

# **COLLECTIVE BARGAINING PROVISIONS**

## **Strikes and Lock-Outs; Contract Enforcement**

**Bulletin No. 908-13**

**UNITED STATES DEPARTMENT OF LABOR**

*Maurice J. Tobin, Secretary*

**BUREAU OF LABOR STATISTICS**

*Ewan Clague, Commissioner*



## Letter of Transmittal

UNITED STATES DEPARTMENT OF LABOR,  
BUREAU OF LABOR STATISTICS,  
*Washington, D. C., November 15, 1949.*

The SECRETARY OF LABOR:

I have the honor to transmit herewith the thirteenth bulletin in the series on collective bargaining provisions. The bulletin consists of two chapters: (1) Strikes and Lockouts, and (2) Contract Enforcement, and is based on an examination of collective bargaining agreements on file in the Bureau. Both chapters were prepared in the Bureau's Division of Industrial Relations, by and under the direction of Abraham Weiss, and by James C. Nix.

EWAN CLAGUE, *Commissioner.*

Hon. MAURICE J. TOBIN,  
*Secretary of Labor.*

## Preface

As early as 1902 the Bureau of Labor Statistics, then the Bureau of Labor in the Department of the Interior, recognized the growing importance of collective bargaining, and published verbatim the bituminous-coal mining agreement of 1902 between the Associations of Coal Mine Operators of Pennsylvania, Ohio, Indiana, and Illinois and the respective districts of the United Mine Workers of America. Since 1912 the Bureau has made a systematic effort to collect agreements between labor and management in the leading industries and has from time to time published some of those agreements in full or in summary form in the *Monthly Labor Review*.

The first bulletin entirely devoted to collective bargaining agreements was published in 1925 under the title "Trade Agreements in 1923 and 1924." Similar annual bulletins were published in 1926, 1927, and 1928. These bulletins analyzed only outstanding agreements affecting certain industries and certain skilled crafts in which collective bargaining has followed a more or less established pattern.

No bulletins in this field were published by the Bureau between 1928 and 1942—a period during which collective bargaining first lost ground in the depression and then made rapid strides following the enactment of the National Labor Relations Act in 1935. The growth in trade-union membership from fewer than 4,000,000 workers in 1935 to more than 10,000,000 in 1942 not only resulted in a large increase in the number of collective agreements covering industries hitherto not included under collective bargaining, but also extended the scope and area of bargaining in individual industries. In recognition of this development, the Bureau's 1942 report on union agreements (Bulletin No. 686) dealt with provisions and clauses on particular labor-management problems rather than with the agreements of each union or industry separately.

The substance and character of collective bargaining agreements change continuously, and many of the clauses and provisions covered in Bulletin No. 686 underwent significant changes during the war emergency, as a result not only of the normal processes of collective bargaining but of the decisions of the National War Labor Board. New problems meant new clauses and new provisions. The Board also gave added impetus to certain forms of union security, and to certain practices, now deeply imbedded in the entire field of labor-management relations.

The liquidation of the Board, and the renewal of emphasis on

free collective bargaining after VJ-day, led to a tremendous increase in the demand for information on specific current provisions in agreements. Urgent requests came from employers and unions, from the United States Conciliation Service, and from mediators and arbitrators engaged in settling or preventing labor-management disputes. It was largely in response to these requests that the Bureau of Labor Statistics undertook to revise and bring up to date the material on union agreements.

In this revision two significant departures have been made: (1) Accumulation of data has made possible the use of a larger sample than was possible heretofore. (2) The information will be presented in a series of small bulletins, each stressing a major area or significant problem of collective bargaining. This will permit the material for each major problem to be published as rapidly as finished without waiting until all of the subjects of collective bargaining are analyzed. It will have the advantage of greater flexibility in handling specific requests for material from employers, unions, and the public. Some clauses are more or less stable and undergo relatively minor changes even over a considerable period of time and therefore need only occasional revision, whereas others undergo rather rapid change. Also, as new issues develop it will be possible to add new bulletins to the series without revising those already published.

The clauses used are designed to facilitate, but not to condition, the bargaining process. No special attempt has been made to determine the prevailing industry practice or the most frequently used provisions. The clauses are presented, not as models, but as a source of reference for those who participate in collective bargaining negotiations, by making available to them a wide variety of provisions on the specific subjects under consideration. An index of all the contract clauses quoted, with a brief description of each clause, is appended to each report.

This report, dealing with strikes and lock-outs and contract enforcement, is the thirteenth in this Collective Bargaining Provisions series. The bulletins already published are as follows:

- No. 908 Union Security Provisions.
- No. 908-2 Vacations; Holidays and Week-End Work.
- No. 908-3 Incentive Wage Provisions; Time Studies and Standards of Production.
- No. 908-4 Apprentices and Learners.
- No. 908-5 Discharge, Discipline and Quits; Dismissal Pay Provisions.
- No. 908-6 Leave of Absence; Military Service Leave.

- No. 908-7 Promotion, Transfer, and Assignment; Lay-Off, Work-Sharing, and Reemployment.
- No. 908-8 General Wage Provisions.
- No. 908-9 Wage Adjustment Plans.
- No. 908-10 Union-Management Cooperation, Plant Efficiency, and Technological Change.
- No. 908-11 Seniority.
- No. 908-12 Union and Management Functions, Rights, and Responsibilities.

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## Collective Bargaining Provisions

### Chapter I.—Strikes and Lock-Outs

#### *Introduction*

By settling certain basic issues which constitute the major field of bargaining between employers and unions—such as wages, hours, and working conditions—a collective bargaining agreement provides the basis for peaceful plant operations and uninterrupted production during the life of the contract. In addition, the agreement often stipulates certain principles and procedures intended to safeguard peaceful labor-management relations. For instance, both parties may pledge to abide by the terms of the contract. Specific provision is sometimes made for enforcing the contract, and almost every agreement provides grievance and arbitration machinery to resolve problems and to handle misunderstanding without resort to the ultimate test of economic strength. (See forthcoming bulletin on grievance procedure and arbitration.)

The existence of a collective bargaining agreement implies that no work stoppage will take place while peaceful adjustment procedures are available, and almost every agreement outlines in considerable detail the machinery and the steps to be followed for the settlement of disputes and other grievances. Many contracts contain explicit prohibition of restrictions on work stoppages—whether these be strikes or lock-outs. Such “no-strike, no lock-out” clauses are designed as extra assurance that the contract procedure will be used and used fully before resorting to a strike or lock-out.

The restrictions on strikes and lock-outs provided in agreements range from an outright prohibition of strikes and lock-outs during the term of the agreement to clauses which provide only for the protection of company property or the necessary care of equipment and finished products while a strike is in progress. Although work stoppages of any kind are frequently prohibited, many agreements merely restrict the conditions or specify the circumstances under which a strike may be called. In most agreements not spe-

cifically providing for automatic arbitration of disputes within the scope of the agreements, or in those which allow arbitration by mutual consent only, strikes or lock-outs are banned only while the grievance machinery is in operation or until it has failed to produce a mutually acceptable solution. Some clauses, on the other hand, specifically permit stoppages to secure enforcement of an agreement provision or an arbitration award. In others, a "cooling off" or definite period of waiting after strike notice is served, is specified.

Provisions which refer to strikes or work stoppages sometimes include, by definition, sit-down, slow-down, and any interruption or interference with work, as well as a direct walk-out. Occasionally, too, the clause will prohibit picketing or sympathetic strikes to aid another union. Moreover, the union may pledge not only to abstain from officially calling a strike but also not to aid, support, or permit unauthorized strikes by its members.

Many agreements specify certain penalties and/or remedies for work stoppages applicable to management, the union, and individual employees. In rare instances, a bonus payment has been used as a reward for compliance with the no-strike clause. In a few cases, the status of the agreement, in the event of a work stoppage, is set forth, i. e., whether a stoppage voids the agreement.

The Labor Management Relations Act deals extensively with the question of strikes and lock-outs in industries affecting interstate commerce. Generally speaking, the Act prohibits jurisdictional strikes, secondary boycotts, strikes by the employees of an employer to compel another employer to recognize or bargain with a union as the representative of his employees unless such union has been certified as bargaining agent, and strikes to compel recognition or bargaining rights from any employer whose employees are already represented by a certified union. The Act bans strikes and lock-outs during a 60-day period prior to contract termination or modification and authorizes the Government to get an injunction prohibiting for 80 days any strike or lock-out found to "imperil the national health or safety."

The Act authorizes either party to bring suit in a Federal District Court for damages suffered by a strike or lock-out in violation of the contract. Judgment against unions are enforceable only against the union as an organization and not against any individual member or officer. In determining under the Act whether a union is responsible for the acts of its members, however, the fact of authorization or ratification is not controlling. As a result, a wide variety of contract clauses have been negotiated for the

purpose of limiting liability, particularly union liability, for work stoppages. Many "no-strike" clauses have been modified to eliminate any unreasonable liability of the union for irresponsible and unauthorized acts of union members. The most common of these clauses absolves the union of liability for unauthorized strikes. Usually, this provision is accompanied with a requirement that the union take steps to terminate the strike.

### *Prohibition of Strikes and Lock-Outs*

In addition to the prohibitions on certain kinds of strikes and lock-outs found in the Labor Management Relations Act, many collective bargaining agreements contain specific prohibitions or unqualified bans against strikes, lock-outs, or stoppages of work for any reason during the life of the agreement. Some unions, however, eliminated such clauses after enactment of the Labor Management Relations Act in order to avoid the damage suits for contract violation authorized by the Act. Provisions of this nature are often accompanied with the statement that the grievance procedure and arbitration shall be used to settle any disputes arising between the parties.

Some agreements not only prohibit stoppages during the term of the agreement but also during negotiation of a new or renewed agreement.

In many contracts, the "no-strike, no-lock-out" clause is very brief; in others, strikes are specifically defined to include sit-downs, slow-downs, stoppages of work, sympathy strikes, boycotts, picketing, and other interruption or interference with the operation of the employer's business. Likewise, some agreements define lock-outs, usually by specifying that shut-downs due to lack of business, shortages of materials, etc. are not to be considered lock-outs.

#### *1. Strikes and Lock-Outs Banned*

For the duration of this agreement the union agrees that it will not cause or engage in any strike, slow-down, or stoppage of work, and the company agrees that it will not cause or engage in any lock-out.

#### *2. Prohibition of Strikes and Lock-Outs "For Any Reason Whatsoever"*

The parties hereto solemnly agree that there shall be no general or individual strike, stoppage of work, or lock-out during the term of this agreement, for any reason whatsoever, or because of any matter in controversy or in dispute between the association and union, or between any member of the association and any member of the union.

#### *3. Ban Covers All Acts Tending To Create Disturbance*

It is agreed that for the terms of this agreement or any renewal thereof, there shall be no strikes, sit-downs, stoppages of work, nor lock-outs, nor

picketing of any kind or form whatsoever, nor will there be committed any acts tending to excite sympathy or protests concerning the relations or matters contained in this agreement, and that the parties hereto will not otherwise permit, countenance or suffer the existence or continuance of the acts hereby prohibited.

4. *Definition of Term "Strike"*

For the purpose of section 1, the term "strike" includes a sit-down, stay-in, slow-down, walk-out, curtailment of work, stoppage of work, interference with work, stoppage of any of the company's operations, or picketing of any of the company's plants or premises.

5. *Concerted Slow-Down Included in Prohibition*

It is agreed on the part of the union that, during the term of this agreement, there shall be no concerted slow-down, concerted cessation of work, or strike, and, on the part of the company, no lock-out.

6. *Prohibition of Union Membership Meetings Which Have Same Effect as Strike.*

The union will not schedule any membership meeting which may have the same effect as a strike or work stoppage.

7. *Interference With Factory Operations Included in Stoppage Ban*

The union agrees that during the terms of this agreement there shall be no interference of any kind with factory operations, or any interruptions or slackening of production or work by any of its members. The union further agrees to refrain from engaging in any strike or work stoppage during the terms of this agreement.

The employer agrees that there shall be no lock-out during the term of this agreement.

8. *Ban on Specified Types of Work Stoppages; Union Holidays Affecting Municipal, State, or National Issues Permitted Twice a Year, Upon Notice.*

During the term of this agreement, the company agrees not to conduct a lock-out and the union agrees not to cause or permit its members to cause nor will any members of the union take part in any walk-out, sit-down, slow-down, sympathetic or stay-in strike, or any other interference with or stoppage of work of the company. Special union 1-day holidays, affecting municipal, State, or National issues, may be arranged twice per year by giving the company 48 hours' notice.

9. *Ban Covers "Suspension of Work" as Well as Called Strike*

Should differences arise between the company and the union or employees as to the meaning or application of the provisions of this agreement or should any controversy or trouble of any kind arise having to do with employer-employee relations, neither the union nor any of its members shall take part in or call or encourage any strike, slow-down, or suspension of work on account of such differences, controversies, or trouble, or for any other reason nor shall the company engage in any lock-out.

10. *Disputes To Be Adjusted Without Strike or Lock-Out*

There shall be no strike or stoppage against any member who has ratified this agreement, nor any lock-outs during the life of this agreement and all disputes shall be adjusted as hereinafter set forth.

**11. *Ban on Stoppages and on Denial of Access of Employees to Plant Applies Both to Individual Employees and to Union***

During the life of this agreement neither the union nor any employee, individually or collectively, shall:

Encourage, cause, take part in, or sanction any sit-down strike, slow-down, work stoppage, or any other interruption, interference, impeding of work or production in the plant of the company;

Prevent, or attempt to prevent, the access of employees to the plant, or the entrance of any employees into the plant of the company \* \* \*

During the life of this agreement, the company shall not engage in any lock-out of employees at its plant covered by this agreement.

**12. *Work Stoppage Ban Applies to Both National and Local Unions***

It is agreed that it is the purpose and intent of the parties hereto that all grievances or disputes arising between them over the interpretation or application of any of the terms of this agreement shall be settled by the procedure set forth in article III hereof. During the life of this agreement, neither the National union nor the local union will cause or permit its members to call or engage in, sanction, or assist in, a strike against, or any slow-down or stoppage of work of the employer. The union will require its members to perform their services for the employer when required by the employer so to do. During the term of this agreement the employer shall not cause or permit any lock-out of the members of the union.

**13. *No Lock-Out, But Participants in Unauthorized Work Stoppage May Be Denied Entry to Premises as Disciplinary Measure***

The employer, for its part, agrees that there shall be no lock-out during the life of this agreement except that in disciplining employees as provided for in the preceding paragraph, it may be necessary to deny entry to the factory premises to an individual employee or group of employees who have indulged in an unauthorized interruption of work.

**14. *Lock-Out Prohibition Applicable Only Where Intent is To Influence Disposition of Pending Labor Dispute or Evade Compliance with Arbitration Award. Illustrative Listing of Company Actions Not Deemed Lock-Out***

As long as this agreement is in effect, the company will not lock out any employee. The term "lock-out" as used above shall be construed to mean a refusal to permit employees to work which is issued with the sole purpose and intent of influencing a labor dispute which is pending in the grievance procedure on a matter within the arbitrator's jurisdiction or which is issued with the sole purpose and intent of evading compliance with a decision rendered by the arbitrator on any issue on which he has jurisdiction to act.

It is expressly agreed that the term "lock-out" shall not be construed to apply to the following circumstances: Partial or total shut-down because of shortage of materials, engineering or production difficulties, changes in production schedules, excessive absenteeism, or inability to maintain orderly discipline. Individual or group disciplinary actions by the company shall not be considered as a "lock-out." The foregoing list shall not be construed as exclusive but merely exemplary of the acts which shall not be construed as a "lock-out."

15. *Stoppage Ban, Including Picketing, Extends to Renewal Contract*

The union and the employees agree that for the duration of this agreement or any renewal thereof, there shall be no calling, authorization, or condoning of strikes, or any acts of similar nature to interfere with production nor picketing of any kind or form whatsoever, however peaceable; and the company agrees that there shall be no lock-out for the duration of this agreement or any renewal thereof.

16. *Strikes and Lock-Outs Banned During Negotiations for Renewal of Contract*

It is agreed that during the term of this contract, or during any period of time while negotiations are in progress between the parties hereto for the continuance or renewal of this contract, that there shall be no lock-outs, strikes, stoppages of work, or interruption of service to the public.

17. *Strikes Banned During 90-Day Contract Negotiation Period*

The union agrees that during the term of this agreement and during the period of not to exceed 90 days after its expiration which is provided, pursuant to article XVII hereof, for the negotiation of a new agreement, there shall be no strikes, stoppages or slow-downs and the company agrees that during the same time there shall be no lock-outs.

### *Restrictions on Strikes and Lock-Outs*

Some agreements which outlaw strikes and lock-outs for the duration of the agreement term may nevertheless contain exceptions and outline certain specific conditions, under which such action becomes permissible. For instance, work stoppages may be permitted under the following conditions, among others: to enforce compliance with the terms of the agreement; after refusal of either party to arbitrate or to abide by the decision of an arbitrator; in case of a dispute over the general wage scale when the agreement allows wages to be reopened during the contract term.

