought to impose such a requirement previously, and that the Union has pushed back through both grievances and bargaining.

The Union emphasizes that cabin crew are predominantly female and are often subject to harassment by passengers. In the Union's submission, a requirement to wear name brevets undermines the privacy and safety concerns of cabin personnel in that a passenger may feel more emboldened when on a first name basis and it may assist a passenger in tracking them down outside of the workplace. The Union submits that the COVID-19 pandemic has "highlighted and exacerbated the harassment faced by cabin personnel", particularly by passengers who refuse to comply with masking policies.

In the Union's submission, it is abundantly clear that that the Union and its members will never ratify a Collective Agreement that permits the Employer to impose a name brevet requirement, and that any attempts to do so unilaterally will be met with successful grievances. Indeed, in its submission, enshrining a prohibition in the Collective Agreement would replicate what the Parties would have bargained, as it is a gradual change simply confirming the *status quo* as existed since the 1970s. The Union additionally notes the 2018 arbitration award of Arbitrator Diane Gee confirming Jazz cabin personnel are also not required to wear name brevets.

Employer's position

The Employer submits name brevets are commonplace – especially important in a customer-service industry such as the airline industry in that it allows passengers to identify cabin crew by their name (or pseudonym) to build a rapport and thus create passenger loyalty in a competitive industry.

Yet, the Employer asserts it has not attempted to impose a name brevet requirement in this round of bargaining or any time after July 2016, when it made wearing a name brevet voluntary under its uniform policy in respect of the privacy concerns raised.

In its submission, the *status quo* it asserts provides for a balancing of privacy interests of cabin crew who do not wish to wear a name brevet and those cabin crew who choose to voluntarily wear a name brevet for customer service and brand reasons. As a result, there is no demonstrated need for the inclusion of language prohibiting something which is already voluntary.

Decision Re Name Brevet – Article 7.03.05

Clearly, this issue is of great importance to both Parties. The Union has spent a lot of time and resources opposing the Employer's pursuit of mandatory name brevets through the grievance procedure and at collective bargaining. Despite the Union's opposition, the Employer has continued to pursue the matter.

It was unclear at the hearing, however, whether the Employer plans to pursue its position outlined in the estoppel letter issued to the Union, or whether it intends to maintain the *status quo* of allowing employees to choose whether they wear a brevet, and if so choose, allowing them to utilize a

pseudonym. It is understandable, though, certainly in light of the Employer's letter, that the Union wishes to secure the Parties' agreement to maintain the *status quo* in the Collective Agreement.

Applying the lens of interest arbitration, I find it quite notable that throughout the long history between the Parties on this issue, the Union has been successful in fending off implementation of mandatory name brevets. The Union has raised legitimate safety and privacy concerns about requiring cabin crew to wear identifying name tags, and their members have remained steadfast in their opposition. I accept the validity of concerns raised by the Union, and that allowing passengers to identify flight attendants by name increases the ease by which a passenger can track them down in the real world. I take notice that in the current digital age, a person can easily be found through social media by name – especially if that name is unique or uncommon.

On the other hand, I accept that the Employer's desire that cabin personnel be identifiable to the public is driven by a legitimate business interest given their service-focus and public-facing positions. I agree and accept that name tags are a normal part of the service industry, and that it is important that passengers are able to identify cabin personnel so that they may report any problems and/or to send accolades about a particular employee for their exceptional service.

While the Union has unfalteringly opposed mandatory name brevets, the Employer has been equally steadfast in seeking for cabin crew to be required to wear brevets. In my view, the Union was unlikely to have been successful with this proposal in bargaining. Quite simply, name tags have become a normal and expected component of the service industry generally and the airline industry specifically. The Employer has a legitimate business reason for wanting employees to wear name tags and has struck an important and

essential balance with employee safety and privacy concerns by allowing them the option of using appropriate pseudonyms rather than their own names if they so choose.

I do not find in the circumstances that the Employer ought to be prohibited from requiring employees from wearing name brevets as the Union has proposed. In so stating, I note the decision about whether employees will be required to wear name tags is one that normally would fall comfortably within the right of an employer to manage its own business. All things considered, I decline to include the proposed language in the Collective Agreement.

