

## **LETTERS OF AGREEMENT AND MORE - Part of Our Living, Breathing Contract**

Of course we all know that the great thing about a contract is that management cannot make unilateral and arbitrary changes. But Delta has taken this remarkable protection a step further by claiming that midterm changes to the contract cannot be made under any circumstances, even if mutually agreed.

Every time Delta management rolls out a raise for their non-contract employees, they explain away their alleged inability to extend that increase to pre-merger NW (PMNW) flight attendants by claiming that since there is a contract in place, nothing can be done – especially to rates of pay.

Well, there is good news for everyone, because that is not the case. There is nothing to stop Delta from legally offering and then extending, **by mutual agreement**, the increases enjoyed by their Delta partners to PMNW flight attendants. In fact, contracts are amended and changed all the time by mutual agreement between management and the union...including rates of pay! What's the real scoop?

### **What's the difference between MOU, LOA, SL and MOA?**

There isn't much of a difference. A Memorandum of Understanding (MOU), Letter of Agreement (LOA), Side Letter of Agreement (SL), and Memorandum of Agreement (MOA) are all mutually-agreed to documents and all carry the legal weight of a contract. In this article, LOA will be used for ease of reading, but it is meant to encapsulate all of the agreements listed in this paragraph.

### **Why do we use many terms for the same thing?**

Oftentimes, history and tradition are what drive the specific term used. Individual airlines and unions and MEC's prefer one term over another. Once the parties start using one term they usually continue with that legal instrument. Sometimes unions and airlines will use MOU for a certain agreement that incorporates outside agencies (e.g., FAA) and LOA for union/ airline provisions. In any case, all are both legally enforceable documents that amend the contract and carry the force of contract.

### **Speaking of terms, what do "Section 6" and "amendable date" mean?**

These terms apply to Railway Labor Act contracts. 'Section 6' refers to Section 6 of the Railway Labor Act (RLA) – the labor law that governs our industry. That section lays out all the rules that apply to contract negotiations (thus, Section 6 negotiations) that take place around the amendable date of the contract.

'Amendable date' is the point at which the entire contract can be opened for negotiations by either the union and/or the company giving notice (Section 6 notice) that

they wish to do so. If the contract was for 5 years, then at the end of the fifth year, the contract would be considered 'amendable.'

In most other industries, labor contracts expire. In our industry, they become 'amendable' and continue on in force until mutually changed.

### **What is the scope of an LOA and when is one negotiated?**

LOA's can be on almost any topic. The situation arises because of a need--something comes up that is not covered in the contract, or is actually prohibited by the contract. . There are LOA's about "Hotel Without Water," "Satellite Bases," "LQ Program," "Reserve Assignment," "Holiday Pay," "Crew Meals," "Extension Pay," "Cuba Flying," "Voluntary Furlough," "Commuter Policy" and almost anything else you can think of.

LOA's are usually reached during the term of the contract because something in effect needs to be changed and is too urgent to wait until the amendable date. But they can be negotiated at any time. Before first contracts are negotiated, it is common to negotiate an LOA that outlines how flight attendant negotiators drop trips for negotiations, that the union has time to address new hire classes, that the union can put up a bulletin board in the crew lounge and so forth.—items that allow the union to do its business while negotiating that first contract.

Even during contract negotiations, LOA's can be reached. AFA and American Eagle just finalized a precedent-setting MOU with the FAA implementing the ASAP (Aviation Safety Action Program) there. Even though AFA is in Section 6 talks at Eagle, management and the MEC wanted the program implemented immediately, and didn't want to wait until the end of contract negotiations. Both sides agreed to execute an MOU that would go into effect right away.

### **Can a LOA be used to change rates of pay?**

Absolutely yes. Just recently, ASA airlines wanted to change the preferential bid (pbs) vendor specified in the contract. Although they were not in Section 6 contract talks with the flight attendants, and the contract was not amendable, management came to AFA and asked to enter into a LOA to change vendors. In return for changing pbs vendors AFA negotiated pay rate increases, extended the scale and improved other provisions.

Alternately, several concessionary negotiations have happened outside of Section 6 when economic times were hurting the airlines. Rates of pay were lowered, premium pays were slashed, and work rules relaxed. Management never seems hesitant to ask us to enter into those kinds of talks.

### **What about ALPA's "Joint Venture Protocol?"**

Again, this is a legal document mutually-agreed to and signed by all parties. It is legally enforceable just like the ALPA contract. It just has a different name. A merger typically

triggers LOA discussions because there are so many issues to be resolved in a merger, including allocation of flying and a single contract, even though neither contract may be amendable or in Section 6.

### **Obviously, contract negotiations start because of the amendable date, but how are talks about a LOA initiated?**

Talks start when something comes up that is not covered by the contract in place. The Union or the company may contact the appropriate counterparts on the other side. Talks are set and the discussion starts. If there is no consensus reached, there are no consequences....other than those of not reaching an agreement.

Say the airline would like to start a Language-of –Destination program, but that would violate the existing seniority provisions in the contract. The flight attendant negotiators representing the union and management officials would have to sit down and negotiate the terms of the program. If they succeed in reaching an agreement, once signed, the LOA, MOU, SL, or MOA (whatever they decided to call it) would have the force of contract and would be defensible under the grievance procedure, just like any provision in the contract.

Another way such talks are started is through a limited reopener in the contract. For example, new equipment or new routes may trigger negotiations through specific provisions in the contract.

### **How long are LOA's good for?**

The term of the LOA is negotiated along with the other provisions it contains. Some are for a specific time (months, years); some terminate with the end of a specific program or event; some run concurrent with the contract; some never end and have been in force for forty years!

### **What is important to remember about LOA's?**

Everyone should know that LOA's are most commonly negotiated either to alter or change current provisions in the contract or to put into place new programs/ provisions not outlined in the contract. They can be negotiated while the contract is in force, or even before a first contract, and also during Section 6 talks. LOA's are legally binding on both parties and cannot be changed unless mutually agreed to. A LOA can address anything that would normally be in a contract – even rates of pay! How long the LOA is in force is outlined in the document.