Some agreements forbid any stoppage until the full grievance procedure has been exhausted, or until negotiations have been underway for a minimum number of days. Where arbitration is the terminal point of the grievance machinery, such a provision effectively limits the area of permissible strikes. In fact, where all possible disputes arising during the contract term are arbitrable, a pledge not to strike pending full use of the grievance and arbitration procedure is equivalent to a pledge not to strike at all during the life of the agreement, inasmuch as all arbitration decisions are considered final and binding. A ban on stoppages pending use of arbitration machinery would therefore appear to permit stoppages only on nonarbitrable issues, and some agreements explicitly state that this is the case. Where there is no provision for arbitration, or where the issues in dispute are not subject to arbi-

tration, mediation by a Federal or State agency is often required before a strike or lock-out is initiated.

A common prerequisite to strike action by the local union is formal approval by the international union or, in the case of craft unions, approval by a joint trades council, local, regional, or national.

**BAN CONTINGENT ON COMPLIANCE WITH AGREEMENT  
AND/OR ARBITRATION AWARDS**

**18. *Strikes and Lock-Outs Banned Provided Agreement Terms Are Observed***

The union will not cause or permit its members to cause, nor will any member of the union take part in any sit-down or stay-in strike, or sympathetic strike, or any other strike or stoppage, so long as the employer complies with the terms of this agreement; and the employer will not cause a lock-out as long as the union complies with the terms of this agreement.

**19. *Strikes and Lock-Outs Banned So Long as Each Party Performs Its Obligations***

So long as the company performs its obligations under this agreement, there will be no strikes or walk-outs on the part of the union, and so long as the union performs its obligations under this agreement, there shall be no lock-outs on the part of the company.

**20. *Strikes and Lock-Outs Banned Provided Agreement and Arbitration Awards Are Observed***

The union agrees that so long as the employer shall abide by this agreement and by any decision of the arbitrators, hereinafter provided for, made in respect of any matter over which such arbitrators are given jurisdiction by this agreement, the union and the members of the union employed by the employer will not cause or sanction or take part in any strike whatsoever, (whether sit-down, sit-in, sympathetic, general or otherwise, walk-out, picketing, stoppage of work, retarding of work, or boycott, whether of a primary or of a secondary nature, or whether open or secret, or any other interruption or interference with the operation or continuance of the employer's business) and the union shall not call upon the employer to assist in the enforcement of any open or secret boycott against any product sold or offered for sale or used by the employer. The employer agrees that so long as the union shall abide by the provisions of this agreement, and by the decisions of the arbitrators in respect of any matter over which the arbitrators have jurisdiction by this agreement, that there shall be no lock-outs during the continuance of this agreement. Consolidation of departments or discontinuance of departments or of any process or activity now being conducted by the employer shall not be deemed a lock-out.

**21. *Strike To Enforce Agreement or If Arbitration Is Refused by Employer***

The union shall have the right to strike in the event that any of the provisions entered in this agreement are not lived up to by the employer, or if the employer refuses to go to arbitration.

**22. *Strike Ban Voided by Breach of Arbitration Award***

The union and its members individually and collectively agree that during

the term of this agreement they will not cause or permit, or take part in any sit-down, strike, stoppage, or organized curtailment of work, unless the employer refuses or fails to conform to an award of an arbitrator rendered in accordance with the provisions of this agreement.

The employer agrees that it will not sanction any lock-out of its employees.

**23. *Strike or Lock-Out Allowed to Enforce Arbitration Award 10 Days After Notice of Decision*** (In cases of lock-out under these circumstances, the jobs affected remain union jobs, which union may fill.)

The union, however, reserves the right to strike any mill where the employer fails to carry out the decisions of the impartial chairman, duly rendered in writing, within 10 days after such employer shall have been served with such decision. The employer reserves the right to lock out any department or dismiss the entire personnel of such department and/or the entire mill where members of the union in any department refuse to carry out the decisions of the impartial chairman, duly rendered, within 10 days after service upon the union of such decision. Such jobs so affected by a lock-out will remain union jobs and the union is empowered to fill such vacancies so caused, subject to the right of the employer to fill such vacancies in case the union fails to do so, as elsewhere in this agreement provided.

**24. *No-Strike Clause Voided If Arbitrator Finds Employer Has Violated Agreement***

For the term of this agreement the union shall not cause or permit its members to cause any strike, shut-down, slow-down, or any other stoppage of work \* \* \*.

The provisions of this article shall not apply if an arbitrator agreed upon by the company and the union decides, after a full hearing, that the company has violated the terms of this agreement and that such violation is the reason for the union's proposed strike action.

**25. *Strike Permissible If Employer Found Guilty of Unfair Labor Practice Under State or Federal Statutes***

The parties further agree that there shall be no strike, suspension of work, slow-down or lock-outs while such dispute, claim, grievance, or difference is pending, or while same is in process of arbitration.

It is understood, however, that where the employer is found guilty by a court of competent jurisdiction, or any agency, or its representatives, of the Federal or State Government, or by the arbitrator hereunder, of engaging in an unfair labor practice as defined, determined and interpreted under the California Labor Code or the National Labor Relations Act, 49 Stat. 449, the above paragraph shall not apply.

**26. *No Strike Over Arbitrable Issues or To Void Arbitrator's Decision or To Change or Add to Agreement***

The union and the employees covered by this agreement, individually and collectively, agree that during the term of this agreement they will not participate in any strike, work stoppage, or intentional slow-down of production in respect to any controversy, dispute or grievance:

- (a) Which may properly be considered under the grievance procedure provided herein, and which may finally be determined by the arbitrator whose determination with respect to such matters shall be conclusive and binding on the parties as specifically provided in the grievance procedure.

(b) Which has as its objective an avoidance of the effects of the decision of the arbitrator, or of obtaining a change in or an addition to this agreement, or any agreement supplemental thereto, as long as this agreement remains in force.

#### **NO STRIKES OR LOCK-OUTS PENDING EXHAUSTION OF GRIEVANCE PROCEDURE**

##### ***27. No Strike or Lock-Out Until All Possible Means of Peaceful Settlement Are Used***

The union and the employer agree that there shall be no strike or lock-out without first using all possible means of peaceful settlement of any controversy which might arise.

##### ***28. Strikes and Lock-Outs Banned During Operation of Grievance Procedure***

There shall be no lock-outs on the part of the company, and no strikes or stoppages of work on the part of the union or any of its members during the operation of the grievance procedure.

##### ***29. Sit-Downs, Slow-Downs, Sympathy Strikes Banned; Other Strikes Permissible After Failure of Grievance Procedure***

The union will not cause or engage in, or permit its members to cause or engage in, nor will any member of the union take part in any sit-down, stay-in, slow-down or sympathy strike. The union will not cause or engage in, or authorize its members to cause or engage in, nor will any members of the union take part in any other strike or stoppage or curtailment of work or restriction of production or interference with the production of the company, unless and until all of the bargaining and grievance procedure as outlined in this agreement has been exhausted. The company will not cause or sanction any lock-outs, unless and until all of the bargaining and grievance procedure as outlined in this agreement has been exhausted.

##### ***30. No Work Stoppage Banned Pending Exhaustion of Government Mediator Services***

It is agreed that any agreement reached by the company and the union is binding and cannot be changed by any individual. It is mutually agreed and understood that should any differences arise between the company and the union as to the meaning and application of the provisions of this agreement, or should any other difficulty or differences arise between the union and the management during the term of this contract, there shall be no stoppage, slow-down, or interruptions of operation of any name or description by the union on account of such differences or for any other reason, nor any lock-out by the company until the foregoing procedure, or any variation thereof, has been completely followed; it being the intent of this agreement that the orderly processes of mediation, conciliation, etc., be used through the ultimate steps or agencies now or hereinafter provided by this contract and the State and Federal Governments.

##### ***31. Strikes and Unauthorized Union Meetings Banned Until Exhaustion of Grievance Procedure and After Membership Vote Under Union's Bylaws***

In view of the mutual interest of the parties in uninterrupted production, the parties agree as follows:

Strikes, work stoppages, or interference with work during the life of this agreement are prohibited, with one exception, as follows:

In case of an unsettled dispute which is a proper subject for consideration

under the grievance procedure outlined in this agreement wherein definite time limits for the various grievance steps must be specified, the union may strike if, but only if, (1) such grievance procedure has been fully exhausted, (2) the dispute has been the subject of negotiations between the headquarters of the national federation and the company for at least thirty (30) calendar days, and (3) the strike is authorized by a majority of the membership of the union at a meeting duly called and held in accordance with the charter and bylaws of the union.

Any demonstration or meeting called or sponsored by the union or any representative of the union, without the consent of management, during regular working hours shall be deemed to be a strike for the purpose of this agreement. This does not preclude the union calling a meeting of its officers, its authorized representatives, or official committees during working hours.

**32. *No Strike or Lock-Out Until Grievance Procedure and Mediation Exhausted; No Strike Without Approval of Employees***

The employees covered under this agreement will not take part in any strike, either sit-down, stay-in or other form of strike; or any interference with, or stoppage of work, total or partial, during the term of this agreement until after the following steps have been taken:

- (1) An earnest effort has been expended to settle the dispute under the grievance procedure set forth in article II, sec. 2.
- (2) Outside mediation has been called in.
- (3) The strike has been sanctioned by the company employees who are members of the union at a meeting called by the union for that purpose. (The foregoing steps do not necessarily have to be followed in the order stated.)

The company on its part agrees not to lock out any of the workers covered by this agreement until it has expended an earnest effort to settle the dispute under the grievance procedure and outside mediation has been called in. The company also agrees that no employee shall be given a disciplinary discharge or lay-off without the sanction of the shop committee.

**33. *Strike Allowed on Nonarbitrable Issues, Subject to At Least 4 Days' Negotiations at Last Step of Grievance Procedure and Secret Strike Vote***

During the life of this agreement the company will not cause any lock-out as a result of a labor dispute between the parties hereto, nor will the union cause any strikes or cessations of work of any kind, until all bargaining procedures as outlined in this agreement have been exhausted and in no case on which an arbitrator shall have ruled and on other cases on which an arbitrator is not empowered to rule until after negotiations have continued for at least 4 days at the last step of the grievance procedure, and no strike shall be called until it has been approved by the local union by a strike vote taken by secret ballot pursuant to a bulletin posted by the union on the plant bulletin boards to the effect that the vote will be taken.

**STRIKE VOTE**

**34. *Affirmative Majority Vote Prerequisite to Strike Action***

An authorized strike shall take place only if all the following requirements have been fulfilled:

The vice president in charge of manufacturing and the collective bargaining committee have conferred on the questions in dispute and failed to agree.

A majority of the employees have voted for strike by secret ballot. At least three (3) days before the election, the union shall post on its bulletin boards in the plants notices of the strike, stating the questions in dispute. The company shall have the privilege of posting, similarly, its views on the questions in dispute.

Following the strike vote, and if the employees vote for a strike, the international union shall authorize the strike, shall give the company written notice by registered mail of the actual and effective date and time of the strike and shall confer with the president of the company, or other officer designated by him.

*35. Affirmative Two-Thirds Vote Required*

It is agreed that not less than two-thirds of all members of the union must have voted in favor of a strike before it may be called.

*36. Secret Strike Vote Confined to Active Company Employees*

It is the intent and spirit of this agreement to avoid and prevent strikes and lock-outs, and it is hereby specifically agreed that no strike shall be called, no lock-out effected until every means of final disposition shall have failed.

The union further agrees that any vote on a question of strikes shall be confined to employees of the company actually employed, and by secret written ballot.

There shall be no general discontinuance of operation by the company without the union or its representatives being given the privilege of appearing before the company or its chief executives and being given an opportunity to present the side of the employees.

*37. Secret Strike Vote Under Joint Supervision and Joint Counting of Ballots*

The union agrees that there shall be no stay-in, sit-down, nor interference with any of the operations of the plant nor suspension of work in any department during the life of this contract. The union further agrees that there shall be no general strike at any time during the life of this contract unless and until the means provided in this contract for settlement of grievances shall have been exhausted without agreement of both parties. There shall be no strike in any case, unless voted by a majority of the membership of the union, such strike vote to be taken by secret ballot under the supervision of an equal number of union and company representatives, not to exceed two (2) for each party, and such strike vote to be taken on plant or company property, the location to be designated by the company and approved by the union president or committee. An equal number of representatives of the company and of the union, not to exceed two (2) for each party, shall count and certify the ballot; company representatives shall not include anyone in a supervisory capacity.

*38. Federal Mediation and Conciliation Service To Supervise Balloting and Counting*

During the life of this contract, no strikes or work stoppages shall be caused or sanctioned by the union until the conditions of settlement provided in this agreement shall have been tried and shall have been exhausted.

In the event that it is necessary to take a strike vote, it will be done by secret ballot, proper notification being given to all members and the balloting and

counting of ballots shall be under the supervision of the Federal Mediation and Conciliation Service.

**39. *Certified Public Accountant To Supervise Voting***

The balloting and the results thereto shall be supervised and attested to by an accredited certified public accountant.

**40. *Fine Against Employees Failing To Vote in Strike Ballot***

The company shall submit a list to the accredited certified public accountant of employees on the pay roll who are subject to this agreement. This certified public accountant shall accurately record those employees voting as distinguished from those employees not voting. Such employees failing to vote under the procedure of section 3 hereof, shall be subjected to a one (\$1) dollar fine. The company is authorized and directed to deduct such sum from each employee's pay; and contribute such aggregate amount deducted by the company to the Detroit Community Fund, Red Cross, or any other comparable organization selected by the company within sixty (60) days after receipt thereof.

**INTERNATIONAL UNION APPROVAL OR OTHER ACTION  
REQUIRED BEFORE STRIKE BY LOCAL UNION**

**41. *Strike Allowed After Approval of Local Trades Council and International Union***

No strike will be called against parties of the first part by the party of the second part unless such strike is authorized by the local building trades council and with the approval of the executive board of the international union. Sufficient notice shall be given to the party of the first part before a strike shall become effective.

**42. *Strike Banned Until After 5 Days' Notice of Sanction by International Union***

In no event will strike action be taken until at least five (5) days after the international union has delivered to the company a certificate signed by an international officer that sanction of the international has been given.

**43. *No Strike Except on Instruction of International Union***

There shall be no cessation of work in any factory, pending the adjustment of any disputes or differences between an employer and a local union, unless on instructions of the executive board of the [international union].

**44. *Union To Abide by National Constitution Provisions Regarding Strikes***

In the event conditions and circumstances develop to the end that the union and the company fail in the settlement of any dispute or grievance which may arise between the parties hereto in interpretation or application of this agreement, all the rules and regulations embodied in the national constitution of the [union] pertaining to strikes and lock-outs shall be observed, respected, and adhered to by the members of the union.

**45. *No Strike or Lock-Out Pending Survey of Situation by Representatives of Union and Employers' Organization***

No strike or lock-out shall be sanctioned in any plant, until an authorized representative of the union and an employer-member of the board or his authorized representative, has made a complete survey of the situation. Forty-eight hours' time shall be given for the survey to be made.

The employer and union representative shall submit, in writing, within 24 hours after conference, all controversial subjects upon which they were unable to agree before a lock-out or strike is ordered.

The union shall serve a written notice on the employer before establishing a picket line.

If the controversy is relative to an interpretation of the agreement, and cannot be settled locally, the local District Council Vice-President and an employer member of the board shall make a survey of the situation, and if they are in agreement as to the interpretation of the agreement the decision shall be accepted by the local union and the employer. But, either the local union or the employer shall have the right to appeal to the joint board whose interpretation, however, shall be binding on both parties.

*46. Conference Between International Union President and Company Officials Required*

There shall be no cessation of work in any department until (1) such question as may be at issue shall have been presented to the management through the Industrial Relations Committee in the manner provided herein, and (2) until the general president of the union has been furnished with a full statement of circumstances by members of the plant or department and he has conferred with the proper officials of the company to determine whether the question at issue is a violation of this agreement. All members of the union employed in the factory of the company are bound by the provisions of this agreement.

**ADVANCE NOTICE OF STRIKES OR LOCK-OUTS**

*47. Strikes and Lock-Outs Permissible After Notice of Not Less Than 60 Days or More Than 75 Days Prior to Termination or Renewal of Agreement*

This provision [no-strike, no-lock-out clause] shall no longer be binding on the company or the union if either party has served proper notice requesting changes or modification of this agreement in accordance with the terms of article 37 [not more than 75 nor less than 60 days' notice in connection with termination or renewal of agreement] and either party has given written notice that it is discontinuing negotiations.

*48. Strike Permitted After 60 Days' Notice*

It is understood and agreed that any provisions of this agreement which restrict in any way the union's right to strike shall cease to be binding upon the union sixty (60) days after notice has been served upon the employer for the following:

- (a) When negotiations for wage rates, in accordance with the terms of this agreement, result in no agreement;
- (b) When negotiations for modification and/or termination or renewal of the agreement result in no agreement.