Union's Rouge Proposals

1. Duty Overtime Premium – Article L55.07.06

Presently, the Collective Agreement prohibits the Employer from scheduling duty periods that exceed 14 hours; however, under the current language the 14-hour scheduled duty period may be extended to 17 hours under Article L55.15.01.03 "in the event of an irregular operation or flight delay". No premium pay is payable in these circumstances under current provisions.

The Union seeks to amend Article L55.07.06 by adding premium pay for Rouge cabin personnel whose duty period is extended beyond 14 hours through the addition of the following language:

> L55.07.06 When a duty period is extended, the following premiums apply:
>
> 14 hours: $100

15 hours: $200

16 hours: $700

The above premium in no way prevents an employee from taking crew rest as per article L55.15.01.04.

In the Union's submission, the fact that Rouge employees do not receive duty overtime premiums renders them an outlier compared to cabin personnel at other domestic LCCs. According to the Union, there is a well-established principle in both labour and employment law that employees should receive overtime or premium pay when an employer requires them to work beyond their normal working hours.

With respect to appropriate comparators, the Union asserts the Employer is required to provide more generous compensation than newer carriers Swoop and Flair. It produces the following chart setting out collective agreement language applicable to employees at WestJet, Air Transat, Sunwing and Swoop:

	WestJet[48]	Air Transat[49]	Sunwing[50]	Swoop[51]
Scheduled duty period limitation	14h	14h	14h	14h
Premium Pay	3.3.5 Maximum Duty Periods […] Operating a duty period longer than 14 hours will trigger the pay premium in 4.15 *Extended Duty Period Pay*. […] 4.15 Extended Duty Period Pay	B6.07 Excess Duty A Cabin Attendant on duty for 14 hours 00 minute [*sic*] up to 14 hours 59 minutes will be granted a premium of 100.00$. If the Cabin Attendant continues his	15.7.2 Extended Duty Periods a) When a Flight Duty Period is extended the following premiums apply: - Exceeds 14 hours = $100.00	33-9 Extension Of Duty Periods […] 33-9.05 A Flight Attendant who completes a duty period longer than the applicable maximum scheduled duty period outline in 33-8.01 above

	Wherever a cabin crew member's duty period is extended past 14 hours, and the cabin crew member did not self-impose the extension by changing a deadhead, the cabin crew member will be paid an additional $100 for every additional hour the duty period is extended. Partial hours will be prorated (e.g. a 13:30 duty period will trigger an extension payment of $50). This is paid in additional to all other pay associated with the pairing and is not eligible for overtime, ESPP, OPA, or Profit Share.	duty period and works for 15 hours 00 minute up to 16 hours 00 minute, he will be granted an additional premium of 200.00$. The premium provided for when a Cabin Attendant is on duty for 14 hours 00 minute up toe 14 hours 59 minutes does not apply if the scheduled duty period is 15 hours 00 minute long (including a deadhead after the trip), in accordance with Article B6.05, except if the duty period exceeds 14 hours 00 minute before the start of the deadhead.	- Exceeds 15 hours = $200.00 - Exceeds 16 hours = $700.00 - Exceeds 17 hours = $800.00 Note: the premiums above are not cumulative. b) When a CCM deadheads in advance of an operating flight and the Duty Day extends beyond 14 hours, the CCM will be entitled to the premiums outlined in 15.7.2(a). c) If a Flight Duty Period is planned in excess of 14 hours (i.e., augmented flight) and the actual operating time is less than 14 hours, the CCM will still receive an augment premium which is equal to $100.00.	will be entitled to extended duty period pay outlined in the table below, unless the extension to the duty period is the result of a personal pairing modification. Length of Completed Duty Period Extension (in minutes) |Extended Duty Period Premium 1-60 | $50 61-120 | $100 121-180 | $200 Note: the amounts listed in the table above are not cumulative.

The Union further notes that Mainline cabin crew receive "significant" premium pay for working beyond their scheduled duty periods, as do other internal comparator employee groups.

In the Union's submission, premium pay for exceeding the duty period limitation period has become standard in the industry, and it would have likely been able to secure such pay in bargaining since its members "would not ratify an agreement that denies them premium pay provided to their peers [at] other LCCs" and ultra low-cost carriers like Swoop. The Union contends its proposal reflects gradual change. It also notes this premium pay would only be payable if and when Rouge flights are operating, so the cost of adding this premium is tied to revenue stream.

The Employer rejects the Union's proposal, which it characterizes as "a dramatic breakthrough" and submits that the *status quo* language ought to be maintained.

