

AGREEMENT
BY AND BETWEEN
TALGO, INC.
AND
LOCAL UNION 46 OF THE INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS

THIS AGREEMENT made and entered into by and between TALGO, INC (hereinafter referred to as "Employer") and LOCAL UNION 46 OF THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (hereinafter referred to as "Union").

**ARTICLE I – RECOGNITION
AND UNION MEMBERSHIP**

- 1.1 The Employer agrees to recognize the Local Union #46 of the International Brotherhood of Electrical Workers as the exclusive collective bargaining agent for all full time and regular part-time on board technicians (OBT) employed by the Employer working out of Employer's Seattle, Washington facilities.
- 1.2 All employees covered by this Agreement shall be required to become and remain members of the Union in good standing as a condition of employment during the term of this Agreement. Employees who are not members of the Union shall make application for membership therein not later than thirty-one (31) days after employment, or the legally effective date of this Section, whichever is the later.
- 1.3 The Company agrees to advise all new employees or recalled employees covered by this Agreement of the union security provision by presenting them with a form to be provided by the Union. A copy of such form signed by the new employee will be provided to the Union.
- 1.4 Upon receipt of a signed authorization from the employee involved, the Company shall deduct from the employee's pay an amount necessary to satisfy his financial obligations to the Union during the period provided for in said authorization. The amount will be certified by the Financial Secretary of the Union Local #46. Deductions shall be made from the first pay of the employee after receipt of the authorization and periodically thereafter from the either the first pay of the employee in each month or in equal payments per pay period.
- 1.5 Deductions provided in Section 1.3 shall be remitted to the Financial Secretary of the Union no later than the tenth (10th) day of the month following the month in which the deduction was made and shall include all deductions made in the previous month. Remittances deposited in the U.S. Mail will be considered timely. For all employees who have on record a current dues withholding authorization, with each remittance the Company shall furnish the Financial Secretary of the Union with a record of those for whom deductions have been made and the amounts of the deduction, and the names of those employees for whom deductions were not made and the reasons they were not made.

The parties agree that check-off authorization shall be in the following form:

DUES DEDUCTION AUTHORIZATION

I hereby authorize and direct the Company to deduct from wages due me each month, commencing with the month of _____, 201____, an amount appropriate to maintain my membership in, and/or financial support of, said Local in accordance with the Constitution of IBEW Local 46 and communicated to said Company, and all amounts as provided for during any month by the collective bargaining agreement or amendments between the Company and the Union then in effect. This assignment and authorization shall also include an initiation fee or uniformly imposed payment as specified by the Financial Secretary of the Union, which is to be deducted from wages due me in the month of _____, 201____. These deductions shall be made payable to, and be remitted to the Secretary-Treasurer of said Local IBEW 46.

This assignment and authorization shall be irrevocable for a period of one year from the date hereof or until the termination date of any applicable collective bargaining agreement, whichever occurs sooner, and shall automatically be renewed as an irrevocable assignment and authorization for successive yearly or applicable collective bargaining agreement periods thereafter, whichever is the lesser unless I give written notice, by certified mail, of revocation to the Company and the Union not more than twenty (20) and not less than five (5) days prior to the expiration of each yearly period or of each applicable collective bargaining agreement, whichever comes sooner. I expressly agree this assignment and authorization is independent of, and not a quid pro quo for, union membership, but recognize the value of the services provided by the Union. It shall continue in full force and effect even if I resign my membership in the Union, except if properly revoked in the manner prescribed above.

_____ Employee Signature

- 1.6 If, due to illness or being on vacation, an employee's dues are not checked off, such deduction will be made no later than the tenth (10th) day of the month following his return to work.
- 1.7 The Union shall protect, indemnify, and hold harmless, the Company against all claims or suits for damages or other injury resulting from the Company's administration of this Article.

ARTICLE II - NON-DISCRIMINATION

- 2.1 Neither the Employer nor the Union shall discriminate against any employee on the basis of race, color, religion, sex, sexual orientation, age, national origin, marital status, veteran's status, the presence of any physical or mental disability, or any other protected status pursuant to Federal or applicable Washington State Law. The Union will provide its full support to the Employer to effectuate the goals of the Employer's anti-harassment policies.

ARTICLE III - FAIR DAY'S WORK FOR A FAIR DAY'S PAY

- 3.1 A fair's day's work will be performed by all employees, including promptly carrying out all reasonable instructions issued by their supervisors regarding work assignments and performing duties on related jobs when not busy on their own jobs.