*49. Ninety-Day Cooling-Off Period Before Strike*

The union agrees there shall be no strike, stoppage, or slow-down of work by its members and the company agrees there will be no lock-out of the union (1) for any cause which may be the subject of a grievance under article — of this agreement, during the period covered by this agreement; or (2) any other cause except upon written notice by one party to the other provided (a) that the company within thirty (30) days from receipt of such notice will meet

with the division workmen's committee in an endeavor to reach an agreement on the matter in dispute (b) that in the event an agreement is not reached within sixty (60) days after the expiration of such thirty (30) day period, the union, upon expiration of such sixty (60) day period, may immediately exercise its right to strike for such cause.

*50. Strike Banned Until 10 Days After Union Has Requested Company to Negotiate Unsettled Dispute*

Should any differences arise which are not subject to settlement under the grievance procedure, the union bargaining committee will put forth every effort to keep the employees from taking part in any strike or other interference in production, and the union agrees that there will be no stoppage of work for at least ten (10) days after the union has requested, in writing, the company to negotiate the unsettled dispute. Such request shall state in detail the dispute to be negotiated and shall be presented to the plant manager.

*51. Thirty-Day Notice to Government Authorities and to Other Party Required Before Strike or Lock-Out*

The union will not sanction or permit its members to cause any strike, stoppages of work, or slow-downs of production in the plants of the company during the term of this agreement until the grievance procedure outlined herein, has been exhausted, provided no unreasonable delay is caused by the other party, and then only after such action has been authorized by the international union, in conformity with the constitution and the laws of that union. The company agrees that it will not cause or sanction a lock-out until all means of adjustment have been exhausted. Both the company and the union agree that neither a lock-out nor strike shall take effect until after the proper Government authorities and other party have been given thirty (30) days' written notice prior to the effective date of any lock-out or strike.

**OTHER CONDITIONS UNDER WHICH RESTRICTIONS ARE LIFTED**

*52. Strike or Lock-Out Permissible If Wage Negotiations Break Down*

The provision in section 28 providing that there shall be no lock-outs or strikes during the life of this agreement shall be inoperative in the event that the employers and the union fail to arrive at a mutually satisfactory agreement with respect to the negotiation of wages referred to above.

**NOTE:** The agreement from which this clause is taken provides for wage reopening during the term of the agreement.

*53. No-Strike, No-Lock-Out Clause Nullified in Event Union Shop Provisions Become Void or Unenforceable*

Anything elsewhere in this agreement to the contrary notwithstanding, it is expressly understood and agreed that this no-strike, no lock-out provision is interdependent with the provisions of this agreement, which deal with the "union shop." Should those "union-shop" provisions become or be declared inoperative, void, or unenforceable, in whole or in part, whether by operation of law or for any other reason, then these "no-strike," "no-lock-out" provisions shall immediately and automatically become null and void and unenforceable. Should thereafter the validity and enforceability of the "union-shop" provisions of this agreement be revived and become operative, by operation of law or in any other manner, then in such event this provision of this agreement shall also be revived and become operative.

54. *Strike for Organizational Purposes Permissible After Presenting Matter to Impartial Chairman and Giving 2 Weeks' Notice*

In the event that the union deems it necessary for organization purposes, to declare a general stoppage in the industry, same shall not be considered a breach of this agreement, provided, however, that the matter has first been presented to the impartial chairman for determination and 2 weeks' notice of same is given.

55. *Strikes Permitted Against Resigned or Expelled Members of Employers' Association*

The unions will not call or sanction any strike or stoppage of any kind whatsoever during the term of this agreement, except for (1) the employer's failure to comply with any decision of any adjustment board or board of arbitration established hereunder within five (5) working days after notice of such decision, or (2) the employer's loss of status as a member of the association.

In the event that an employer resigns, is expelled or for any other reason ceases to be a member in good standing of the association, the provisions of this article shall not apply and the unions shall have the right, without notice, to call a strike against such employer at any time during the remainder of the contractual term.

*Sanctions, Penalties, and Remedies for Work Stoppages*

Penalty clauses are often provided in union agreements as a deterrent to stoppages which are in violation of the contract. These may apply to the union, to individual workers, or to the employer. A distinction is sometimes made between employees instigating and those merely participating in illegal stoppages.

Disciplinary action by the company as a penalty for unauthorized stoppages by individual workers takes two forms: (1) Discharge, suspension, cancellation of seniority, or withdrawal of benefits such as paid holidays or vacations; (2) fines or other financial sanctions.

In addition to company discipline, the union may also be required to discipline, suspend, or expel members guilty of participation in unauthorized work stoppages. A few agreements require the union to furnish workers to replace those who have walked out. Joint union-management cooperation in disciplining strikers is sometimes provided.

Some agreements impose penalties upon the union itself when strikes occur. These may include fines, or withdrawal of union security and check-off provisions. In some cases, disciplinary action must await a finding by an outside agency that a work stoppage did, in fact, take place and a determination of the workers or union officials responsible.

Strikes may render the union liable for damages for contract violation under the Labor Management Relations Act, even if the

union does not authorize the strike. (See Procedures for Terminating Work Stoppages and Limiting Liability p. 27.)

Instead of penalizing employees for conducting an illegal strike, some employers and unions have attempted to establish incentives to prevent strikes. These incentives may take the form of a bonus payment for abiding by a no-strike clause.

Employers guilty of causing an illegal work stoppage may be compelled to compensate employees for lost wages, in some cases, only if the lock-out continues after notice to terminate by the arbitrator or other agency. Fines against the employer are sometimes also mentioned.

Some agreements explicitly state that the contract shall be deemed terminated either automatically or on written request of the aggrieved party in the event of a work stoppage. Others set a time limit after the strike is called before the agreement can be terminated, while some state that it shall be terminated immediately if a strike occurs or if the workers refuse to pass through an unauthorized picket line. These termination provisions are undoubtedly affected by the Labor Management Relations Act of 1947 which provides that neither party may terminate (or modify) an agreement unless 60 days' notice is given, and permits employers to discharge employees for striking within the 60-day period.

#### DISCIPLINARY ACTION, INCLUDING DISCHARGE, BY EMPLOYER

##### 56. *Automatic Discharge for Illegitimate Work Stoppages*

There will be no strike or suspension of work by employees, or slowing down of work by employees, or lock-outs by the company while this agreement is in effect, until all steps in grievance procedure outlined herein have been taken. Employees violating this provision will automatically cease to be employees of the company.

##### 57. *Discharge for Refusal To Return to Work or for Inciting Strike Activity*

If any employee takes part in a strike, or any interference with or stoppage of production or other shop work as covered in paragraph 1 above, he shall be subject to discharge: (a) If he refuses to return to work not later than the beginning of his next regular shift following notification by the company and by the union; or (b) If he is found guilty of inciting any of the above acts by both the company and the union, or in the event of disagreement by the parties to this agreement, or by an arbitrator appointed by the appropriate United States or \* \* \* State government agency.

##### 58. *Discharge Penalty Applies Only to Leaders of Unauthorized Strike*

In the event of an unauthorized strike, as defined above, any employee or employees instigating, fomenting, or giving leadership to an unauthorized stoppage of work shall be subject to discharge after notice to the senior shop committee.

*59. Immediate Discharge for Strike Leaders; Graduated Penalties for Participants. Union Investigation to Precede Filing of Grievance*

In the event of an illegitimate strike:

Any employee or employees found guilty of instigating, fomenting, actively supporting or giving leadership to such illegitimate strike shall be subject to discharge. In the event the penalty of discharge is invoked and the affected employee denies his guilt, the local union having jurisdiction may conduct an immediate investigation to determine the guilt or innocence of the discharged member. If the local union's investigation substantiates the company's claim, no grievance will be filed in respect to such discharge. In any event an investigation must be conducted prior to a grievance being filed.

Any employee who participates in an illegitimate strike but who is not guilty of instigating, fomenting, actively supporting, or giving leadership to such strike, shall be subject to the following penalties: First offense—reprimand to 2 weeks' suspension; second offense—reprimand to discharge.

In the event discipline consists of suspension, management shall have the sole discretion as to time such penalty shall be applied, and shall be required to give notice of alleged guilt and extent of penalty to the employee and his committeeman within seven (7) days from the date of the alleged offense.

*60. Arbitrator May Reduce Strike Penalty Only on Finding that Employee Was Not Strike Leader*

If the local union's investigation does not substantiate the company's claim, a grievance will be processed in accordance with the grievance procedure as hereinafter outlined, but only for the purpose of determining the guilt or innocence of the employee. The umpire shall have no authority to modify such penalty with the sole exception that if he determines the employee not to be guilty of violation of this subparagraph [instigating, fomenting, actively supporting or giving leadership to illegitimate strike] but to be guilty of participation in such illegitimate strike, he may reduce the penalty to that appropriate for such participation.

*61. Union Not To Oppose Discharge of Strike Leaders*

The union will not oppose the proper and justifiable discharge of anyone who instructs, leads, or induces another employee to take part in any unauthorized strike, stoppage, or sit-down in violation of this agreement.

*62. Company Right To Discipline Union Representatives for Strike Participation But Not for Failure To Take Affirmative Action To Prevent Strike*

The union representatives will take affirmative action to prevent employees from engaging in the prohibited activities set forth in this section 4 [no-strike clause], it being understood, however, that the company shall not have the right to discipline such representatives for failure to take such affirmative action but may discipline them for participating in any such activities as an employee. The union shall have the exclusive right to discipline such representatives for failure to take such affirmative action as a representative of the union. The company shall have the exclusive right to discipline its representatives.

*63. Refusal To Return to Work Within 24 Hours After Notice Considered Job Abandonment*

Should the employees of any shop or factory cause a stoppage of work, notice thereof shall be given by the association to the union in writing. The sole obligation of the union shall be to use its best efforts to return the striking em-

ployees to their work within twenty-four (24) hours after the receipt of such notice. Should the employees fail to return to work at the expiration of the twenty-four (24) hours, said employees shall be deemed to have abandoned their employment.

*64. Company To Give Union Names of Workers To Be Discharged for Work Stoppage*

During the term of this agreement, neither the union nor any employee, individually or collectively, shall cause or take part in any strike, or other interruption or any impeding of production. Any employee or employees who violate the provisions of this section may be discharged from the employ of the company in accordance with the procedure of section 8 of this agreement.

The company agrees that prior to such discharge it will provide to the representatives of the union for the district in which the plant or plants involved are located, a list of names, check numbers, and addresses of employees considered by the company to be involved.

*65. Discharged Striker Has Recourse to Grievance Procedure*

There shall be no strikes or stoppages of work by the union, or lock-outs by the company, so long as this agreement is in effect.

The company may terminate the employment of, or otherwise discipline, any employee who violates any of the provisions of this article in any material respect; provided, however, that any actions under this article shall be subject to grievance procedure.

*66. Disciplinary Action by Employer Not Subject to Grievance Procedure*

The union agrees for itself and for the employees, jointly and severally, that for the term of this agreement there will be no strike, work stoppage, slow-down, stay-in, sit-down, or sympathy strike at the plant or picketing of corporation property, or other obstruction of or interference with the operations of the corporation.

In addition to any other remedy that it may have at law or in equity, the corporation shall have the right to discipline any employee or group of employees who shall engage in conduct hereby prohibited by lay-off or discharge and such discipline shall not be subject to review under the grievance procedure.

*67. Disciplinary Action for Striking Not Reviewable, Subject to Arbitration of Occurrence of Strike*

The employer shall have the right to discharge or otherwise discipline any or all employees engaging in a strike, slow-down, or work stoppage at this plant, and such discharge or discipline shall not be subject to the grievance procedure.

If a dispute arises as to whether a strike, slow-down, or work stoppage has taken place, an arbitrator as provided for under this agreement shall be appointed forthwith to determine whether a strike, slow-down, or work stoppage has occurred.

*68. Arbitrator To Establish Responsibility and Fix Penalties in Event of Union-Management Disagreement*

To establish responsibility and application of penalties for violation of the provisions of this paragraph [no-strike clause] of the agreement on the part of the parties hereto, shall be a matter for the shop committee and the management committee to consider and apply.

In the event that the shop committee and the management committee fail to

reach an agreement, the matter shall be the subject for arbitration in the manner set forth in the present contract.

**69. *Reinstatement of Employee Suspended for Unauthorized Stoppage Subject to Union-Management Approval***

In case of an unauthorized strike, work stoppage, or walk-out, the employee or employees responsible may be immediately suspended if the grievance causing such strike, work stoppage, or walk-out, has not been submitted to the representatives of the union and management for settlement under the grievance procedure as outlined above, or is being considered under one of the steps in the grievance procedure, and these steps must be completed within five (5) days from date of suspension.

In such a case, if the employee or employees have been suspended, transfers from other departments may be made to fill the vacancies, providing employee or employees transferred agree, or new employees may be hired. Such suspended employee or employees are to be reinstated, only after mutual agreement between the representatives of the union and representatives of the management, and when reinstated will regain his previous seniority and rate status.

Should there be an unauthorized strike, work stoppage, or walk-out for any reason whatsoever, all officers and duly qualified representatives of the union agree to stay on the job as officers and representatives of the union, and do everything possible to persuade the other employees to continue working.

**70. *Employee Discharged for Work Stoppage Rehired Only by Union-Management Consent***

An employee or employees who engage in an unauthorized work stoppage will be considered as having quit and will not be rehired except by mutual agreement between the employer and the union.

**LOSS OF EMPLOYEE BENEFITS**

**71. *Participants in Work Stoppage Forfeits Incentive Compensation Bonus Plan Payments***

Any employee who participates in any such strike, walk-out, picketing, stoppage of work, slow-down, refusal to cross such a picket line, or refusal to handle such "struck-business" shall not receive any payments during the balance of the term of this contract under the Incentive Compensation Bonus Plan provided for in paragraph — of this contract.

**72. *Strikers Lose Seniority; Reemployment at Company Option***

The international union and the local union agree that during the term of this agreement there shall be no strikes or work stoppages. In the event of a strike or work stoppage in violation of the terms of this agreement, employees participating in same shall be considered to have broken their service continuity and reemployment will be at the discretion of the company.

The company agrees that during the term of this agreement there shall be no lock-out by the company.

**73. *Discipline May Include Loss of Seniority and Vacation, Suspension, Demotion, or Discharge, Depending on Company Determination of Degree of Participation. Nonparticipating Employees Not Financially Liable***

In case of any violation of provisions of this section [no-strike clause], the company may, in its sole discretion, impose upon each guilty employee such

discipline as the company shall determine his degree of participation or guilt warrants. Such discipline may include loss of seniority, loss of vacation privileges, suspension from work, demotion, or discharge.

No individual employee shall be held financially responsible for damages caused the company from any violation of this section which he does not instigate, sanction, condone, or participate in.

*74. One Day's Vacation Pay Lost for Each Day of Strike Participation*

Any employee who engages or participates in any unauthorized strike, stoppage, or sit-down in violation of this agreement shall be penalized by the loss of at least 1 day's vacation pay or the equivalent thereof for each day of violation.

*75. Holiday Pay Forfeited by Strike Participation*

Any employee who takes part in any strike or stoppage of work shall receive no pay under this article III (2) for any holiday during the twelve (12) months following such strike or stoppage of work.

*76. Workers in Struck Department Forfeit Contract Privileges; Company May Reduce Operations in Other Departments to Level of Operations of the Struck Department*

During continuance of this agreement there shall be no strikes, lock-outs, cessation or interference with work, or voluntary curtailment of work by employees. Any department violating this article shall forfeit all privileges under this contract and the company has the right to reduce factory production to approximate the production of the violating department; provided, however, that nothing herein contained shall prevent the company from reducing the number of hours of plant operations or closing any part of the plant for economic reasons, necessary repairs or the taking of inventory.

**UNION DISCIPLINE OF PARTICIPANTS IN UNAUTHORIZED STOPPAGES**

*77. Union To Discipline Members for Strike Activity*

It is mutually agreed that there will be no concerted failure to report for work, cessation of work, slow-down, strike, or lock-out during the term of this agreement or during any period of time while negotiations are in progress between the parties hereto for the continuance or the renewal of this agreement.

Any employee who is responsible for or participates in the breach of this provision of this agreement shall be subject to such disciplinary action, including discharge, as appears advisable in the judgment of the company, and, if a member of the union, shall be subject to disciplinary action by the union.

*78. Employees Violating Agreement Expelled From Union and Discharged*

It is further agreed that if any employee or employees take action in conflict with the provisions of this agreement it shall be the duty of the union immediately to disavow such an action and to cooperate fully with the firm in maintaining production without interruption.

Any employee or group of employees, who violates this contract or any of its provisions shall be expelled from the union and its membership and if an employee of the firm, shall be discharged from its employment.

**NOTE:** The agreement from which this clause is taken does not flatly prohibit strikes but does provide for automatic arbitration of disputes.