The Employer objects to the "significant and ongoing financial cost to Rouge" of this proposal, costing it at over $402,000 annually. In the Employer's submission, granting this proposal would harm Rouge's mandate to remain competitive, and is inappropriate on the basis that it would add further costs to Rouge in the context of other LCCs. This would be especially harmful while it is recovering from the COVID-19 pandemic. Contrary to the Union's claim that cabin crew do not receive any overtime-type premium pay when they are required to exceed the 14-hour scheduled duty period and work up to 17 hours, the Employer stresses that the Collective Agreement *does* compensate Rouge cabin crew who work more than the scheduled duty period in the form of an overtime premium for all hours worked in excess of 95 hours in a block month.

According to the Employer, Air Canada Rouge would not agree to the Union's proposal in free collective bargaining because the Union has made no case of demonstrated need for the inclusion of a tiered duty overtime premium. Air Canada Rouge data extrapolated from 2018 demonstrates that duty periods exceeding 14 hours are a rare occurrence and duty days exceeding 15 and 16 hours are even rarer.

Decision Re Duty Overtime Premium – Article L55.07.06

While I am mindful of the low-cost objective of Rouge, and certainly, as stated, alive to the financial realities faced by the Employer, I find the principles of replication – specifically gradualism and comparability – favour awarding some measure of duty overtime premium pay to Rouge employees. In so stating, I note it is very clear that direct comparators receive this benefit, and I accept that overtime pay is a normal consequence of an employee's workday being extended.

That being said, however, I am not prepared to grant the Union's proposal as is. Rather, taking a look at the provisions in comparable collective agreements, I find Article 55.07 ought to be amended to include:

> L55.07.06 Whenever an employee's duty period is extended past 14 hours, and the employee did not self-impose the extension by changing a deadhead, the employee will be paid an additional $100 for every additional hour the duty period is extended.
>
> The above premium in no way prevents an employee from taking crew rest as per article L55.15.01.04.

In so awarding, I am mindful that the Employer has stated duty periods exceeding 14 hours are a rare occurrence and duty days exceeding 15 and 16 hours are even rarer. Thus, this amendment ought not result in substantial cost, and to the extent there are costs, can be mostly mitigated and/or

controlled by the Employer. In my view, this amended proposal most accurately reflects what the Parties may have bargained had they negotiated this provision in the normal *quid pro quo* environment of free collective bargaining.

2. Parking – Article 55.08.07

The Union seeks to secure paid parking for its members at Rouge. The current language in the Collective Agreement on this issue is as follows:

> L55.09.05 Air Canada Rouge will address a letter to the Union stating that it will make its best efforts to negotiate reduced parking rates outside the airport (i.e. park-n-fly).

The Union proposes to eliminate the above language and replace it as follows:

> L55.08.07 At each home base or airport of the employee's choosing, the company will provide free and safe parking for each employee. In the event of a change in parking location, the company will consult the union.
>
> ~~L55.09.05 Air Canada Rouge will address a letter to the Union stating that it will make its best efforts to negotiate reduced parking rates outside the airport (i.e. park-n-fly).~~

In support of its position, the Union notes that many cabin personnel must drive to the airport to get to work, as many simply do not live near transit, and/or public transit services do not provide airport access across all of their routes. Further, public transit does not operate 24 hours per day, so it may be closed when cabin personnel need to arrive at or depart from the airport. The Union laments that parking at city airports can cost $30 per day or more, or hundreds of dollars per month. In its view, cabin personnel should not be required to pay to attend at their worksite to perform work for the

Employer. The Union stresses Rouge cabin personnel are an outlier in this respect in that all other employee groups at Air Canada are provided with paid parking.

The Union objects to Air Canada's assertion that the work allowance provided for in Article L55.09.04 of the Collective Agreement covers parking passes, stating it "is apparent on the face of this provision that it does not do so". Indeed, the Union notes Article L55.09.04 explicitly states what it is for, providing: "Employees shall receive a work allowance of one hundred Canadian dollars (CDN $100) per block month to cover the cost of uniform upkeep, check in/out gratuity, and passport". Once a cabin crew member spends the work allowance on monthly dry cleaning expenses for uniform upkeep, plus gratuities and passport expenses, it states, there will be nothing left to spend on a monthly parking pass. The Union submits that even if the entire work allowance were available for parking, which it is not, it would not even cover the cost of a monthly parking pass at Toronto's Pearson airport.