ARTICLE IV - MANAGEMENT RIGHTS

- 4.1 The management of the Employer and direction of the working forces are vested exclusively in the Employer and the Employer shall have all rights customarily reserved to management, including the right determine or revise job classifications and qualifications, to hire, assign, promote, suspend, transfer, discipline or discharge for just cause; the right to relieve employees from duty because of lack of work; the right to contract or subcontract for services; the right to schedule hours, assign work, require overtime work; the right to determine whether to make or buy; the right to determine whether to determine the location of worksites and the continuance of any departments; and the right to establish production standards in order to maintain the efficiency of the employees and the right to establish reasonable rules pertaining to the operation of the Employer. It is understood, however, that in the exercise of the foregoing functions, the Company shall observe the provisions of this Agreement.
- 4.2 The Employer reserves the right to determine the products and services that will be provided, equipment that will be used, quality standards, and staffing. Management has no obligation to make or to refrain from making capital improvements to the Employer's workplace or equipment in order to preserve jobs.
- 4.3 The Employer reserves the right to establish, modify, or terminate bonus and incentive programs in excess of the wages and benefits provided for in this Agreement, nor shall any such program be considered as an offset against the wages and benefits provided for in this Agreement.
- 4.4 The above-mentioned management rights are not to be interpreted as being all-inclusive but merely indicate the type of rights that belong to and are inherent to management. It is understood that any of the rights, power or authority the Employer had prior to the signing of this Agreement are retained by the Employer, except those specifically abridged, granted, or delegated to others or modified by this Agreement.
- 4.5 As such, the rights set out in this Article as reserved to management are not subject to Article XIII- Grievance Procedure, unless exercised in a manner that is inconsistent with the express terms of this Agreement.

ARTICLE V - HOURS OF WORK

- 5.1 The Regular Work Day and Work Week:
- (a) The workweek shall consist of not more than forty (40) hours.
 - (b) The regular workweek will be a period of seven (7) consecutive days commencing with the start of the payroll period.
 - (c) Ten (10) consecutive hours (exclusive of lunch period) shall constitute one normal day's work. Forty hours, four (4) ten hour days shall constitute (1) one normal week's work.
 - (d) Notwithstanding paragraph 5.1.c, the employer may establish a workweek that consists of eight (8) consecutive hours (exclusive of lunch period) each day for five days a week.
- 5.2 The Employer shall pay time and one-half the employee's regular rate of pay for all hours

worked in excess of forty (40) in any workweek. Further, excluding make up work for unpaid time off, the Employer shall pay time and one-half the employee's straight time hourly rate of pay for all hours actually worked on the sixth and seventh consecutive calendar days the employee is directed by the Employer to report to work. Employees must secure authorization from the Supervisor prior to working overtime.

- 5.3 Employees are allowed a ten (10) minute rest period during each half shift of four (4) hours or more.
- 5.4 All employees shall receive a minimum of the equivalent of four (4) hours straight-time pay at the contract rate for any time they are called back to duty after being released from duty for the day. Any employee who is called to work on his days off shall be guaranteed a minimum four (4) hours at the applicable rate.
- 5.5 Employees working in the Seattle maintenance yard shall be paid a night differential based on 1.15 times their applicable rate for all hours worked between the hours of 10:30 pm and 7:00 am. If overtime occurs between the hours of 10:30 pm and 7:00 am, the employee shall be paid a night differential based on 1.65 times their applicable rate for such overtime hours.
- 5.6 If a train is annulled, or training sessions are cancelled, and the employee is asked to go home or not appear for work, he or she shall be paid at the applicable rate for a guarantee of forty (40) hours per week. If the employer provides alternate work and the employee refuses that work assignment, un-worked pay shall not be awarded for that day. The employee shall have the option to use vacation leave to guarantee forty (40) hours. The forty (40) hour guarantee does not apply to cancellations longer than two weeks, modifications or trains being taken out of service.
- 5.7 All employees shall receive an \$8 per diem rate for each meal period during work away from the employee's permanent reporting station.

ARTICLE VI – VACATIONS

- 6.1 Employee's who have completed four (4) months of employment shall be granted vacation in accordance with the following accrual schedule:

<u>Years of Service</u>	<u>Annual Vacation</u>	<u>Weekly Accrual</u>
0 to 4 years	80 hours (2 wks)	1.54 hours
5 to 8 years	120 hours (3 wks)	2.31 hours
9 to 13 years	160 hours (4 wks)	3.08 hours
14 to 19 years	200 hours (5 wks)	3.85 hours
20 to 25 years	240 hours (6 wks)	4.62 hours
26 + years	280 hours (7 wks)	5.38 hours

- 6.2 If the employee provides the Company with a written notice of resignation at least two (2) weeks in advance of his or her last day of employment, the Company will pay to the employee the accrued but unused vacation in full along with the employee's last paycheck. If less than two (2) weeks written notice is provided, the accrued but unused vacation will be considered forfeited and not be paid out.