**79. *Union Discipline of Members in Accordance with International Constitution***

Local [union] hereby agrees to abide by the provisions of this contract between the parties. The union further agrees not to engage in any unauthorized work stoppage and shall discipline any of its members who take part in an unauthorized work stoppage. Any such discipline shall be in accordance with the international constitution.

**80. *Union To Help Firm in Fixing Discipline and Filling Vacancies, in Event of Discharge***

Management and workers must realize that no grievance, however great, justifies an interruption of production. It is the solemn duty of all executives and workers, and of the union to abide by and support the first paragraph in section 8 of this contract [no-strike, no-lock-out clause].

In case any employee covered by this contract violates the provisions of this section, the union and its officers agree to join with the management in fixing such discipline as may be warranted, and in the event of discharge of any offending employees, to assist the management in filling their places so that normal production may promptly be resumed.

**81. *Union To Prevent or Disavow Specified Types of Strike Action or Publicity Against Employer***

If any strike or stoppage occurs in violation of this agreement, the unions agree immediately and publicly to disavow such strike or stoppage; to use all reasonable means to prevent the conduct and continuance of such strike or stoppage by their officers, agents or members; to take prompt and adequate action, disciplining and penalizing any of its members or representatives who abet, or participate in, such a strike or stoppage; to use its best endeavors to prevent picketing, boycotting, payment of financial aid, and any kind of propaganda or advertisement against the employer, in connection with said strike or stoppage.

**MONETARY FINES AND PENALTIES****82. *Specified Fine for Illegal Strike or Lock-Out Paid to Aggrieved Party***

Should any officer or officers of the union or any member or members thereof employed at the \_\_\_\_\_ plant of the company cause the plant or any part of the plant to shut down in violation of this agreement, each member of the union employed at the plant, except those who continue to work shall have deducted from his earnings the sum of one dollar (\$1) per day for each or part of a day the plant or any part of the plant remains idle.

Should the company or its representatives lock the men out or cause the plant or any part of the plant to shut down in violation of this agreement, for the purpose of forcing a settlement of any grievance, the company shall be fined one dollar (\$1) for each employee for each day or part of a day the plant is thus caused to be idle by the company.

All fines provided for in this agreement shall be automatically collected and in no case shall any fine be refunded except upon mutual agreement of the representatives of the company and the union.

All fines assessed against the employees under this agreement shall be collected from the pay in the half month in which the violation occurs or from the first money due thereafter. All fines assessed against the company for locking out the men in an attempt to force a settlement of any grievance shall be collected from the company in the half-month in which violation occurs and shall

be turned over to (union), and all fines assessed against the employees under this agreement shall be retained by the company.

**83. *Penalty Against Employer for Failure To Collect Strike Fines***

All fines provided for in this agreement shall be automatically collected, and any operator failing to collect and forward to proper parties such fine shall pay a penalty of two dollars (\$2) for each mine worker subject to be fined, the same to be collected and remitted to \* \* \* [local union] and in no case shall any fine be refunded except by mutual agreement of the accredited representatives of the operator and the officers of the [local union].

**NOTE:** The fine referred to is identical in amount and nature to that specified in clause 82 above.

**84. *Refusal To Pay Strike Fine Cause for Discharge; Charities Receive Fine***

The parties hereto agree that there shall be no strikes or lock-outs during the term of this contract.

Any employee, who during the term of this contract, engages in any "illegitimate strike" as that term is hereinafter defined, shall pay a penalty of \$3 per day for each day said employee is on strike.

The failure or refusal of any employee to pay said penalty over to the company within 15 days after resumption of work, shall authorize the company to immediately discharge him.

The penalty collected by the company from the employee shall be divided equally between the Red Cross and Community Chest.

An illegitimate strike shall be a strike over any of the following controversies:

Disputes which may properly be taken up through the grievance machinery.

Controversies which have as their objective the obtaining of a change in or addition to this contract.

**85. *Employer To Withhold Portion of Each Employee's Pay as Security Against Violation of No-Strike Pledge***

It is agreed that there shall be no strike or work stoppage by the union or by any of the employees in the bargaining unit as set forth in article 13 above. Nor shall the union or any employee incite or assist any other employee to strike or cause a work stoppage. For the purpose of assuring performance of this stipulation, an amount equal to two (2) cents per hour of each employee's pay as set forth in article 10 of this contract shall be withheld by the company.

In the event of any such strike or work stoppage, occurring during the period of this contract, which strike or work stoppage is not authorized, encouraged or condoned by the union, the amount of wages withheld for the full term of the contract from the employee, or employees guilty of participating in, inciting or assisting in such strike or work stoppage shall be available to the company as security for reimbursement for loss or damage sustained as a result of such violation of this contract. However, the above provision shall not interfere with nor supplant any other rights of the company, including discharge, against any employees who engaged in such strike or work stoppage in violation of this contract.

In the event of any dispute or difference of opinion between the company and the union as to the occurrence of a violation of the above pledge, or as to the extent of the company's loss or damage, such dispute shall be decided in the manner provided by article 9 of this contract.

At the expiration of this contract, if no dispute as to violation of the pledges as set forth herein is pending, the amount of money withheld shall forthwith be paid to the employees from whom it was withheld.

In the event that any employee's service with the company is permanently terminated, the amount withheld from such employee's pay shall forthwith be paid to him, provided there is no dispute pending with such employee with respect to any violation of the pledge set forth herein.

*86. Union To Reimburse Employer for Time Lost During Unauthorized Walk-Out*

When members of the union engage to take employment in any office and fail to respond for work at the time agreed upon without having been excused by the foreman of the said intended position, or when any member shall walk out during working hours or leave his position without due notice, the union shall reimburse the employer at the rate of \$4.50 per hour for the time lost on the press or presses the member is working on or was engaged to work on for that day or night, based on the regular working hours of the shift.

*87. Board of Arbitration To Compute Penalties Against Employees Involved in Work Stoppage if Union Fails To End Stoppage or Supply Replacements*

In the event the union shall fail for any cause, either to return the workers to their employment or to replace them with workers of relative skill and ability to the satisfaction of the referee, then the penalties against the workers involved shall begin to accrue in favor of the association member affected, to be computed by the board of arbitration on a basis commensurate with the average day's earnings of the workers involved in such a stoppage.

*88. Failure To End Lock-Out Within 24 Hours After Notice Subjects Employer to Liability for Lost Wages*

Should any member of the association cause a lock-out in his shop, notice thereof shall be given by the union in writing to the association. The sole obligation of the association shall be to use its best effort to have its members reemploy the workers within twenty-four (24) hours after the receipt of such notice. Should the member of the association fail to terminate the lock-out and to reemploy the employees within said period, he shall be liable to the employees for the full amount of the wages lost by them from the date of the commencement of the lock-out.

**CANCELLATION OF UNION SECURITY PROVISIONS**

*89. Membership Maintenance and Dues Collection Terminated if Union Causes, Sanctions, or Participates in Work Stoppage*

If the union causes, sanctions, or takes part in any such strike, walk-out, picketing, stoppage of work, slow-down, refusal to cross such a picket line or refusal to handle such "struck business," all provisions of paragraph \_\_\_\_\_ of this contract relating to maintenance of membership and collection of union dues shall forthwith terminate.

*90. Loss of Union Security or Cancellation of Agreement Penalty for Illegitimate Strike*

In the event the union or any of its officers, committeemen or stewards causes any employee or permits any member either directly or indirectly to participate

in any strike, stoppage, or slow-down of work in violation of the provisions of section A, the company may immediately, at its discretion, either (1) terminate article \_\_\_\_\_ [maintenance of membership], or (2) cancel this entire agreement.

*91. Employer May Request Arbitrator To Cancel Union Security Provisions in Event of Strike*

The employer and union agree that in the event of work stoppages, strikes, collective or planned absenteeism and other forms of employee activity resulting in a curtailment of production occurs and if, in the opinion of the employer prompt and adequate disciplinary action is not taken by the union against those of its members who have violated the provisions of this article; or if the action taken by the union, in the judgment of the employer, proves ineffective in promptly controlling its members; then the employer reserves the right to refer all of the provisions for union security as set forth in article \_\_\_\_\_ to arbitration for consideration and/or cancellation of these provisions.

*92. Employees Afforded Opportunity To Escape Maintenance of Union Dues in Event of Strike*

The foregoing provisions of this article shall not prohibit the union, its officers, representatives, and the employees it represents from calling or participating in full-time strike action, provided such strike action is taken only after 60 days following date of receipt of notice of reopening and only as a means of enforcing demands of the union respecting wage issues raised by the reopening provisions of article \_\_\_\_\_ of this contract, and provided further that in the event such full-time strike action is taken, the maintenance of dues provisions of this contract shall be modified to provide a new 15-day escape period immediately following the date determined for the return of the strikers to work.

In the event of such strike only lawful and peaceful picket lines will be maintained, violations being subject to the same penalties as above specified.

#### TERMINATION OF AGREEMENT

*93. Strike Terminates Agreement Immediately*

In case a strike shall occur, either before or after all bargaining procedure has been exhausted, this agreement shall terminate at once.

NOTE: This agreement was negotiated after the effective date of the Labor Management Relations Act of 1947.

*94. Union May Terminate Agreement in Event of Lock-Out*

In the event of a lock-out as defined herein, the union at its option shall have the right to terminate this contract and any supplements thereto.

NOTE: This agreement was negotiated prior to the Labor Management Relations Act.

*95. Company May Terminate Agreement in Event of Strike*

The union agrees with the objectives of achieving the highest level of employee performance and efficiency consistent with safety, good health, and sustained effort, and will not take, authorize, or condone any action which interferes with the attainment of such objectives. In the event of a breach by

the union of the provisions of article I, section 7 of this agreement [no-strike clause], the company may abrogate this entire agreement.

**NOTE:** Agreement negotiated after effective date of Labor Management Relations Act.

*96. Termination at Option of Aggrieved Party*

It is agreed and understood between the company and the union that any violation of the provisions of section 3(d) above [prohibition of strikes and lock-outs] by either party shall constitute a total breach of the contract, and the contract may be terminated by the party not breaching the contract.

**NOTE:** Agreement negotiated prior to the Labor Management Relations Act.

*97. Agreement Terminated After 3-Days' Written Notice by Aggrieved Party*

The union agrees that there shall be no strike or slow-down of production authorized by the union during the term hereof and the company agrees that there shall be no lock-out of employees during the term hereof. Breach by either party of this provision shall give the other party the right to terminate this agreement after three (3) days' written notice. Any unauthorized strike or slow-down which occurs or is threatened shall be investigated by the company and/or union in an effort to terminate or prevent the same and employees found to be guilty of inciting, promoting, leading or participating in the same may be subject to appropriate disciplinary action by the company and/or union.

**NOTE:** Agreement negotiated after effective date of Labor Management Relations Act.

*98. Aggrieved Party May Terminate Agreement 10 Days After Strike or Lock-Out Occurs*

In case a strike or stoppage of production shall occur, the corporation has the option of cancelling the agreement at any time between the tenth day after the strike occurs and the day of its settlement \* \* \*

In case a lock-out shall occur the union has the option of cancelling the agreement at any time between the tenth day after the lock-out occurs and the date of its settlement.

**NOTE:** Agreement negotiated after effective date of Labor Management Relations Act.

*99. Agreement Terminated and Penalties Imposed for Recognizing Picket Line of Noncertified Union*

Notwithstanding any other provision of this contract, it is expressly agreed: (1) the refusal or failure of union members to pass through a picket line authorized and established by either [local union], or by any other union which, during the life of this agreement, is certified by final decision of the National Labor Relations Board to be the collective bargaining agency for all warehouse employees or for all refinery employees, or for both, shall not violate this agreement; and (2) if, pursuant to union authorization, union members shall fail or refuse to pass through any picket line not described in (1) above, such action shall constitute a violation of this agreement and this agreement shall terminate at once, and if such action be not sanctioned by the union, such refusal or failure shall entitle the employer to replace any employees involved.

**NOTE:** Agreement negotiated prior to effective date of Labor Management Relations Act.

## OTHER REMEDIES

100. *Union To Furnish Replacements for Strikers*

Should a contingency arise where a union employee and/or union employees cease work of his or their own volition, the union hereby agrees to provide the company, promptly after the company requests the union to do so, with adequate and properly qualified persons needed to continue the proper operation of the company's properties during such contingency, and in the event of failure of the union to do so, the company may, so long as such contingency shall continue, secure and use the services of others than those covered by this agreement.

NOTE: This clause is taken from a public utility agreement effective prior to the Labor Management Relations Act.

101. *Employer Right To Hire Replacements or Make Transfers in Event of Unauthorized Work Stoppage*

In case of individual or isolated groups causing a walk-out, a suspension of work, stoppage of production, or strikes, in any department, the management shall have the right to transfer men from other departments or hire new men so that production may be continued without interruption and any employee who participates in such unauthorized strike, walk-out, stoppage of production, slow-down or suspension of work shall lose his seniority and shall cease to be an employee of the company.

102. *Suspension of Hearings, Grievance Procedure, and Arbitration During Work Stoppage*

When a strike, work stoppage, or interruption, or impeding of work is in progress at any plant, management shall not be required to hold any hearings or notify employees under this section if the employees are participating in such violation of this agreement or if it is impracticable for management to do so because of such violation. In such cases, the time limits for holding hearings or notifying employees shall start to run upon the termination of the strike, work stoppage, or interruption, or impeding of work.

If this agreement is violated by the occurrence of a strike, work stoppage, or interruption, or impeding of work at any plant or subdivision thereof, no grievances shall be discussed or processed in the third step level or above in such plant while such violation continues, but under no circumstances shall any grievance concerning employees engaged in the violation be discussed or processed while such violation continues.

If this agreement is violated by the occurrence of a strike, work stoppage, or interruption, or impeding of work at any plant or subdivision thereof, the board shall refuse to consider or decide any cases concerning employees involved in such violation while such strike, work stoppage, or interruption, or impeding of work is in effect.

103. *No Investigation, Consideration, or Arbitration of Grievance Until Strikers Return to Work*

There shall be no work stoppage nor a threat of the same on the part of an individual or a group, nor a lock-out on the part of the company, while a grievance is in the course of being presented, investigated, considered, or arbitrated. In the event of such a stoppage, any investigation, consideration, or arbitration

of the grievance will be automatically suspended until such stoppage is ended and the employees have returned to work.

104. *Employer May Invoke Provisions of Federal Laws If Union Authorizes Strike*

If the international union or the local union, through its officers, should authorize a work stoppage, a strike, a slow-down of production, or any violation of this contract, the company may invoke against such union, the provisions of the laws of the United States.

*Procedures for Terminating Work Stoppages  
and Limiting Liability*

Since enactment of the Labor Management Relations Act of 1947, many unions have adopted measures designed to limit their liability for unauthorized work stoppages. In some instances, this has been done by eliminating no-strike clauses from the contract. More frequently, however, no-strike clauses have been retained but unions have obtained one of the following major types of safeguards:

(1) A strike is not considered a breach of contract, and the union is absolved of liability for strikes of any kind. In a few major agreements signed shortly after the effective date of the 1947 Act, the company temporarily waived its right to sue the union for violation of the no-strike clause pending a joint union-management study of the problem. This "no union liability" clause is usually accompanied by a proviso that all disputes shall be settled through the grievance and arbitration procedure stipulated in the contract.

(2) The union is absolved of liability for unauthorized, or "wildcat," strikes.

(3) The union is absolved of liability for wildcat strikes, provided it takes steps to prevent and/or terminate such strikes. Here the limitation on liability is coupled with a measure of union responsibility. The union, or designated union officials, may be required to take one or more of the following steps: Advise the company whether or not the strike is authorized; post a signed notice and announce publicly that the strike is unauthorized; request the strikers to return to work; and refrain from aiding or abetting in the strike. In return for these actions, the employer agrees that there shall be no liability for damage on the union's part. He also is often given a free hand in disciplining strike participants without the right of appeal to the grievance procedure.

Under the Labor Management Relations Act, unions may be responsible for the acts of their individuals, even though the specific acts performed were not actually authorized or subsequently rati-

fied.<sup>1</sup> As protection against liability for unauthorized acts of agents, the union officers authorized to call strikes are sometimes designated in the contract, and the union is absolved of responsibility for the acts of any other persons. Because the international also may be held responsible under the contract, some clauses limit or deny the parent union's responsibility for local union actions. (See chapter 2, Contract Enforcement, p. 55.)

Analogous to "definition of agent" clauses for purposes of protection against suits are those which distinguish between authorized and unauthorized strikes, the latter presumably clearing the union of responsibility. Authorized strikes are defined as those sanctioned by the appropriate union officials, local or international; approved by a secret ballot of the union membership involved; appropriate serving of notice; etc.

Another approach to the problem of limiting liability is the specification of a designated amount, usually a nominal sum, as liquidated damages for strikes or lock-outs. A related provision found in a few contracts is a pledge by each party not to sue the other for damage for any reason.

As an aid to terminating strikes and lock-outs, some contracts specify that there will be no negotiations for settlement of the issues in dispute nor any consideration through the grievance and arbitration machinery until the strike or lock-out is ended.