According to the Union, the principle of comparability supports granting its proposal. It states the Air Transat collective agreement provides that "At each home base, the Company will provide free and safe parking for all cabin personnel [...]" (article 18.03). The Sunwing collective agreement provides that "The Company agrees to pay for the cost of airport parking (one spot) when [cabin personnel] are required to park at the airport" (article 14.6.1). Crucially, the Union asserts, Sunwing otherwise provides free offsite parking to cabin personnel and a free shuttle bus to the airport terminal. The Flair collective agreement provides that "If a Flight Attendant must park at the terminal, the Company will reimburse parking expenses at the rate charged for Company employees at the Company designated lot" (article 12.4). Finally, the Union notes the Swoop collective agreement provides that "The Company will provide monthly parking to a Flight Attendant at their base/co-base provided the airport has designated employee parking available [...]" (article 43-1.01).

Employer's position

The Employer submits this proposal represents a breakthrough and would result in an estimated average annual cost to Air Canada Rouge of $627,929. It states there is no demonstrated need for the provision of paid parking to Rouge cabin crew by Air Canada Rouge, taking issue with the fact that the Union has not provided data to substantiate its claims that many cabin crew drive to work, that public transit is not readily accessible, and not available during the times cabin crew may arrive or depart from work. The Employer points out that Rouge hub airports are located centrally in Canada's two largest cities served by an extensive modern public transit infrastructure. Air Canada further objects to the Union's reliance on internal comparators to support its proposal.

Air Canada notes that Rouge also currently compensates cabin crew for ancillaries such as the cost of parking at the airport in the form of the $100 per block month work allowance. The Employer asserts that the Parties negotiated the inclusion of the work allowance into the Collective Agreement in anticipation it would be a catch-all allowance to cover the items listed in the article and parking, and that this must be considered when evaluating the Union's proposal as it would otherwise result in a double benefit for some cabin crew.

The Employer attempts to distinguish the comparators relied on by the Union by pointing out that Sunwing and Flair only provide paid parking to cabin crew if the employee is required to park at the airport by the company. Swoop, it states, only provides monthly parking at a flight attendant's base/co-base provided the airport has designated employee parking available. Further, it notes, Swoop is based out of Edmonton International Airport, which is a much different airport and parking situation from Air Canada Rouge's hubs at

YYZ and YUL. The Employer underlines that none of the four comparator airlines offer the $100 per block month work allowance that Rouge does.

Decision Re Parking – Article 55.08.07

Having carefully considered the evidence and submissions of Parties, I decline to award this proposal.

In my view, it is very unlikely that the Union would have negotiated this benefit for Rouge employees in this round of collective bargaining given the current financial landscape and conditions in the airline industry, and in light of the fact that the Employer does not own or operate airport parking, and thus, may have difficulty controlling the cost of such a proposal.

In my view, it would be inconsistent with the low-cost objective of Rouge, the replication theory, and the financial realities of the Employer to award this proposal at this time. I accept that there are notable differences between the provisions in respect of paid parking in comparable agreements when contrasted with the language put forward by the Union.

Based on all of the circumstances, I find the proposal must be rejected.

Employer's Mainline proposals

The Employer submits it must continue to transform as it responds to changes in the aviation industry, and thus seeks enhanced operational flexibility and cost savings this round of bargaining which it stipulates it requires to remain competitive and maintain market share.

In developing its bargaining proposals and deciding to advance the four outstanding proposals to interest arbitration, the Employer asserts it sought to

strike a reasonable balance between its financial, commercial, and competitive imperatives and the interests of its dedicated cabin crew represented by CUPE who are key to the airline's success. The Employer stresses that the interests of the Parties are not adverse in that changes in Air Canada's operational flexibility and the achievement of cost savings will also enhance opportunities available to cabin crew in the foreseeable future.

The Employer emphasizes that the landscape has shifted dramatically since the Parties' negotiations ended in December 2019 due to the onset of the COVID-19 pandemic, which has devasted the airline industry, and increased the need for cost competitiveness and operational flexibility.

The Union objects to the Employer's proposals – both on the basis of its preliminary argument, as set out above, and on the merits. As previously noted, the Union points to the unfairness of expecting flight attendants to accept concessions in bargaining when none of the other employee groups were required to do so, and objects to the fact that the Employer is continuing to pursue its proposals despite the fact that the Union's monetary proposals in respect of Mainline have all been withdrawn.