**ARTICLE VII - HOLIDAYS AND
BEREAVEMENT LEAVE**

7.1 After ninety days (90) days of service, Employees are eligible for the following paid holidays:

New Year's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Eve (1/2 day)
Labor Day	Christmas Day

7.2 Hourly employees who work during a holiday will be paid double time for those hours worked. OBT's who work during a holiday will be paid a regular hourly wage for the holiday, plus the regular hourly wage for hours worked. If an OBT works eight (8) hours or less on a holiday, he/she will be paid eight (8) hours at the regular hourly rate for the holiday, plus any hours worked at the regular hourly wage. If the holiday is designated as a "half day" holiday, the OBT is paid for four (4) hours of holiday time at the regular hourly wage, plus any hours worked at the regular hourly wage. If an OBT works more than eight (8) hours on a holiday, hours are matched. For example, if an OBT works a fifteen (15) hour shift on a holiday, he/she will be compensated fifteen (15) hours at the regular hourly wage for the holiday, plus fifteen (15) work hours at the regular hourly wage.

7.3 Employees who are absent from work without prior approval from a supervisor manager, or due to illness one workday before or after a holiday will not be paid for the holiday.

7.4 Bereavement Leave- In the event of a death in the employee's immediate family, the employee will be allowed three (3) paid days of leave. For the purpose of this rule, immediate family is defined as (and limited to) the employee's spouse, registered domestic partner, children, grandchildren, foster children, step children, legal wards, parents, grandparents, foster parents, siblings, and other individuals who are members of the employee's household. An employee is required to have been employed by Talgo for at least ninety (90) days to be eligible. Bereavement leave may be taken on any scheduled workday between the date of the death and two (2) days after the funeral date. The days off do not have to be consecutive. Upon returning to work, the employee must record his/her absence as a Bereavement Leave on his/her attendance record. Proof of death and relationship to the deceased may be required.

**ARTICLE VIII- CLASSIFICATIONS
AND MINIMUM RATES OF PAY**

8.1 Employees covered by this Agreement shall be paid minimum hourly wage rates as follows:

Pay Rates Effective upon Ratification and in Year 2 and Year 3 the employees will receive either the appropriate classification rate below or a 1% increase on their actual rate, whichever is greater.

<u>Classification</u>	<u>Hire Rate</u>	<u>Wage Rate *</u>
<u>Upon Ratification</u>		
Onboard Technician(OBT)	\$16.00	\$17.00
Lead OBT		\$17.90
<u>Year 2</u>		
OBT	\$16.08	\$17.17
Lead OBT		\$17.99
<u>Year 3</u>	\$16.13	\$17.34
Lead OBT		\$18.04

*Wage rate upon completion of probationary period provided for in Article XIX.

If agreement is ratified by December 15, 2011, each employee will receive a one-time payment of \$750.00 consisting of \$400.00 signing bonus plus \$350.00 representing payment in advance for one (1) personal holiday in 2012 and the 2011 Christmas Eve Holiday payable at first payroll after ratification.

- 8.2 No employee shall suffer a reduction in wages due to the adoption of this schedule of pay.
- 8.3 It is understood that the wage rates set forth in this Agreement constitute minimums, and that nothing in this Agreement shall be construed to limit the employer's right to pay above such minimums.
- 8.5 Part-time employees work a regular schedule of twenty (20) hours or more but less than thirty (30) hours per week. Part-time employees shall be paid the same contract hourly rate of pay as regular employees. Part-time employees are not eligible for benefits, including but not limited to: holidays, vacation, bereavement leave, health & welfare, 401K.
- 8.6 Wages will be paid at any time the Employer elects, but not less than semi-monthly unless agreed otherwise by the company and union.

ARTICLE IX - HEALTH AND WELFARE

- 9.1 Employees shall receive the Company standard medical, hospital, vision, and dental insurance coverage package under the current terms of such plans. If the Employer needs to make a change to its health, vision, or dental care providers or plans, it shall retain current co-pay, deductible, and prescription costs borne to the employee.
- 9.2 Employees shall receive the Company's short term and long term disability insurance.
- 9.3 Employees shall receive the Company's life insurance policy.

ARTICLE X- RETIREMENT SAVINGS

- 10.1 Employees shall be eligible to participate in the Talgo 401(k) Plan under the terms of the Plan as may be amended from time to time.