(See chapter 2, Contract Enforcement p. 55 for additional clauses on liability and agency with respect to violations of the contract as a whole.)

#### WAIVER OF LIABILITY

##### 105. *Union Not Liable for Work Stoppage of Any Kind*

It is stipulated and agreed that the union, its officers, agents, and members shall not be held liable in any manner whatsoever for any strike, slow-down, work stoppage, or any other form of action which results in delay or stoppage of work or production, nor will the union be held liable for the unauthorized acts or activities of its officers, agents, or members. The union, however, will use its best efforts to prevent same.

The company may, subject to the grievance procedure herein provided, discipline or discharge any employee with respect to such work stoppage if he is at fault, and this shall constitute the company's sole and exclusive remedy for such action.

##### 106. *International Union, Local Union, or Their Officers Not Financially Liable for Unauthorized Strikes*

It is understood and agreed that in the event of any unauthorized strike, work stoppage, or interruption, or impeding of work on the part of any of the

<sup>1</sup> Sec. 301(e).

employees during the life of this agreement, or of any alleged violation of this agreement, there shall be no financial liability on the part of the international union, the local union, or any of their officers.

*107. Joint Committee To Study Question of Work Stoppages; Union Exempt From Liability During Deliberation Period*

The union agrees that neither the union nor its members will intimidate or coerce employees or interrupt work schedules. It also agrees that it will not cause nor permit its members to cause nor will any member of the union take part in any strike or other stoppage or curtailment of work during the term of this agreement until the full grievance procedure outlined herein has been exhausted.

In consideration of the undertaking by the union hereinbefore provided to avoid unauthorized stoppages, strikes, intentional slow-downs, or suspension of work, the company agrees to join with the union in setting up a four-man committee composed of two chosen by the company and two by the union to work out a solution of this question on or before August 31, 1948. In the event that after a sincere effort by both parties a satisfactory solution has not been worked out by that time, the period of study will be extended on the motion of either party for additional periods not to exceed 3 months each. During the period that the committee is deliberating on this problem there shall be no liability by suit for damages on the part of the union, its international or local officers, agents, or members for breach of contract by reason of any strike or work stoppage which may have occurred during the deliberation period. It is further agreed in the event that suit for damages shall be instituted by the company in violation of its undertakings in this section or for the purpose of invalidating any of the provisions of this section, the union reserves the right to terminate this agreement forthwith.

*108. Violation of No-Strike, No-Lock-Out Clause Not to Form Basis for Legal Action Under Labor Management Relations Act*

The union, its officers and members, and the employees agree that there shall be no strikes, slow-downs, sit-downs, walk-outs, or other work stoppages during the life of this agreement, and the company agrees there shall be no lock-outs provided, however, that nothing in this article shall form the basis of any action in any Federal court under the Labor Management Relations Act, 1947. This obligation is a basic and fundamental consideration for the execution of this agreement.

*109. No-Strike Clause Nullified If Employer Brings Suit for Violation of Clause*

The union agrees to advise employees who it represents to terminate promptly any threatened or actual violation of clause A of this article XIV [no concerted slow-down, concerted cessation of work, or strike] by such employees; and in consideration of such agreement, and in consideration of entering into clause A, the company, while retaining all other rights it may have because of any violation of clause A, agrees that it will commence no suit against the union for recovery of a money judgment or money damages for such violation; and the commencement of any such suit by the company against the union, or the commencement by the company of an action testing the validity of this clause B of this article XIV, shall render null and void, as of the date of this agreement, clause A of this article.

## WAIVER OF LIABILITY CONTINGENT ON SPECIFIED UNION ACTIONS

**110. *Union Absolved of Liability If It Has Taken All Reasonable Steps to Avoid and End Work Stoppage***

During the term of this agreement there shall be no stoppage of work, strike, lock-out or picketing in respect to any signatory building, and, in the event of a violation of this provision by any party to this agreement, such matter shall immediately be submitted to the contract arbitrator, as provided in article IX of this agreement, for such action as the arbitrator deems necessary.

The union shall not be held liable for any violation of this article X where it appears that it has taken all reasonable steps to avoid and end any such violation.

**111. *Union Not Liable for Unauthorized Stoppages If It Disclaims Such Action and Exerts Effort To Return Strikers to Work***

It is understood that the union shall not be responsible for any strike, slow-down or other stoppage of, or interference with, operations which are not authorized by the union or led, incited, or indorsed by a representative of the union or one acting in its interest or behalf; provided that the union shall in such case forthwith disclaim such strike, slow-down or stoppage and shall exert every reasonable effort to induce the employees concerned to return to work or otherwise restore normal operations.

**112. *Union, Its Agents and Nonstriking Members Not Liable for Unauthorized Strikes If Union Disavows Such Acts and Disciplines Participants***

The [union] is a corporation. Nothing in this paragraph shall enlarge the liability of its officers, directors, agents, and members, this paragraph being an additional limitation thereon. The [union] will not be held liable for unauthorized acts of its officers, agents, directors, or members; neither the [union], nor its officers, directors, agents, or members not participating in the actions hereinafter mentioned, shall be liable for any strike, slow-down, or work stoppage, unless the same be authorized by the [union] in accordance with its bylaws, but the foregoing exemption of this sentence shall not apply unless the [union] upon request from the [employer] affected thereby shall proclaim promptly and publicly that such strike, slow-down, or work stoppage is unauthorized, and follows such pronouncement within a reasonable time thereafter, if requested so to do by the [employer] affected, with disciplinary proceedings in accordance with its bylaws against the participants in such unauthorized action.

**113. *No Liability If Union and Its Officers Do Not Sanction Strike or Interfere With Employer's Discipline of Participants***

During the term of this agreement, the company agrees not to conduct a lock-out and the union agrees not to cause or permit its members to cause nor will any member of the union take part in any walk-out, sit-down, slow-down, sympathetic or stay-in strike, or any other interference with or stoppage of work of the company. Special union 1-day holidays, affecting municipal, State or National issues, may be arranged twice per year by giving the company 48 hours' notice.

The company will not use this section of the agreement to sue the union under the Labor Relations Act of 1947, for any unauthorized strike by individual employees or groups of employees, providing the union and its officers do not participate or sanction the same and do not interfere with the company's

rights to discipline the employees who do take part, subject to recourse under the grievance procedure of this agreement.

The union will publicly disavow the actions of such employees.

**114. *No Liability if Union Regional Director Notifies Strikers that Their Action is Unauthorized and Will Not be Defended***

The company agrees that the union will not be held liable for an unauthorized or so-called "wildcat strike" nor shall such unauthorized or so-called "wildcat strike" be deemed a violation of this contract, provided the union cooperates and does its part as outlined below:

In case there should be, during the life of this agreement, a stoppage, slow-down, or interference with management, the company will, at once, by wire, notify the regional director of the union for this district of the union.

The same day, or in any event the following day, the regional director, or his authorized assistant, will send and sign the following wire:

"The \_\_\_\_\_ company claims there is a strike, stoppage, intentional slow-down, or interference with management. This is official notice that the union did not authorize such action, and will not defend it, or any employee taking part in such action. The union will live up to its agreement and use the grievance procedure when there is a grievance. We recommend that the employees respect the agreement."

**115. *Union To Disavow Unauthorized Stoppage and Contact Each Member Individually in Effort to End Stoppage. Individual Participants Not Relieved of Responsibility***

(a) While this agreement, or any extension thereof is in effect, the company will not lock out and neither will the union nor its representatives authorize or countenance any strike, slow-down, or work stoppage.

(b) In the event of any unauthorized strike, slow-down, or work stoppage, and provided that the union, upon advice of such incident, promptly authorizes the company to post in the plants a notice signed by the union which disavows such unauthorized act, and provided further that the union makes an earnest effort to contact its members individually and induce them to return to work within 48 hours, the company agrees to settle the dispute which caused such strike, slow-down, or work stoppage, and any of its claims against the union arising therefrom through the grievance procedure.

Any question that is arbitrable according to the contract will be settled either by agreement during any of the steps of grievance procedure, or by referring it to arbitration for final decision. Any question that is not arbitrable will be decided by the last step provided in the grievance procedure to which the dispute is carried.

Provided the union fully complies with the above requirements, the union shall be excused from responsibility for such unauthorized strikes, slow-downs, or work stoppages that might occur; however, this shall not excuse any employee from his or her individual responsibility for such unauthorized strikes, slow-downs, or work stoppages.

**116. *Employer Waives Right To Hold Union Financially Liable for Unauthorized Stoppages; Union To Cooperate in Discouraging Stoppages***

In the event of an illegal, unauthorized or uncondoned strike, sit-down, slow-down or interference with company operations by an employee or employees in violation of this agreement, the company waives its right to hold the association or its officers, or the international association or its officers,

financially responsible therefor, but shall have the right to discipline or discharge any or all employees taking part in or having any responsibility for such violation.

It is further agreed that the officers and agents of the association will actively and fully cooperate with the company in discouraging and combating such unauthorized acts.

*117. No Liability Unless President of American Federation of Labor First Given Opportunity To Stop Violations by Local Union*

The union will oppose and not sanction employees represented by it to cause or participate in any unauthorized strike, or slow-down of production at the \_\_\_\_\_ plant of the company during the term of this agreement. Participation during the term of this agreement in any unauthorized strike, work stoppage, walk-out, or deliberate slow-down of work shall be cause for discharge of any employees participating therein, except the union's members reserve the right not to cross or break a legalized picket line that conforms as a legitimate picket line under the laws governing such facts by the [State] or the Federal Government. The union shall not be liable for monetary damages for wildcat strikes which are not authorized, supervised, participated in or ratified by any of its officers or stewards or by the duly authorized agent of this union. Neither shall the local union's funds be liable for damages for any acts unless the said acts are brought by formal notice to the local union and the American Federation of Labor, and the president of the American Federation of Labor is given ample opportunity to bring about a stop of the abuses and contract violations by members and officers of the local union, who the company alleges to be in violation of this agreement.

*118. No Union Liability for Strike Not Authorized or Condoned by It or for Strike Caused by Company Violation of Established Craft Lines*

All members of the unions agree to conform to the rules and regulations of the company insofar as they do not violate the conditions of these articles of agreement. No member of the unions employed by the company shall be discriminated against for upholding union principles not inconsistent with the terms of this agreement. The company and the union desire that production shall continue without interruptions. The company and the union further agree that good employer-employee relations cannot exist unless there is a serious effort on the part of both the company and the union to settle in a peaceable manner all disputes that may arise. Therefore, as a means of promoting continued production and employment and improved employer-employee relationships the company and the union agree that the grievance procedure and arbitration procedure provided in this contract shall be used to peaceably settle without strike disputes that are covered by such grievance and arbitration procedure.

It is agreed that there will be no lock-out by the company or strike or work stoppage by the union.

In the event of such strike or work stoppage, there shall be no liability on the part of the union, its officers or agents, if such strike or work stoppage was not authorized, encouraged, or condoned by the union or caused by a flagrant violation of established craft lines by the company.

The union agrees to cooperate with the company and use means at its disposal to settle such strike or work stoppage and request such employees to return to work.

119. *Union Not Responsible for Strikes of Nonunion Employees or Refusal of Union Members to Work with Nonunion Employees If It Does Not Authorize Such Actions*

There shall be no violations of the provisions of this contract by either party and there shall be no lock-out on the part of the employer on account of any controversy whatsoever and there shall be no strike, slow-down, sit-down, or other cessation of work of any kind by the employees on account of any controversy whatsoever except in compliance with the provisions of this contract and with requirements of all laws. A strike in one department shall be considered a strike in the whole plant. Any strike, stoppage of work, slow-down or sit-down by workers, who are not members of the union and who have acted without authority of the union, including the local union, or local unions of which such employees are members, shall not be a violation of this provision by the union. In the event any employees, who are union members, refuse to work with employees who are not members of the union, and such refusal to work is neither authorized nor sanctioned by the union, including the local or locals of which such employees are members, the same shall not constitute a violation of this provision by the union.

120. *Refusal of Union Members to Work With Nonmembers Not a Breach of Agreement If Union Does Not Direct Such Action*

The company expressly recognizes that members of [union] may, as a matter of individual right, refuse to render services unless every artist performing services at station \_\_\_\_\_ is a [union] member in good standing and working under the [union] minimum scales and working conditions herein set forth. The artists' duties to the employer do not include the duty to work with nonmembers. The exercise of such individual rights, either singly or in concert, where not directed by [union], shall not be deemed a breach or violation of this agreement or of any individual agreement with a [union] member.

121. *No Liability on Local or International Union Unless Each Fails To Take Steps To End Strike or Strike Was Authorized*

(a) There shall be no strikes, stoppages, slow-downs, economic pressure through concerted action by employees in prohibiting or concerted action of employees by refusing overtime work, or interferences with production, for any reason whatsoever during the term of this contract. There shall be no lock-outs by an employer.

(b) In the event of the occurrence of any of the prohibited acts, referred to in section (a) above, the local union agrees, upon notification from the employer and/or association, to promptly and publicly repudiate such action, to order the employees to abandon such acts and to continue production, and if requested, to deliver immediately to the employer a notice addressed to all employees in the plant repudiating such acts of the employees and ordering them to cease such acts and to continue production, and the union further agrees to take such other action which it deems reasonable and appropriate to bring about compliance with the terms of this agreement.

(c) There shall be no liability for damages on the part of the local unions, its officers or agents for any violation of the terms of the agreement unless:

- (1) The local union upon being duly notified by the employer and/or the association of the occurrence of the prohibited act or acts referred to in section (a) above, does not promptly and reasonably take such action as indicated in section (b), above, and/or;

(2) Such prohibited act or acts are authorized by the council board of the local union or the membership of the local union.

(d) In the event the local union does permit the occurrence of the prohibited act or acts as indicated in section (c) (1) and/or section (c) (2), the international union agrees upon notification from the employer and/or association, to promptly and publicly repudiate such action and to order the local union and its members to abandon such prohibited act or acts and have its members continue production; and the international union further agrees to take such other action which it deems reasonable or appropriate to bring about compliance with the terms of this agreement.

(e) There shall be no liability for damages on the part of the international union, its officers or agents for any violation of the terms of this agreement unless:

(1) The international union upon being duly notified by the employer and/or the association of the occurrence of the prohibited action or actions of the local union and its members does not promptly and reasonably take such action as indicated in section (d) above, and

(2) Such prohibited action or actions are authorized by the international union.

(f) No breach of this agreement by any employer shall operate to affect this contract as to the association or any other employer nor subject the association or any other employer to any legal liability to the union.

122. *Board of Arbitration To Determine Whether Union Has Taken Steps Necessary To Relieve It of Liability for Unauthorized Work Stoppag* s

It is agreed and understood by the parties hereto that the union is acting merely as an agent for the employees covered by this agreement and under no circumstances shall be liable for any strike, breach or any other default under this agreement;—provided that the following good faith provisions are adhered to:

(a) If the union has not authorized such illegal strike, and

(b) If the union will agree promptly to denounce publicly such illegal strike, and

(c) If the union and its responsible officers and agents will agree to use prompt and honest efforts to prevent or end such illegal strike, and

(d) If the board of arbitration, as provided in article III, shall be made the final judge as to whether the union officers or authorized agents have observed the preceding levels of adjustment, stipulated in paragraphs (a), (b), and (c) in regard to such unauthorized strikes, slow-downs, breaches, and/or other defaults under this agreement.

AGENCY CLAUSES AND DEFINITION OF AUTHORIZED STRIKES

123. *Definition of Local and International Union Agents Who May Authorize Strikes; Limitation on Scope of Arbitration in Cases Involving Strike Participation*

It is recognized that the only agency which can authorize a strike, stoppage, or other interruption or curtailment of operations for the local unions is its joint local executive board, and that the only agency which can authorize such action for the international is its general executive board. Neither the local unions nor the international shall be liable to employers for damages arising

from any unauthorized strike or work stoppage if, upon learning thereof, such union or unions proceed at once to terminate same, including, but not limited to, the posting and mailing of appropriate notices and directions to union members, directing the employees to terminate such strikes or work stoppages forthwith.

Employers shall have the right to discipline or discharge any employees instigating or participating in such strikes or stoppages, and if such disciplinary action is taken to arbitration, the only questions shall be: (1) whether or not there was a violation, (2) whether or not those employees charged with the offense actively participated in or encouraged the violation.

It is agreed that neither the international nor the local unions shall be held responsible for acts or conduct of nonunion employees who are not agents of the unions.

*124. Local Union To Give Company Written Notice of Agents Authorized To Call Strikes. Disavowal of Strike by Parent Union Council Does Not Relieve Local Union of Liability*

It is further mutually agreed that the local union will, within 2 weeks of the date of the signing of this agreement, serve upon the company a written notice, which notice will list the union's authorized representatives who will deal with the company, make commitments for the union generally, and in particular have the sole authority to act for the union in calling or instituting strikes or any stoppages of work, and the union shall not be liable for any activities unless so authorized.