Below, I summarize each of the Employer's proposals and the Parties' positions on each. I have, however, left my decision on these proposals until the end, where I have dealt with all of the Employer's proposals together.

1. Maximum Monthly Limitation – Article B5.01.01

The Maximum Monthly Limitation ("MML") is the maximum number of hours cabin personnel can be scheduled to work on a monthly basis.

The current language in Article B5.01.01 establishes that the MML is 80 hours per month, with the ability of Air Canada, at its discretion, to increase the MML to 85 hours for a maximum of four (4) months per year:

> Maximum Monthly Limitation: The maximum flight time limitation shall be eighty (80) hours per month on jet aircraft.
>
> At the discretion of the Company, the maximum flight time limitation shall be increased to eighty-five (85) hours per month on jet aircraft, for a maximum of four (4) months per year.
>
> Prior to December 31 of each year, the Company will provide the Union with its best estimate of which months in the next calendar year will be eighty-five (85) hour months. The company is not bound to such estimate which can change due to operational requirements.

The Employer proposes to make four changes to the existing MML rule that would permit it to increase the MML to a number between 80 and 85 instead of 85 in all cases; increase the MML in all months in a year instead of four months; increase the MML by 25 hours in a year instead of 20; and, that it no longer be required to provide an estimate of the months for which MML will be increased. To this end, it proposes the following:

> Maximum Monthly Limitation: The maximum flight time limitation shall be eighty (80) hours per month on jet aircraft.
>
> At the discretion of the Company, the maximum flight time limitation ~~**shall**~~ **may** be increased **up** to eighty-five (85) hours per month on jet aircraft ~~**for a maximum of four (4) months per year.**~~ **However, total hours in excess of the eighty (80) hour maximum monthly limitation will not exceed twenty five (25) hours in a calendar year.**
>
> ~~**Prior to December 31 of each year, the Company will provide the Union with its best estimate of which months in the next calendar year will be eighty-five (85) hour months. The Company is not bound to such estimate which can change due to operational requirements.**~~

According to the Employer, the binary choice imposed by the current language between one of two alternatives of either 80 *or* 85 hours as the MML in any given month results in a significant limitation on its operation flexibility to schedule appropriately in any given month.

The Employer indicates that the ability to increase the MML up to 85 hours per month for a total not to exceed 25 hours in a calendar year is an additional cost saving measure above the current language, which only allows for 20 hours per year (i.e., increasing MML to 85 up to four times per calendar year). In the Employer's submission, its proposal strikes an appropriate balance by giving it the flexibility to increase the MML *up to* 85 hours per month while capping the number of hours beyond the 80 MML at 25 hours per year. The Employer projects the anticipated cost savings of this change to be approximately $415,000.

Further, the Employer asserts, its proposed language would also allow it to more effectively compete with its competitor airlines, none of which have such restrictive scheduling language. Indeed, according to the Employer, the terms and conditions of comparable employees at other airlines and the principle of replication strongly support Air Canada's proposal. On this point, it indicates that "all other Canadian competitor airlines have the ability to schedule a much broader range of maximum monthly hours":

1. WestJet – full-time cabin personnel will be scheduled between 80 to 90 hours per month.

2. WestJet Encore – Cabin Crew Members will be scheduled between 75 Credit Hours and 90 Credit Hours per monthly scheduling period.

3. Air Transat – the scheduled maximum flight time limitation in any month will be 85 hours; however, this limitation may

be extended to 90 hours for 50% of regular blocks at each home base during the months of January, February, March, July, August and September, if there are no layoffs at any base.

4. Sunwing – cabin personnel are guaranteed a minimum of 80 credit hours per Block Month when fit to fly and operating a full Block, and can work up to 90 hours per month before being paid overtime.

The Union opposes the Employer's proposal, submitting there is no evidence that existing MML rules hinder the Employer's flexibility in scheduling or cause additional payroll expenses. The Union observes that the Employer recently attempted to introduce an almost identical "variable" MML, rule and that the Union rejected this. In its submission, the principles of replication thus support its position that this proposal ought not be entertained.