ARTICLE XI - SENIORITY, LAYOFFS AND RECALL FROM LAYOFFS

- 11.1 In all layoffs and recall from layoffs length of service shall govern where merit, ability, and competency are equal. The Employer shall be the sole judge of the merit, ability, and competency of an employee and shall not exercise this discretion in an arbitrary or capricious manner.
- 11.2 Route bids shall be awarded based on seniority.
- 11.3 An employee may be terminated only for just cause or lack of work.
- 11.4 Seniority rights of laid off employees will continue for six (6) months from layoff date.
- 11.5 In event of any layoff the Employer shall give the employee in writing at least three (3) weeks notice of layoff; or at the option of the Employer three (3) weeks' pay in lieu of such notice.

ARTICLE XII - GRIEVANCE PROCEDURE

- 12.1 A grievance is defined as an alleged breach of the specific terms of this Agreement that is raised during its term.
- 12.2 Step 1
An employee or shop steward shall first discuss any grievance with the employee's immediate supervisor within fourteen (14) calendar days after the grievance arose or after the grievant knew or reasonably should have known of the facts giving rise to the grievance. Every effort shall be made to resolve the grievance at this level.
- 12.3 Step 2
Should Step 1 fail to reach satisfactory agreement, the matter shall be referred to management's designee within fourteen (14) calendar days from the date a response is given by the employee's immediate supervisor's in Step 1.
- 12.4 Step 3
Should Step 2 fail to reach satisfactory agreement, the matter shall be referred to the Union representative and a designated representative of the Employer in writing within fourteen (14) calendar days of the management's response in Step 2, and the matter shall be taken up in a joint committee of the Union representative and a designee of the Employer.
- 12.5 Step 4
If no agreement can be reached by said joint committee within fourteen (14) calendar days from the time the matter shall have been submitted to such committee, the representative of the Employer and the Union representative shall designate a mutually acceptable arbitrator, but if they cannot agree on an arbitrator within seven (7) days, then the Federal Mediation and Conciliation Service shall be asked to submit a local regional panel from Washington and Oregon from which the arbitrator shall be selected to decide the issue. Both parties agree to abide by such arbitrator's decision. The decision shall be rendered within thirty

(30) days of the submission of post-hearing briefs. The Arbitrator will not substitute his or her business judgment for that of the Employer. The Arbitrator shall have no authority to add to, delete from, disregard or alter any of the provisions of this Agreement but shall be authorized only to interpret the existing provisions of this Agreement as they may apply to the specific facts of the issue on dispute. The Arbitrator's fees and expenses shall be borne by the party whose position is not upheld by the Arbitrator. Each party shall be responsible for its own witness fees and other expenses.

- 12.6 The time limits set forth in this article may be extended only by mutual written agreement of the parties. If an employee or the Union fails to process a grievance within the time limits set forth above and the procedure is not waived by mutual agreement, that grievance shall be deemed waived and such failure shall bar to any future action thereon. If the Company fails to respond within the time limits described, unless the procedure is waived by mutual agreement, the grievance shall be considered automatically advanced to the next step in the Grievance Procedure.
- 12.7 The provisions of this article shall apply only to employees who have completed the probationary period provided for in Article XIX of this Agreement.
- 12.8 At any step of the grievance process, the grievant may request that a Union representative, shop steward or another employee be present.

ARTICLE XIII - NO STRIKE/NO LOCKOUT

- 13.1 The Union agrees that there shall be no strike (including sympathy strike), picketing or handbilling of the Employer by the employees or the Union or its agents. The Employer agrees that there shall be no lock out of employees. Should any difference arise between the Employer and the Union as to the meaning or application of the provisions of this Agreement, the same shall be disposed of in accordance with the provisions of Article XII of this Agreement.

ARTICLE XIV - SAFETY

- 14.1 The Employer and the employees agree to maintain a work environment that safeguards the health and well being of all employees and members of the public. The Employer agrees to continue to pursue this goal and to comply with all health and safety laws and regulations mandated by the State of Washington. The employees, for their part, agree to observe all safe practices governing their work and to apply the principles of accident prevention in their daily work. Any dispute regarding the meaning or application of any safety requirements promulgated by the State of Washington or federal government agency will not be subject to the jurisdiction of an arbitrator appointed under Article XII, above. Any dispute regarding the level of discipline for an employee who allegedly failed to follow a safety requirement will be subject to the jurisdiction of an arbitrator appointed under Article XII.
- 14.2 An employee who reasonably believes that working conditions constitute an imminent threat to his or her safety or health shall immediately notify his/her supervisor of the condition and concern relative thereto.