It is further agreed that in all cases of an unauthorized strike, slow-down, walk-out, or any unauthorized cessation of work, the union shall not be liable for damages resulting from such unauthorized acts of its members. While the union shall undertake every reasonable means to induce such employees to return to their jobs during any such period of unauthorized stoppage of work mentioned above, it is specifically understood and agreed that the company during the first twenty-four (24) hour period of such unauthorized work stoppage shall have the sole and complete right of discipline short of discharge, and such union member shall not be entitled to or have any recourse to any other provision of this agreement. After the first twenty-four (24) hour period of such stoppage and if such stoppage continues, however, the company shall have the sole and complete right to immediately discharge any union member participating in any unauthorized strike, slow-down, walk-out, or any other cessation of work, and such union members shall not be entitled to or have any recourse to any other provision of this agreement.

It is further agreed and understood that the [union] council shall not be liable for any strike, breach, or default in violation of this agreement unless the act is expressly authorized by its executive board. A properly designated officer of the [union] council shall, within twenty-four (24) hours after request is made to the secretary of the [union] council, declare and advise the party making such request, by telegram, whether the council has authorized any strike or stoppage of work. The [union] council shall make immediate effort to terminate any strike or stoppage of work which is not authorized by it without assuming liability therefor.

It is understood and agreed that failure of the [union] council to authorize a strike by a local union shall not relieve such local union of liability for a strike authorized by it and which is in violation of this agreement.

**125. *Strike May Be Authorized Only by President of Union***

Since this agreement provides for the orderly and amicable adjustment and settlement of any and all disputes, differences, and grievances, there should be no resort to strike (which includes stoppages or slow-downs of work) by the employees nor any lock-out by the "employer" of any employee or group of employees. In view of the foregoing, the "union" agrees that it will not authorize any strike, it being understood and agreed, however, that any strike not expressly authorized or ratified in writing by the general president of the union (a copy of which shall be sent to the "employer") shall be deemed for all purposes an unauthorized strike for which there shall be no liability on the part of the "union," its local unions or joint boards, provided that the "union" shall have, after written notice by "employer," taken steps (a), (b), and (c) below.

In the event of an unauthorized strike, the "union," through its Philadelphia representative or manager of the Philadelphia joint board, shall take the following steps in an effort to secure the return of the strikers to work, which steps after written notice of the strike given to the "union" by "employer," shall be as follows:

(a) Notice to be placed upon the bulletin board of the company that the employees shall return to work and that the strike is an unauthorized one.

(b) Call a meeting of the strikers and urge their return to work.

(c) Instruct all employees on strike to return to work to the end that the dispute may then be settled peaceably in accordance with the procedures set up herein.

**126. *No Union Liability for Strike Not Authorized by Union. "Authorized Strike" Defined***

The union assumes no liability nor responsibility for any strike not duly authorized by the union. For the purposes of this section an authorized strike is one which has been approved by a vote by secret ballot of the members of the local union who are directly affected by the proposed action and which thereafter has been approved by a majority of the officers of the international union.

**LIQUIDATED DAMAGES****127. *Liquidated Damages for Strikes and Lock-Outs in Violation of Contract***

The procedure for settling grievances and disputes is set forth herein, and the parties hereto agree to use the said procedure for settling grievances and disputes as provided for herein; therefore, during the life of this agreement, in any dispute or grievance which is subject to the arbitration provisions contained herein, the employer shall not lock out its employees or withhold work or stop production, except for prudential business reasons, and the union shall not call a strike in the employer's plant, or authorize employees to withhold work or interfere with or stop production, or call out employees during work hours to attend union meetings, unless the other party refuses to settle or arbitrate the controversy as provided in section —. Neither party shall be held responsible for any damages caused by the acts or conduct of any individual or group of individuals who are acting or conducting themselves in violation of the terms of this section or of any other provision of this agreement which action or conduct has not been specifically authorized in writing

by the principals to this agreement. Such individuals acting or conducting themselves in violation of the terms of this agreement shall be disciplined by the employer, subject to review in the grievance procedure. On account of the difficulty of ascertaining the amount of damages which would be sustained by one party by reason of the breach of this section by the other party, it is agreed that in the event of a breach thereof the party found responsible by mutual agreement or by arbitration for any loss arising out of such breach will pay to the other party the sum of \$50 as liquidated damages for such breach.

### *Sympathetic Strikes, Boycotts, Struck Work, and Picketing*

Work stoppages generally result from issues and disputes directly involving the employees concerned. They sometimes occur also as a result of disputes involving other unions or employers, not parties to the agreement. In this category are included sympathetic strikes, refusal to cross picket lines, and boycotts.

A sympathetic strike is a refusal to work for one's own employer for the purpose of aiding workers engaged in an unrelated dispute with other employers. Such strikes are frequently prohibited in collective bargaining agreements. Boycotts of nonunion or struck material may also be banned. The Labor Management Relations Act of 1947, Section 8(b) (4) (A) bans secondary boycotts by making it an unfair labor practice for a labor organization "to encourage \* \* \* employees of any employer to engage in \* \* \* a concerted refusal \* \* \* to perform any services where an object thereof is forcing or requiring any employer \* \* \* to cease doing business with any other person."

Other means of expressing sympathy action, however, may be allowed, even in agreements which prohibit sympathetic strikes. The right of union members to refuse to handle or work on struck goods, or on nonunion or "unfair" goods is recognized in many agreements. Similarly, the employer may pledge not to do any work for, or not to handle any product of, a firm struck by the signatory or an affiliated union. Some clauses state that the contract may be terminated if an employer requests union members to handle goods from a plant not under contract with the signatory union.

The Labor Management Relations Act specifies that employees may refuse to cross a picket line, other than on the premises of their own employer, provided that the picket line has been authorized by the union certified as bargaining agent for the workers on strike. Some agreements specifically recognize the right of union members to refuse to cross picket lines; such agreements declare that observance of picket lines which leads to a cessation of work will not be considered a violation of the "no-strike" ban. Among the special

contract restrictions on the right of employees to respect picket lines are clauses which provide: (1) that the picket line must be authorized by a legitimate labor organization and approved by the local union signatory to the contract; (2) that a picket line arising out of a jurisdictional strike affecting the employer is not to be recognized; or (3) that picket lines are to be observed, but perishable materials in transit to the plant before the line was set up shall be processed.

*128. Sympathetic Strikes Prohibited*

There shall be no sympathetic strikes of the employees in the employ of the manufacturer during the entire term of this agreement.

*129. Sympathy Strike Ban Covers Union, Its Members, and All Other Employees*

It is agreed that neither the union nor any of its members nor any employee will engage in any sympathy strike; neither the union nor any of its members or any employees will engage in any strike or stoppage of work based in whole or in part upon demands that are inconsistent with, or in contravention of, any of the terms of this agreement.

*130. No Work Stoppage in Disputes Involving Any Outside Parties*

Under no circumstances shall there be any strike, stoppage of work or interference with production because of any dispute between the union and other persons not a party to this agreement, or because of any dispute between the company and other persons not a party to this agreement or because of a dispute between or among persons not parties to this agreement.

*131. No Work Stoppage, or Boycott in Disputes Involving Other Unions*

It is further agreed that there shall be no authorized strikes, slow strikes, boycotting, sympathetic strikes, cessation of work, or any stoppage of work in connection with difficulties with other unions, and such action be considered as cancellation of this agreement.

*132. Sympathetic Strikes Allowed for Disputes Involving American Federation of Labor Unions With Other Plants of Company*

During the life of this contract, no sympathy strike shall be caused or sanctioned by the union because of differences between the American Federation of Labor or any of its affiliated unions and any other local or national employers, except for differences between the American Federation of Labor or any of its affiliated unions involving other plants of the company.

*133. Union To Avoid Sympathetic and General Strikes*

The union is not in favor of sympathetic or general strikes, and will do all it can to avoid them.

*134. Union Not To Authorize Action in Support of Illegal Strike or Picket Line*

There shall be no lock-out on the part of the company.

The union shall not authorize any strike, as defined in the Labor Management Relations Act, 1947, nor authorize any refusal by any employee to enter upon the premises of the company and to perform work hereunder because of any strike or picket line called or established (a) for an unlawful purpose, or (b) incident to any effort to organize any unorganized employees of the

company by any union which does not represent a majority of the persons in the unit which it is attempting to organize.

**135. *Sympathetic Strike Permissible Against Employer Doing Business with Struck Firm***

If at any time during the term of this agreement the union shall declare a bona fide strike against a factory located outside of the City of New York in which work is being made for the member of the association and in which factory the member of the association has no direct or indirect financial interest and said strike shall be effective, then upon two (2) days' notice to the member and the association, said member of the association shall withdraw his work from such factory before the expiration date set forth in the notice and shall not send any work to such factory until the strike in such case has been settled. The member, however, may complete the work so withdrawn in his own factory. Should the member fail to comply with the union's demand to withdraw such work, then upon the expiration of the time set forth in the notice (2 days) a cessation of work in the New York shop shall not be deemed a breach of the agreement on the part of the union or the workers.

**136. *Strike Permitted Against Employer Engaging Unregistered or Nonunion Contractors***

In the event that a manufacturer violates this agreement by employing union contractors who are not registered by him as required by this agreement, the union shall be free to order a stoppage of such manufacturer's work in the shop of such unregistered contractor.

In the event that the manufacturer violates this agreement by employing a nonunion contractor the union shall be free to take such action, including stoppages, as it deems appropriate to require the manufacturer to cease employing nonunion contractors.

**NOTE:** The agreement from which this clause is taken requires the employer to register with the union the names of all contractors engaged by him and to assume responsibility for the observance of all terms of the union agreement when the work is performed in the shop of a contractor.

**137. *Union May Terminate Contract, After Notice, if Employer Requests Union Members To Work on Goods from Plant Not Under Agreement with Signatory Union***

In the event the company requests its employees to handle any work normally produced in a [type of product or process] plant, which comes from any trade shop which is not under contract with the [international union], then the union shall be entitled to terminate its contract with the company by giving proper notice.

Nothing in this agreement is to be construed as an agreement by an employee that such employee will work on any graining machine, camera, art (production after camera) or platemaking (other than that actually in process in plant) when such products or the result of such work are received from or destined to a plant, against which the [international union] is engaged in a strike.

**138. *Union Members Not To Refuse To Work on Material to or from Struck Plant***

The company shall have entire freedom in the purchase and transportation of any materials, supplies, or equipment which it may need, and in the sale

and transportation of any of the products it manufactures or produces. The union and its members agree that they will not refuse to work on, use, or handle any materials, supplies, or equipment purchased by the company because of any labor dispute between the vendor of said materials, supplies, or equipment and said vendor's employees or any union representing them, and the union and its members shall not refuse to work on, use, or handle any products manufactured or produced by the company because of any labor dispute between a purchaser or prospective purchaser of the company's products and said purchaser's or prospective purchaser's employees or any union representing them. The company agrees that it will not enter into any combination or agreement with the other companies in the production section of the industry to assist any such other competitor-producer in a labor dispute which said producer may have with its employees or any union representing its employees, except that the company shall have the right to sell its products to customers of the company's competitors in the production end of the industry on the same terms and conditions it supplies and sells products to its own customers, and the union and its members agree that they will not in any manner take any action against the company to assist in any manner any employees of another company or a union representing them in the determination of a labor dispute.

*139. Union May Refuse, After Notice, To Work on Material to or from Struck Plant*

In the event of a strike authorized by the international union in the tannery of a leather manufacturer, the employer shall not cause the employees to perform labor on hides or skins coming from or going to such tannery where a strike exists, when notice of the strike shall have been given to the secretary of the \_\_\_\_\_ Leather Manufacturers' Association in writing, registered mail, postage prepaid.

*140. Union May Refuse, After Notice, To Work on Material from Struck Plant*

The employer shall not cause the employees to work on skins or wool in process which may be sent to the pullery from another pullery where a duly authorized strike exists, provided notice of such strike is given to the employer by the union, registered mail, postage prepaid.

*141. Refusal To Work on Material for a Struck Plant Not a Violation of Agreement*

Failure or refusal by any employee or all the employees of an employer to perform work destined, directly or indirectly, for a concern on strike, shall not be deemed or interpreted as a breach of the agreement, and neither such employees nor the union shall be held liable in damages by reason thereof. It is agreed that the performance of such work shall not be deemed in the regular course of employment of the workers.

*142. Employer Not To Deal With Firms Where Strike Is in Effect*

No member of the association shall do or cause to be done any work for or deal with any person or concerns against whom the union has declared a strike until such strike has been fully settled.

*143. Goods on Hand or in Transit Exempt from "Unfair" Work Ban*

No employee shall be required to handle any product which is manufactured or processed in an establishment where a strike is in progress, or listed as unfair to organized labor. All merchandise on hand or in transit is to be exempt.

144. *No Work on Goods Declared Unfair by International Union or CIO Affiliate*

At no time shall employees be required to act as strike-breakers, go through picket lines or armed guards, or handle products declared unfair by the [union] or any affiliate of the Congress of Industrial Organizations.

145. *Union Members May Refuse To Handle Strike Bound Goods or Cross Picket Line of Affiliate of Parent Union or American Federation of Labor*

Nothing in this agreement shall be construed to in anywise limit the unqualified right of the union to refuse to handle strike-bound goods in the event the employer has labor difficulties with any other affiliated union of the international union or any affiliate of the American Federation of Labor, or to require any member of the union to cross the picket line of any other union affiliate of the international union or the American Federation of Labor.

146. *No Processing of New Material or Work Not Connected With Company's Product from Plant Struck by Parent Union*

The company agrees that it will not process any new material or work for profit not connected with its product if such new work comes from a company whose employees are engaged in a strike sanctioned by the international union.

147. *"Struck Work" Ban Applies Only If Strike Called Under Union Constitution and Union is Bargaining Agent. Work on Hand, But Not New Work, Must Be Completed*

No employee shall be required to work when a majority of all employees of the employer who are members of the union covered by the contract are involved in a strike which has been properly called under the provisions of the union's constitution and bylaws, nor shall any employee be required to do any new work for any other company whose employees may be involved in such a strike, provided only that the union representing a majority of the employees of the plant in the industry is the duly constituted bargaining agent of the employees of such company. "New work" is defined as any order for work coming into the shop after the outbreak of a strike. However, the union agrees that all work on hand of such customers as may be involved in a strike shall be completed and the union shall not interfere in the completion of such orders and a sufficient maintenance crew shall be permitted to work to maintain the building and equipment in good order.

148. *Employer May Use Materials from Any Source, Union or Nonunion*

There shall be no strikes, lock-outs, boycotts, sit-downs, slow-downs, or any stoppage of work during the term of this agreement. Work shall not be interrupted by the union or its members because of use by the company of raw materials, supplies or equipment received by the company from any source whatsoever, and irrespective of whether such material, supplies or equipment have been produced, transported, or handled by union or nonunion workers.

149. *Employer Not To Procure Specified Types of Merchandise from Non-union Firms*

The parties hereto agree that stabilization of the conditions under which workers are employed in the industry is essential for the industry and for the welfare of the workers. In view of the existing conditions, the parties

agree that in addition to other limitations in this agreement, no member of the association shall directly or indirectly or through any affiliate, associate, or subsidiary, purchase or order from any nonunion concern, any neckwear, tailor-made, val-laces, net, organdies, silk or cotton goods, or other merchandise similar to the types now manufactured by members of the association, except as follows:

Where the material used in the manufacture of a collar is made on the Schiffl machine, and if, besides the Schiffl work on said collar, other work is required to be performed, unless such additional work required to be performed on said material is performed in union shops under contractual relations with this union, the members of the association agree not to purchase such merchandise.

The parties further agree that in addition to other limitations in this agreement, no member of the association shall directly or indirectly or through any affiliate, associate, or subsidiary, purchase or order from any nonunion concern (one that is not in contractual relations with this union) any scarfs, kerchiefs, similar to the type now manufactured by the members of the association, except where such scarfs, kerchiefs, and other merchandise similar to the type now manufactured by members of the association are imports or patented articles.

The parties further agree that the enforcement of these clauses is for the mutual benefit of the association and the union and the respective members, and such protection is especially necessary for the workers employed in shops and members of the association catering to the dress trade.

Should there be any dispute as to whether a particular type of work intended to be purchased comes within the prohibition of this clause, same shall be referred to the conference board or labor board for a decision.

*150. Employer To Use Only Union Truckmen in Transporting Goods*

All members of the association shall do all of their trucking of garments and of cut and uncut goods exclusively by union truckmen who are members of the [international union], and whose employers are in contractual relations with the joint board of [union].

*151. Employer May Withdraw Subcontracted Material from Struck Plant and Finish in Own Plant*

The union reserves the right to refuse to perform work which the company might obtain or take over from an employer in whose establishment a strike exists, unless the work is ordered and authorized by the Government as necessary under a national emergency. However the company has the right to withdraw from such struck establishment, excluding company plants not considered part of the ————— plant, and perform in its own shop, operations on components of its own products which are the subject of subcontract with such struck establishment.