According to the Union, the MML already enhances the Employer's scheduling flexibility in that it would otherwise be required to hire additional cabin personnel to operate flights during peak travel months, then lay them off the balance of the year. Further, the Union argues, the cabin personnel are predominantly female and the Union's members consistently reject the erosion of schedule predictability and control. If granted, the Union notes members would be required to work additional hours at the Employer's discretion thus reducing their ability to manage their personal affairs and care obligations.

Additionally, the Union takes issue with the comparators relied on by the Employer, which it asserts are more appropriate for Rouge not Mainline. Further, the Union indicates the Employer has omitted a crucial component of the MML for WestJet cabin personnel, which it suggests results in even less operational flexibility for that carrier. Finally, the Union argues Article B5.01.02 provides that Mainline cabin personnel may volunteer to extend their

monthly limitation to 100 hours, and many do to obtain extra flight-time hours and compensation.

2. Award Sequence – Article B7.04

The award sequence language in Article B7.04 of the Collective Agreement sets out the order by which open flights – which arise as the result of unexpected absences of cabin personnel scheduled to operate flights, e.g., due to illness or injury – must be awarded or assigned, subject to classification and language requirements.

Under the existing provision, the Employer is required to award open flights in the following sequence prior to calling upon reserve blockholders:

a. First, through an "open flying award". Air Canada must assign open flights to cabin personnel based on seniority preference in accordance with their bids (article B7.05).

b. Second, through "reassignment". If a cabin crew member has been displaced from a scheduled flight, Air Canada "may" reassign them to operate an open flight (article B6.03). Air Canada is not obligated to reassign cabin personnel.

c. Third, through "voluntary extension". If a cabin crew member has volunteered to extend their MML to 100 hours (article B5.01.02), Air Canada must assign open flights to them if possible.

d. The fourth step in the sequence is to assign open flying to a reserve blockholder on reserve duty at that time of day.

The Employer seeks to amend this language so that it may use the reserve assignment procedure "at any time in the award sequence at Air Canada's discretion".

The Employer argues there is a clear and demonstrated need to award its proposal to allow it better discretion to utilize Reserve Blockholders on open flights. It submits that awarding this language achieves three purposes: operational flexibility, high cost savings, and improved work-life balance for Regular Blockholders.

In the Employer's submission, the current award sequence effectively prevents it from efficiently utilizing Reserve Blockholders. The Employer takes aim at the fact that the current award sequence under Article B7.04 requires it to award open flights to Regular Blockholders prior to being able to use Reserve Blockholders who are already available on call-in. As a result, it notes, Regular Blockholders will work beyond MML while Reserve Blockholders cannot be awarded the open flights. These Reserve Blockholders are ready and available to work and may not be achieving current MML or the minimum monthly guarantee.

The Employer notes it will achieve significant cost-savings under its proposal because Reserve Blockholders will be used on open flights instead of receiving a minimum monthly guarantee of 75 when they have not flown. The Employer projects the resulting higher utilization of Reserve Blockholders would result in an approximate annual savings of $2.8 million.

According to the Employer, competitors of Air Canada do not have restrictive language governing the award sequence of open flights. It provides the following list of award sequence language in competitors' collective agreements in support of its position:

- WestJet - Open time pairings will be awarded on a first come first serve basis, subject to classification, language, and aircraft qualifications.

- WestJet Encore – open time pairings and/or Reserve Blocks will be awarded on a first come, first serve basis.

- Air Transat – 12 hours prior to departure all flights are assigned to reserve blockholders, otherwise regular blockers can bid based on seniority.

- Sunwing – When staffing a flight, priority will be given to cabin personnel who is on re-assignable duty. After all those who are on re-assignable duty are utilized, the company will assess the level of reserve and will determine if a reserve will be used to staff a flight.

- Swoop – open time pairing will be awarded on a first come, first serve basis.

The Union rejects the Employer's proposal, stressing Article B7.05.03 already provides that "Where there is insufficient time to award an open flight under the award procedure, coverage for that flight will be provided from reserve." In other words, the Employer under the existing language can already move straight to calling upon a reserve flight attendant without employing the first three steps if there is no time to do so.

In the Union's submission, the Employer has led no evidence to support its assertion that the existing award sequence has not produced the "intended" savings since 2005. The Union further notes the Employer has previously proposed such amendments to the award sequence during collective bargaining and that the Union has been steadfast in its rejection of this proposal. According to the Union, the existing award sequence is a fundamental part of the Parties' seniority-based scheduling process and that, by starting the award sequence with an open flying award, the Parties have preserved seniority preference in the scheduling process. In the Union's submission, the existing award sequence already addresses issues related to the monthly guarantee, and the Employer already has the ability to reduce minimum monthly guarantee payments to Reserve Blockholders by scheduling

fewer reserve shifts based on its knowledge that a certain number of open flying hours will first be awarded through open flying awards, reassignments, and voluntary extensions.