ARTICLE XV – NO MOONLIGHTING

- 15.1 No employee covered by this Agreement shall compete with the Employer. No employee covered by this Agreement shall work on his own behalf as a self-employed individual or for another Employer after his regular hours of employment, or on days off, holidays or vacations on work covered by the this Agreement, which shall refer to the maintenance and repair of train sets and rail transportation services. Employees violating this article shall be subject to discipline.

ARTICLE XVI - ACCESS TO FACILITY

- 16.1 The Employer agrees to allow the business representative of the Union to visit the premises during working hours for the purpose of processing grievances, provided that such Union representative makes prior application to a representative of management and otherwise follows the rules and policies established for visitors while in the Employer's workplace; and provided that the Union does not in any manner interfere with the Employer's business of operations; and further provided there is no interruption in an employee's work.

ARTICLE XVII – SAVINGS CLAUSE

- 17.1 In the event that any federal or state legislation, governmental regulations or court decisions cause invalidation of any article or section of this Agreement, all other articles and sections not so invalidated shall remain in full force and effect. Within thirty (30) days, the Company and the Union shall meet to bargain regarding proposals for new contract language to replace the particular clause(s) which was invalidated by federal or state legislation or court decision.

ARTICLE XVIII – DISCIPLINE AND DISCHARGE

- 18.1 No full time or part time employee shall be disciplined or discharged except for just cause. "Just cause" shall be defined to include the concept of progressive and corrective discipline such as verbal and written reprimands and the possibility of suspension without pay; the decision to impose or not impose a suspension prior to termination rests exclusively with the Employer. Progressive discipline shall not be applied when the nature of the offense requires immediate suspension or discharge. A copy of all written disciplinary actions shall be given to the employee and a copy provided to the Union. Employees shall be required to sign the written disciplinary actions for the purposes of acknowledging receipt thereof.
- 18.2 The Employer may have just cause to suspend or terminate employees who fail to achieve or maintain qualifications, licenses, and certifications required by the Employer for their job.
- 18.3 Should there be any dispute between the Company and the Union concerning the existence of just cause for imposing discipline or termination, such dispute shall be adjusted in accordance with the grievance and arbitration provisions contained in Article XII, above.

ARTICLE XIX - PROBATION

19.1 New employees will be hired with the understanding that a 6-month probationary period will take place to assess the performance of the employee and the employee's overall behavior. After the 6-month period, the employee will be informed of the Company decision to continue the working relationship with the employee or to dismiss his/her services.

ARTICLE XX - GENERAL AND DURATION

20.1 Employees shall abide by, conform with, and obey all reasonable rules and procedures adopted and promulgated by the Company relating to the operation of the Employer's facility. To the extent that the rules are inconsistent with this Agreement, the Agreement shall control.

20.2 This Agreement is effective on December 12, 2011 except as otherwise provided herein, and shall remain in effect through December 11, 2014, unless changes by mutual agreement. Should either party desire to open or terminate the Agreement on December 11, 2014 or any subsequent December 11th anniversary date, written notice must be given to the other party at least (60) days in advance of such anniversary date. If timely notice to open or terminate the Agreement is not given by either party at least sixty (60) days prior to any anniversary date, the Agreement shall be considered as automatically renewed for an additional period of one year and in like manner from year to year thereafter.

TALGO, INC.

IBEW LOCAL 46

By G. Hlubek Date 12-20-2011

By [Signature] Date 12-19-11

Its CFO

Its _____

COMPANY REPRESENTATIVE

Kelly M. Borek

Kellis M. Borek
Washington Employers, Inc.

**LABOR MANAGEMENT COMMITTEE
MEMORANDUM OF UNDERSTANDING**

The Employer, jointly with the elected representatives of the Employees, shall establish a Labor Management Committee. The purpose of the Labor Management Committee shall be to foster improved communications between the Employer and the Employees. The function of the committee shall be limited to an advisory rather than a decision making capacity. The committee shall consist of 1-2 representatives of the Employer and 2 representatives of the Employees. All members of the committee shall be employees of the Company. Representatives of the Labor Management Committee may request meetings to discuss issues and suggestions for constructive improvement relating to utilization of employees.

TALGO, INC.

IBEW LOCAL 46

By G. Hlobachuk Date 12-20-2011

By [Signature] Date 12-19-11

Its CFO

Its _____

COMPANY REPRESENTATIVE

Kellis M. Borek
Kellis M. Borek
Washington Employers, Inc.