*152. Impartial Chairman To Decide Whether Employer May Do Business with Struck Firm.*

The employer shall not work directly or indirectly for any manufacturer or contractor against whom the [international union] has declared a strike. Where an employer contends that cessation of such work may substantially

jeopardize his business, then the matter shall be referred to an impartial chairman for a final decision.

153. *Union Allowed To Inspect Employer's Books To Enforce Ban on Struck Work*

It is hereby agreed that no work shall be done in the factory of the employer for any other firm whose factory has been declared on strike by the union. It is also agreed that a representative of the union shall have the right to inspect at any time the books of the employer for the purpose of ascertaining for whom the employer is working or selling his merchandise to, or is buying ready-made goods from.

154. *Boycotts Prohibited*

During the life of this agreement neither the union nor any employee, individually or collectively, shall \* \* \* engage in or sanction any sympathetic strike against the company, or participate in or approve any boycott of the products of the company.

155. *Refusal To Cross Picket Line Not Violation of Agreement*

It shall not be deemed a breach of this agreement for any employee or union member covered herein to refuse to cross a picket line, or to refuse to enter upon the premises of an employer where a strike is in progress.

156. *Observance of Authorized Picket Line Not Violation of Agreement*

It is agreed that it will not be a violation of this contract should the employees coming under its jurisdiction observe picket lines of members of any other union employed by this employer providing that the picket line has the approval of the \_\_\_\_\_ Federated Trades and Labor Council.

157. *Observance of Picket Line Not Violation of Agreement If There Is No Interference With Employer's Transportation Operations*

It is expressly understood and agreed that it shall not constitute a breach of this agreement for any employee or [union] member covered herein to refuse to cross a picket line where said picket line has been established by a labor organization engaged in an authorized strike, provided, however, that such refusal to cross a picket line shall not interfere with the transportation operations of the company.

NOTE: This agreement covers a local transit company.

158. *Picket Lines of Other Unions Respected*

No union members shall be required to pass through any picket line established by a bona fide labor union, nor shall they be required to work where armed guards are employed.

159. *Union To Consult Employer Before Recognizing Picket Line*

However, no employee shall be required to cross a picket line which has been officially recognized by the union. Before the union gives official recognition to any picket line it will discuss such action with the employer.

160. *Picket Line Requires Approval of Local Union Headquarters*

Members of the union shall not refuse to go through a picket line unless such picket line is authorized by a legitimate labor organization and approved by headquarters of the [union] local involved.

**161. *Employees May Refuse To Cross Legal Picket Lines But Not Organizational Line by Union Not Representing Majority of Employees. Employees Required To Cross Picket Line To Perform Essential Maintenance Work***

Any employee, or group of employees, who participates in or is responsible for any unauthorized strike or refusal to enter upon the premises of the company and to perform work hereunder shall be subject to disciplinary action, including discharge, by the company; provided, however, that it shall not be a violation of this agreement for employees to refuse to cross a picket line and perform work in any instance where the picket line has been authorized by the union picketing and is established for a legal purpose, except that the employees as well as the union shall not refuse to cross a picket line which is established for organizational purposes by a union which does not represent a majority of the persons in the unit which it is attempting to organize.

Provided, further, the employees as well as the union shall cross all picket lines for the performance of work which is essential to the maintenance of the company's plant and equipment for standby operations.

**162. *Employee Not Required To Cross Picket Line Except Where Refusal To Cross Would Violate Labor Management Relations Act***

In case of strike or lock-out where job is picketed, no driver shall be requested to make deliveries. This paragraph shall not apply where the refusal to cross said picket line or to make such deliveries in event of strike or lock-out would constitute a violation of the Labor Management Relations Act of 1947 as enacted June 23, 1947.

**163. *Employees Not Required To Risk Violence or Injury by Crossing Picket Line at Company's Plant or Customer's Plant. No Loss in Pay for Refusal To Cross Line at Customer's Plant***

Recognizing the obligation of the company and of its employees to render service to the public under the provisions of the California Public Utilities Act and the franchises granted to the company thereunder, the union and the company agree that the presence of a picket or of a picket line on or adjacent to the premises of any customer or potential customer of the company shall not, of itself, remove the obligation to render such service as has been regularly applied for or otherwise properly requested by such customer, or such service as is necessary in the interest of public health and safety or in the normal routine of company operations. It is further agreed, however, that employees are not required to cross a picket line, if after a reasonable effort to gain entry to the customer's premises, which shall include a specific inquiry addressed to the person in charge of such picket line as to whether or not such entry will be resisted, it appears to the employee that such entry may result in physical violence or injury to him. In such event, or in case violence actually in progress precludes such inquiry, the employee shall forthwith notify his supervisor. In no case will the employee be required to enter the customer's premises under the circumstances hereinabove described until any such threat of resistance to such entry shall have been removed. Failure to gain entry to the customer's premises under the circumstances hereinabove described shall not, in and of itself, be deemed a violation of the terms of this agreement, nor shall it result in the loss of seniority or pay to the employee involved.

In case any organization, other than the union which is a party hereto, shall place a picket line before company premises, union members may, to pre-

vent violence or personal injury, refuse to cross picket lines of the striking organization. Such refusal to cross picket lines shall not be deemed to be a violation of this contract, nor shall it cause any impairment of the employees' seniority rights. However, any absence from work so occasioned shall be without pay.

**164. *Employer To Use Best Efforts To Make Arrangements so that Employees May Work Without Crossing Picket Line. Minimum Weekly Salary Forfeited After 2 Weeks if Employees Do Not Cross Picket Line***

It is understood that the refusal of any employees of the employer to cross or violate a picket line established against the employer by any union of workers of the employer shall not constitute a violation of this agreement or of this article thirteen (13) hereof, provided that employees not working because of such picket lines shall only receive the minimum weekly salary established by article five (5) hereof for a period of not more than two (2) weeks, provided each employee not so working reports at the gate each workday morning to register his willingness and availability to work if a place of work is available. The employer agrees, however, to use its best efforts to obtain admission to its plant of all employees desiring to work or, if that is not possible, to use its best efforts to make other arrangements so that such employees may work.

NOTE: This agreement covers technical employees. Other employees are covered by separate agreements.

**165. *No Crossing of Picket Line Authorized by Union or Affiliated Body. Goods in Transit Processed Except If Previously Declared Unfair by Other Unions***

Members of the union shall not be required to penetrate or work behind a picket line when such picket line is authorized by the union or by the local or State industrial union council, provided that in the event of picket lines being established by organized labor other than the union against vessels fishing exclusively and regularly for the company's plant, any such vessel arriving will be discharged and the fish processed by the union except in the event such vessels were declared unfair before sailing by the union involved and the local or State industrial council and the company so notified.

### ***Jurisdictional Strikes and Disputes***

Jurisdictional strikes result from the desire of two or more unions to obtain either bargaining rights over the same group of workers or jurisdiction over certain jobs or kinds of work. Conflicts arise when a union seeks to continue its jurisdiction over the function performed, regardless of the new materials or processes which may be introduced; or when a new process arouses a desire for a new craft autonomy. The competition for jurisdiction over work assignments may be either between two locals of the same national or international union, two unions of the same national federation, two unions of different national federations or without any affiliation. The settlement of the dispute is largely an intra-

union or interunion problem rather than a matter of employer-union negotiations.<sup>2</sup>

The desire of workers to increase their "right to a trade" or guarantee their continuity of employment are often the motivating factors involved in such disputes, while in other cases a similarity of jobs covered by two or more unions within a national organization becomes the basis for a controversy. Technological changes involving processes or materials tend to blur union jurisdictional lines.

Since, in most instances, the employer has no control over such problems, work stoppages caused by jurisdictional disputes are frequently prohibited with the usual additional proviso that the national officers of the unions involved shall settle the problem. Some agreements, such as those with metal or building trades unions provide definite steps for settling jurisdictional conflicts.

In addition to jurisdictional strike bans in collective bargaining contracts, the Labor Management Relations Act of 1947 outlaws jurisdictional strikes and boycotts. It is an unfair labor practice to engage in a strike or boycott for the purpose of forcing an employer to assign particular work to either particular employees or a particular trade or craft (Sec. 8(b)(4)(D)). Moreover, if a charge of violation of that section is made, the National Labor Relations Board is required to determine the jurisdictional dispute which precipitated the strike or boycott unless within 10 days after the parties receive notice that the charge has been filed they report that the dispute has been voluntarily adjusted (Sec. 10(k)). If appropriate, the Board must secure an injunction against a jurisdictional strike until its decision has been made.

#### 166. *Prohibition of Jurisdictional Strikes*

In the event jurisdictional disputes are not settled within the time limit specified in article 19 [procedure for settling jurisdictional disputes] there will be no stoppage of work, but the work will continue as determined by the company until the dispute is settled.

#### 167. *Jurisdictional Strikes or Picket Lines Not Recognized by Union*

The union agrees that it will not recognize any jurisdictional strikes or picket lines directly affecting the employees of the employer.

#### 168. *Pledge by Local and International Union and by American Federation of Labor Against Jurisdictional Dispute and Stoppage*

Local No. 53, the international and the American Federation of Labor, agree that they will not be a party to any jurisdictional dispute in regard to an employee of this company and in no case will there be a work stoppage.

<sup>2</sup> A distinction is sometimes made between disputes over work (jurisdictional disputes) and the right to represent a given group of employees (representation disputes). Although both types are closely related, insofar as they both involve union rivalry, in the one case the union is seeking to maintain or expand its trade jurisdiction on jobs, while in the other it is seeking to extend its contract coverage.

**169. *Union To Discourage and Members To Ignore All Jurisdictional Disputes***

The union guarantees that during the term of this agreement all its official acts shall be on record to discourage strikes, slow-downs or stoppages of work occasioned by jurisdictional disputes between the union and any other union, and all employees who are members of the signatory union, covered by this agreement, shall perform the duties customarily performed by them without regard to past, present, or future disputes based on jurisdictional claims.

**170. *Jurisdictional Disputes Settled on Basis of Agreements Between International Unions***

Jurisdictional controversies affecting or involving parties to this agreement shall be settled in accordance with the provisions and intent of agreements between the [international union] and other national or international unions directly involved or by decisions rendered by regularly constituted authorities recognized by the [international union].

**171. *Jurisdictional Disputes Settled by Procedure Specified in Constitution and Bylaws of Local Building Trades Council***

In the event of jurisdictional disputes between crafts, the procedure outlined in the amendment of the constitution and bylaws of the Milwaukee Building and Construction Trades Council adopted December 10, 1936, and entitled "Methods of Deciding Trades Disputes" shall be followed with the additional understanding that these claims of jurisdiction, whatever they may involve, shall be settled and disposed of by the various interested unions without stoppage of work, and shall be settled in such a manner that will hold the employer and persons for whom the employer is doing such work, free from all involvement, direct or indirect, by reason of such conflict or jurisdiction.

**172. *National Agreement on Settlement of Jurisdictional Disputes Incorporated in Contract by Reference***

The parties hereto agree and subscribe to the national agreement effective on May 1, 1948, creating the National Joint Board for Settlement of Jurisdictional Disputes, a copy of which is appended hereto as appendix "A".

**173. *Local Metal Trades Council To Make Interim Decision on Jurisdictional Disputes Pending Settlement by Metal Trades Department (AFL)***

It is agreed that the local Metal Trades Councils shall be primarily responsible for the prevention of work stoppages because of jurisdictional disputes, and that in conformance with this responsibility, they shall appoint a committee with authority to make an interim decision which shall remain in full force and effect until such time as all the provisions of the jurisdictional policy of the Metal Trades Department have been carried into effect.

**174. *Temporary Settlement by Joint Committee Pending Final Settlement by Presidents of International Unions Involved***

To avert jurisdictional controversies in the stone industry and to promote cooperation among various crafts employed, it is agreed;

That such jurisdictional practices that are now in force in the industry shall prevail during the life of this agreement, but should any new questions of jurisdiction arise, they shall be submitted by the unions involved to the federated council of Limestone Trades, who will meet jointly with the Stone Industry Industrial Relations Committee within thirty-six (36) hours, and they shall

make an investigation of the same and arrange a temporary settlement of the dispute.

This temporary settlement shall continue until the international presidents of the unions in dispute shall make a final settlement of the controversy. During the period of adjusting the controversy, there shall be no cessation of work on the part of the unions, parties to this agreement, or any shut-down of work under dispute on the part of the company, party to this agreement.

**175. *Unions To Meet with Company To Settle Jurisdictional Dispute. Resort To Union Jurisdictional Machinery, If Unsettled. Any Settlement Not To Interfere With Work Nor Increase Cost to Company***

The unions agree that in the event a jurisdictional dispute arises between any of the unions signatory hereto with reference to jurisdiction over work to be performed at this plant by employees of the company, the unions involved in such dispute shall fully inform the company regarding their respective positions in the matter and meet with the company to discuss and attempt to settle the dispute, should the company so request.

If, after this discussion, the matter cannot be settled between the company and the unions, it shall be settled by the unions in accordance with their established procedure governing the settlement of jurisdictional disputes.

The unions further agree that such settlement shall be made without permitting the dispute to interfere in any way with the commencement, progress or prosecution of the work and without increasing the cost of the work to the company by reason of payment of wages to any employee for work not performed.

In the event the settlement arrived at by the unions does not meet the above conditions as to the work and cost thereof, then it is agreed that the matter may again be referred to the unions for further consideration.

**176. *American Federation of Labor, Not the Company, To Decide Jurisdictional Disputes***

The company will not be asked to act upon any matters regarding jurisdiction between the international brotherhoods which are parties to this agreement and have recognized locals in the mills. Such matters shall be decided by the American Federation of Labor.

**177. *AFL Guarantee Against Jurisdictional Disputes Involving Its Affiliated Unions***

AFL agrees that there shall be no jurisdictional dispute with regard to the employees of the company who are members of the AFL or any of its affiliated unions and that the company shall be required to deal only with FLU \* \* \*, AFL. Company agrees that all of its employees who are in classification which, but for this agreement would be represented by some local union affiliated with the AFL, other than FLU \* \* \*, shall be paid not less than the prevailing terms of local agreements which may be in effect with such other union and employer of similar character for that specific classification of work. Any employee of the company shall have the right to join any organization affiliated with the AFL having jurisdiction over the particular classification of work but the AFL and its affiliated unions agree that such membership shall not change or violate any of the terms of this agreement.

**178. *Procedural Steps for Settling Jurisdictional Disputes***

As it is the desire and intention of the parties to avoid work stoppages and

delays for any reason and particularly because of jurisdictional disputes, the bargaining unit agrees that jurisdictional disputes will be settled in an orderly manner according to the following procedure: When a jurisdictional controversy arises in the [name of company], it shall be the duty of the local representatives of the trades involved, within 24 hours, to confer with each other for the purpose of sincerely trying to adjust the dispute; however, no stoppage of work shall take place.

Failing to adjust the dispute, the local representatives shall, within 24 hours, communicate with their international presidents asking for the assignment of international representatives for the purpose of undertaking an adjustment, and shall jointly notify the president of the Metal Trades Department of their action.

If the international presidents or their representatives fail to adjust the controversy within 96 hours from the time of their notification of the dispute, they shall undertake to agree upon a referee to whom they will submit all the facts in connection with the dispute, agreeing in advance to accept his decision, and abide by it unless and until other disposition has been made as provided for in subsequent paragraphs.

If the international representatives fail to agree upon a referee, then they shall endeavor to agree upon three names to be placed in a closed container, the first name removed to be referee; failing in such selection within 48 hours they shall each, within 24 hours, present three names of men who are not members of any trade union organization or have any direct or indirect interest in the dispute. These names shall be placed in a covered container. The first name removed shall be the referee. The referee's decision must be binding upon all parties concerned unless and until a change is made as hereinafter provided.

It is distinctly understood and agreed that any decision rendered by the methods provided in sections 3 and 4 above shall not act as a precedent in the settlement of any controversy. Nor shall such decisions have the effect of changing, restricting, or interpreting the established jurisdiction of any of the international unions which may be affected; and no decision rendered as provided in sections 3 and 4 above will prevent the international unions from continuing negotiations for the purpose of effectuating a permanent settlement of the work which may be involved in dispute; nor will any of the decisions above referred to be used by any international union to justify its permanent claim to the work involved. It is distinctly understood and agreed that no decision resulting from this procedure will in any way be in conflict with or abridge, interpret, or change craft jurisdictions as established by the American Federation of Labor, nor will any such decisions result in the interpreting or changing of bona fide agreements entered into between two or more international unions relative to jurisdiction, all decisions of referees shall conform to the decisions and procedures of the American Federation of Labor as defined herein.

#### 179. *Rules Governing Loan of Workers From Craft to Craft Irrespective of Jurisdiction*

A "loaner" shall be defined as a rehired employee subject to jurisdiction of one union, but working in another craft temporarily.

A department requiring additional men, and no members of their craft union being available may employ "loaners" from other craft unions temporarily.