3. Duty Period Guarantee – Article 6.03

Under this proposal, the Employer seeks to cut the "duty day minus protection" (often referred to as "duty day minus 4") for cabin personnel already operating flights and those drafted to operate flights.

The Employer seeks to amend the current Collective Agreement language as follows:

> 6.03.02 **Duty Period Guarantee** – ~~**For each duty period, an employee shall receive a credit for pay and flight time limitations of no less than the greater of:**~~
>
> ~~**a. A minimum of four (4) hours; or**~~
>
> ~~**b. The greater of the scheduled or actual total duty period minus four (4) hours.**~~
>
> **An employee shall receive a credit of one half (1/2) of the actual time involved in any duty period with a minimum duty period guarantee of four (4) hours.**
>
> 6.03.06 Where a Regular Blockholder is drafted on a regular or guaranteed day off and reports to the airport for flight duty, s/he will be credited with ~~**the total duty period minus four (4) hours**~~ **one-half (1/2) of the actual time involved in the duty period** or a minimum guarantee of four (4) hours, even if no actual flying time results. The greater of such credits shall be applicable.

In support of its proposal, the Employer asserts it is the only airline in the industry in the world that has the formula for a duty period guarantee. In its submission, Air Canada is simply an outlier in this regard and this language results in many irregularities in its application. Significantly, the

Employer submits, it results in cabin personnel waiving crew rest for more compensation, which its states is far from ideal from a work-life balance and safety perspective.

The Employer indicates that, at the time Air Canada agreed to the inclusion of the duty day minus 4 language in 2011 as part of the second tentative agreement, the adverse effect of this language on waiving crew rest was not yet a consideration – but that over the last decade the impact of this language has become apparent.

In practice, the Employer opines, the application of the duty day minus 4 language becomes particularly cost prohibitive where flight delays occur, especially when cabin personnel forfeit their minimum crew rest on overseas pairings and are on a continuous duty period. The Employer asserts the resulting cost pressure is especially acute when a flight delay occurs resulting in an employee falling below the minimum 10 hour scheduled rest periods in Article B5. In such situations, the Employer argues, an employee can receive an amount of flight credits that is dramatically disproportionate to time actually worked.

The Employer's position is that the current language has the effect of incentivizing cabin personnel to forfeit minimum crew rest to garner the excessive financial benefit from the application of the duty day minus 4 language, resulting in them working on the least amount of possible rest, which is a safety and work-life balance concern to Air Canada. As the Union has noted throughout the collective bargaining process, it is particularly concerned with crew rest and the potential impact it has on safety. Such a position by the Union, in the Employer's submission, does not accord with maintaining the duty day minus 4 language in the Collective Agreement.

The Employer indicates its proposed language would result in an annual average cost savings of approximately $3.8 million. It also suggests that granting its proposal would result in the duty period guarantee language replicating that of its competitors, including WestJet, which it indicates has a duty period guarantee which is the greater of:

l. the actual Block Hours, plus any Deadhead Credit, completed in the duty period,

m. the minimum duty period credit of four (4) Credit Hours, or;

n. 50% of the actual duty time completed in the duty period.

In the Employer's submission, there is no basis to maintain the current duty day minus 4 language in the Collective Agreement nor can this proposal be considered a "breakthrough" proposal given that what the Employer proposes is standard across the airline industry and that maintaining the *status quo* would be detrimental on Air Canada.

The Union rejects the Employer's proposal, asserting the Employer has led no evidence to support its assertions regarding the cost of the duty day minus 4 rule nor its claim that no other airlines "in the world" provide similar duty period guarantees to members. The Union further asserts an interest arbitrator has already determined that the duty day minus 4 rule is appropriate, and that nothing has occurred to warrant revisiting this rule. According to the Union, the fact that the duty day minus 4 rule incentivizes cabin personnel to operate flights notwithstanding they have not received legal rest periods benefits the Employer because the cost of cancelling a flight if an employee chooses to take their rest period significantly outweighs the duty day minus 4 payments. The Union rejects the notion that the Employer's proposal has anything to do with ensuring cabin personnel receive adequate rest,

arguing the proposal is geared simply at paying employees who choose to waive their rest period, less for doing so.

4. Crew Rest as found in Articles L18 and L22

The Employer proposes to reduce the minimum actual rest period from 18h to 10h.

The Employer claims the purpose of its proposal is to more closely align minimum cabin personnel crew rest periods with pilots. The Employer indicates it seeks to more closely align the language by having the greater of a minimum 10 hour layover rest period or the preceding flight duty period in the event of irregular operations, return to gates, delays, or the recrewing flights.

The Union rejects the Employer's proposal regarding crew rest as found in Articles L18 and L22, noting it would reduce the minimum actual rest period by 80% if granted. The Union asserts the Employer has failed to provide evidence to support its assertions regarding the cost of the existing minimum actual rest periods nor the number of flights delayed by 6 hours or more, the number of flights delayed as a result of the minimum actual rest period rules, or the cost associated with the rules. According to the Union, these rest period rules are part of a comprehensive set of rules that permit the Employer to operate long-range pairings it would otherwise be prohibited from operating. In the Union's submission, the Union and its members would never have agreed in bargaining to the long-range extension provisions

Decision on Employer's Proposals

As already noted, the Union initially advanced a number of monetary proposals for Mainline in bargaining knowing that the provisions of the 2015 memorandum restrict cost increases during its ten-year term outside of those

stipulated in the agreement for Mainline. The Employer, in turn, tabled its monetary proposals while making clear it was not pursuing these proposals unless the Union wished to exchange one or more of its own monetary proposals for changes sought by the Employer. In other words, to achieve cost neutrality.

The Employer's proposals were of no interest to the Union, and in recognition of the structure set out in the 2015 MOA, the Union thus withdrew its Mainline monetary proposals. It was not until late in the mediation phase that the Employer altered its position and no longer treated its bargaining demands as offsets. Rather, the Employer decided it would pursue its proposals in interest arbitration even though there were no longer any Union proposals to offset the cost savings of these proposals.

Applying the principles of replication, I find it difficult in these circumstances to find a basis to award any of the Employer's Mainline proposals. Indeed, I am not persuaded that the Employer in free collective bargaining would have pushed its proposals once the Union's monetary proposals were withdrawn, nor that it would have been successful in this endeavor had it chosen to do so. In so finding, I note the Employer did not pursue (nor achieve) comparable concessions from other employee groups.

The changes sought by the Employer are very significant. One can ascertain that from the projected cost savings attributed to these proposals and by the Union's outright refusal to consider any of them as offsets to its own proposals. The Employer, in my view, has not presented a compelling case to support the granting of its proposals nor has it sufficiently demonstrated a need for such substantive changes to the Collective Agreement in the limited parameters for bargaining set out in the 2015 MOA. In all of the circumstances, I decline to award these proposals.

E. CONCLUSION

I conclude by observing that the Parties are set to return to the bargaining table to negotiate the final 3-year term of the 10-year framework set out in the 2015 MOA.

Given the massive impact of the global pandemic on the airline industry, the Company, and the employees during the term of this Collective Agreement – which I note is now past its expiry date – the upcoming set of negotiations may be a more appropriate venue to raise proposals not granted in this round of bargaining. No doubt, the Parties will need to continue to work together to navigate these unprecedented times as the industry recovers and stabilizes.

In summary, as detailed above, I make the following orders in respect of all proposals:

Union's Mainline Proposals

1. Vacated vacation – Article 8.11.10
   The proposal is awarded.

2. On-Board Crew Rest – LOU 28: Crew Breaks
   I decline to award this proposal.

3. Language Positions – Article B4.02.02.01
   I decline to award this proposal.

4. Name Brevet – Article 7.03.05
   I decline to award this proposal.

Union's Rouge Proposals

1. Duty Overtime Premium – Article L55.07.06
   A modified version of the Union's proposal is awarded.

2. Parking – Article 55.08.07
   I decline to award this proposal.

Employer's Proposals

I decline to award the Employer's Mainline proposals.

All matters agreed between the parties in direct negotiations and during the mediation process shall be incorporated into the renewed Collective Agreement.

It is so awarded.

Dated at the City of Vancouver in the Province of British Columbia this 20th day of May, 2022.

Vincent L. Ready