"Loaners" must be, and remain, members in good standing in their own or

original union; will not accumulate seniority and will not be required to join the union of the craft where temporarily employed.

"Loaners" shall be recalled to their own craft (in order of their seniority) where their own department requires additional men. New employees will not be hired in a craft—(where additional men are required in this craft)—if loaners capable of doing the work who are under the jurisdiction of the union covering this craft are working in another department. Should an employee desire to transfer permanently to the new craft he shall join the union having jurisdiction and shall be credited with the total time worked in this craft. "Loaners" cannot hold rights to jobs in any craft where members of this craft holding rights with the company in this craft are available.

The company shall have the right to employ members of the various craft unions as loaners during periods of temporary emergency, and periods when work is slack in some departments, and shall observe department or yard seniority in accordance with the various individual contracts, provided, however, that when an older employee is out of employment, he shall not have the right to replace a younger employee employed as a loaner if his employment was terminated at a later date than the date on which the younger employee was rehired as a loaner. It is understood, however, that any employee to be reemployed as a loaner must be capable of performing the duties of the new position.

"Loaners" shall be compensated as follows:

(a) Helpers working as loaners:

- (1) Shall be credited with a maximum of 50 percent of total yard seniority as time worked in the new craft. Their starting rate shall be the starting rate of the new craft plus credit for automatic raises based on this time credit, except that
- (2) This seniority shall be accepted as time worked in the new craft to a maximum of the nearest rate to 60 percent of the total automatic increases.

(b) Employees working at skills recognized as higher than helper:

- (1) Shall be credited with a maximum of 50 percent of total yard seniority as time worked in the new craft. Their starting rate shall be the starting rate of the new craft plus credit for automatic raises in this craft based on this time credit.

(c) The automatic rate increase of their new craft shall apply after hiring.

(d) Employees returning to their own craft shall be paid the rate paid them at the time of lay off (or such corresponding rate in case of a change in rates).

180. *Jurisdictional Status Quo Maintained Pending Settlement of Dispute*

The union agrees that in the event any jurisdictional dispute shall arise between the various trade unions with respect to the jurisdiction over work or any classification of employment, such dispute shall be settled by the unions in accordance with the practice of the American Federation of Labor, without permitting the same to interfere in any way with the progress and prosecution of the work hereunder. Pending the settlement of such disputes, the work shall continue on the same basis as it was being performed at the time the jurisdictional dispute arose.

### *Protection of Company Goods and Property*

In many industries, the nature of the manufacturing processes or the materials and equipment used in production requires a minimum of care and protection at all times to prevent unnecessary damage, spoilage, or financial loss in case of a strike. In other industries, where processes are continuous and productive work must be carried on until the end of the work cycle, a work stoppage may result in irreparable damage to the machinery. Maintenance workers, plant protection personnel (guards, watchmen, etc.), and as many production workers as may be required are, therefore, expressly permitted under some agreements to remain on duty and to report for work in the struck plant or department for as long a time as may be necessary. Protection of company property is one important duty of such workers; finishing goods in process or taking care of perishable products is another. In most instances, special clauses are inserted in the agreement to cover these categories of workers under strike conditions. It is often required that the union and management mutually agree as to which employees will work. Others limit such employees to specified groups. Entry by supervisory and other classes of workers may be permitted, under some agreements, only so long as they do not perform production work or the employer does not try to operate the plant.

#### *181. Only Guards, Watchmen, and Some Firemen Permitted To Work*

All watchmen and guards, but only such firemen as may be required to maintain heating facilities to prevent injury or damage to plant equipment shall remain at work during any strike or work stoppage.

#### *182. Office Maintenance, and Plant Protection Employees Allowed Through Picket Line To Protect Company Property*

In the event that notwithstanding the no-strike provisions in this contract, a strike or work stoppage does occur in violation of this agreement, the union agrees that office employees necessary for the continued normal operation of office business and maintenance employees, firemen, watchmen, and custodians necessary for plant and equipment protection shall be allowed to proceed normally and without harm through the picket lines in order that company property may thus be protected.

#### *183. Laboratory Employees, Firemen, and Watchmen Permitted To Work If Employer Does Not Attempt To Operate Plant*

Laboratory employees, firemen, and watchmen shall be permitted to work during any labor dispute, provided that the employer does not attempt to operate its plant during such a dispute.

#### *184. Union Not To Deny Plant Access to Supervisors or Employees So Long As They Do Not Perform Productive Work*

In the event that strike should occur during the life of this agreement, the

union agrees that such employees as may be required to man the pumps, to protect the company's operating property, to keep the real estate in sanitary condition, and to maintain and operate the water supply, shall be permitted to perform such work. The union further agrees that it will neither deny nor attempt to deny access to any supervisor or employee to any part of the company's property so long as the supervisor or employee does not perform any productive work.

*185. Union Not To Deny Plant Access to Company Officials Provided They Are Accompanied by Union Member*

In the event of any stoppage of work described in section 1 of this article, the superintendent, foreman, and other officials of the company shall have full and complete access to the company's property without interference on the part of the union, provided that a union member shall have the right to accompany such officials at all times on the company's property.

*186. Joint Agreement Regarding Which Maintenance Employees May Work*

In the case of suspension of work due to a strike, the employees required to keep the plant in shape and protect it shall remain at work. Hoistmen shall raise and lower those men needed to operate pumps and to make emergency repairs to shafts or underground machinery but shall not be required to hoist ore.

Men covered by this agreement who are to be retained shall be agreed upon prior to suspension of work. The rates to be paid for such work are to be those in force at the time.

*187. Union To Provide Workers for Plant Protection and Goods in Transit*

Upon the occurrence of an authorized strike, the company will cease production and operation, except necessary maintenance, repair, shipment of previously loaded goods, receipt of materials in transit, and such operations as are necessary to prevent damage or deterioration of the plant and equipment. The union will provide men for these necessary operations.

*188. Union Not To Permit Plant Protection Men To Participate in Strike; Company Not To Order Plant Protection Men To Interfere With Strike or Picket Line*

In consideration of the company's consenting to include plant protection men in the appropriate unit and acknowledging the major duties of such employees are to protect company property at all times, the union agrees not to permit the plant protection men to join or participate in any strike which the other employees in the appropriate unit may elect to engage in. The company agrees it will not request or order the plant protection men to interfere with any strike or picket line resulting therefrom unless damage to company property appears imminent.

*189. Union To Provide Employees To Protect Perishable Stock*

The union agrees that in the event of a strike during the life of this agreement, the union will provide all employees necessary to work out all perishable stock in process at the time the strike is called to a nonperishable state, and that necessary watchmen, firemen, and engineers, whose work is necessary to fulfill insurance requirements, shall continue work and shall not be required to participate in the strike or work stoppage.

The union agrees that it will unload and put in a suitable place all hides,

leather, supplies, or materials coming from or going to a striking plant, that is in transit at the time notice of a strike is given.

190. *Union To Permit Employees To Complete Continuous Operations Under Way at Time of Strike*

If for any reason whatsoever there should be a stoppage of work in the plant, including a stoppage of work resulting from the failure of the parties hereto to reach a new agreement on or before the termination of this contract or any renewal thereof, the union will cooperate with the company to permit the regular employees to complete the continuous operations then under way in order that the brick then in the kilns can be properly burned, and to permit the regular employees to keep the tunnel kilns heated to prevent damage thereto.

191. *Employees To Assist Management in Preparing Plant and Equipment for Shut-Down in Event of Strike*

In the event of any strike, the employees will before leaving the plant assist the management in preparing the plant and equipment for a shut-down in an orderly manner.

192. *Guards To Report for Duty Despite Strike by Other Employees*

For the duration of this agreement, the union agrees that there shall be no strike, concerted slow-down, or stoppage of work, and the company agrees that it will not cause or engage in any lock-out. Should any controversy occur between the company and employees other than those covered by this agreement, which results or threatens to result in a strike, work stoppage, curtailment or interference with production, the employees covered by this agreement will not participate in such strike, work stoppage, curtailment or interference with production, but will continue to report for duty, remain at their posts and discharge fully their duties.

NOTE: The agreement from which this clause is taken covers guards only.

193. *Penalty for Plant Protection Employees' Refusal To Work During Strike. Company May Terminate Agreement if Union Fails To Enforce Obligation After Notice*

It is agreed by the union that in the event any controversy between the company and any group of employees not included in the bargaining unit described in the certification of the National Labor Relations Board, referred to hereinabove in article I, shall result or threaten to result in any strike, work stoppage, or other interference with the company's business, plant protection employees will continue to report for duty, to cross any picket line to remain at their posts, and to discharge the duties assigned to them in the regular manner, regardless of the organization or group involved in such controversy. Any violation of this section shall be grounds for summary discipline, including discharge of any employee who engages in such violation, and the failure of the union to enforce this section within three (3) days after receiving written notice of a violation, shall be grounds for immediate termination of this agreement.

NOTE: The agreement from which this clause is taken covers plant protection employees only.

194. *Maintenance Employees' Access to Plant Guaranteed by Union*

In the event that after strict compliance with the procedures for settling grievances any dispute is not satisfactorily adjusted and there ensues a sus-

pension of work, the union agrees that at all times there shall be admitted to the plant premises sufficient watchmen and maintenance employees to protect the company property and warrants that the right of ingress and egress of such employees shall not be infringed upon or abridged in any manner whatsoever. In consideration thereof the company agrees that it will in no way permit such employees to engage in production work of any kind or description.

195. *Plant Protection Crew May Be Recalled by Union upon Refusal of Company To Try To Settle Dispute*

It is further agreed that should any dispute or controversy relating to the provisions of this contract, or a lock-out, lead to a cessation of production, the union will keep such members of the union as may be required at work on the properties of the company for the operation of pumps, hoists, or any other work necessary to protect the properties from damage or destruction. No discrimination by the company shall be shown against employees used on such work because of residence; it being understood that no such employee shall be required to work during the period of cessation of operations on production of ore. It is further provided that should the company refuse to make an earnest effort to settle such controversy, then and then only shall the members of such union be called from work.

## Chapter 2.—Contract Enforcement

### *Introduction*

Collective bargaining ordinarily results in a written agreement, signed by the employer and union representatives and enforceable as a legally binding contract. Under existing law, the parties to a collective bargaining agreement have recourse to the courts to compel enforcement of an agreement. The Labor Management Relations Act of 1947 permits either an employer or a union in an industry affecting interstate commerce to bring a damage suit for breach of contract in any United States District Court having jurisdiction over the parties. Certain violations may be referred to an appropriate Government agency: For example, violations of the wage and hour standards of the Fair Labor Standards Act may be referred to the Wage and Hour Administrator; breaches of clauses dealing with reemployment of veterans based on the Selective Service Act and related statutes, to the Bureau of Veterans' Reemployment Rights of the U. S. Department of Labor; unfair labor practices resulting in loss of bargaining rights or the cancellation of the agreement, to the National Labor Relations Board.

In practice, the courts have rarely been called upon in enforcing agreements, and enforcement has depended largely upon the good faith of the parties concerned. This basic approach accounts for the relative infrequency of specific and particular provisions in agreements designed to secure enforcement of their terms. Where such specific clauses do occur, they may be explained by conditions peculiar to the industry or by recent difficulties in maintaining the collective bargaining relationship.

Compliance with the terms, conditions of employment, and obligations of the agreement is normally secured through the quasi-judicial procedure embodied within the contract itself—the grievance and arbitration procedure. This procedure is used to handle the day-to-day misunderstandings and disputes concerning interpretation or application of the agreement, as well as disputes involving alleged contract violations. Although sometimes supplemented by other contract provisions, employers and unions rely primarily upon the grievance-arbitration procedure and the ban on strikes and lock-outs usually included in agreements to secure compliance with the terms of the agreement.<sup>1</sup>

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<sup>1</sup> This chapter covers chiefly those clauses regarding the enforcement of the agreement as a whole. Chapter 1, "Strikes and Lock-Outs", contains sample clauses dealing with violations of the "no-strike, no-lock-out" provision. Provisions dealing with the adjustment of grievances and arbitration are discussed in individual chapters on these two subjects.

Many agreements contain mutual pledges of compliance, and even if such pledges are not specifically made, they are frequently implied by general statements to the effect that the agreement is in force and binding until its termination.

Statements that company regulations and union rules, constitutional provisions, or bylaws shall not conflict in any way with the agreement are additional precautions against evasion or violation of the agreement. (See Bulletin 908-12, *Union and Management Functions, Rights, and Responsibilities*, for provisions dealing with company rules and regulations.)

Another general clause designed to retain the enforceability of the agreement—the so-called separability clause—provides that if any part of the agreement is held to be illegal or invalid, the remainder of the contract will continue in effect.

Special provisions to insure compliance are included in some agreements, usually in the form of penalties and sanctions. But relatively few agreements provide specific penalties against those who violate the contract. Even among the agreements containing punitive clauses, many do no more than refer to disciplinary action in general terms. In the event of a violation of the agreement, either party may have the express right to terminate the agreement, or to void the “no-strike, no-lock-out” pledge. The union may have the right to withdraw the union label or shop card; the employer, to cease processing grievances. Employers who are members of an employers’ association may be subject to suspension or expulsion from the association and lose all rights and benefits under the contract.

Some agreements authorize the employer (or employers’ association) and the union each to discipline its own members for contract violations. Others permit either of the parties to take action against members of the other groups who refuse to abide by the contract terms. The aggrieved party—union, employer, or employers’ association—may be given broad discretion in selecting and imposing appropriate punishment. In some instances, both parties are required to take disciplinary action against individuals who violate the terms of the contract.

Some agreements set up systems of monetary fines and penalties for breach of contract terms or provide for assessment of damages. The penalties are usually fixed in the contract according to type of violation and the number of offenses committed, although in some instances the amount of the fine is left to the discretion of an administrative agency (a joint committee or an arbitrator). In a few cases, a security deposit or bond is required of one or both parties as

security for compliance. Since the enactment of the Labor Management Relations Act, some agreements have included clauses designed to limit union financial liability against damage suits permitted under that Act; the employer may pledge not to sue the union or may agree to a stipulated amount as liquidated damages in the event of contract violation.

As an aid to enforcement, some agreements provide that union representatives shall be given access to the plant, to pay rolls, and to personnel records.

### *General Compliance Provisions*

Although the act of entering an agreement implies an intention to carry out its terms, most agreements contain a general statement to the effect that it is in force and binding until its termination and that the parties will comply with its terms and meet their obligations.

Agreements covering associations of employers often incorporate language whereby the individual member companies are bound to the terms of the agreement. Under some association agreements, the association is made responsible for securing compliance by individual member companies.

Other general clauses designed to insure compliance with the agreement prohibit actions such as reclassification of employees or duties, or subcontracting work to other employers in order to evade the obligations imposed by the agreement.

#### *1. Mutual Pledge To Comply With Agreement*

The parties obligate themselves to perform, in good faith, all the provisions of this agreement.

#### *2. Neither Party To Attempt To Defeat or Evade Agreement*

This agreement is entered into in good faith by both parties, and to carry out this purpose the company agrees that it will not transfer or change its operations in whole or in part for the purpose of defeating or evading any of the provisions herein, and [the union] agrees that it will not change its organization or method of operation in whole or in part for the purpose of defeating or evading any of the provisions herein.

#### *3. No Reclassification or Other Subterfuge for Purpose of Evading Agreement*

The company will not reclassify employees or duties or occupations, or engage in any subterfuge for the purpose of defeating or evading the provisions of this agreement.

#### *4. Employers' Association and Union Pledge Performance of Agreement By Their Members*

The association obligates itself for its members and the union obligates itself for its members that they and each of them in good faith will live up to and con-

form with all the provisions of this trade agreement and of all rules, regulations, requirements, and procedures promulgated under and pursuant to the terms of this agreement.

*5. Pledge of Performance by Association and Union Includes Both Present and Future Members*

The parties obligate themselves to perform in good faith all the provisions of this agreement; it being agreed and understood that the association hereby contracts for and in behalf of itself and of all of its present and future members, and that the unions contract in behalf of themselves and in behalf of all members now employed or hereafter to be employed by the members of the association.

*6. Association To Cooperate With Union to Obtain Compliance by Its Members. No Aid by Either Party to Members Violating Agreement*

The association hereby contracts to do and perform all of the provisions of this agreement upon its part as such association to be performed. Each of its members who affixes his signature hereto contracts for and on behalf of himself only, and not one for the other, to do and perform all of the terms of this contract on his part to be performed. The association agrees to cooperate with the union to the end that any member of the association who may be adjudged or determined, in the manner provided by this agreement, to be in violation of any of the terms hereof, or to be attempting by evasion, subterfuge or otherwise to relieve himself of any obligation thereof, will be, by mutual effort, brought back within the terms of this agreement. Neither the association, nor the union, nor any member of either, shall in any way aid, support, or assist any member of either adjudged by the impartial chairman to be in violation of any of the terms of this agreement.

*7. Parties To Discourage Opposition to Agreement by Individual Members and To Favor Members Who Comply with Agreement*

Both parties to this agreement, through their duly authorized representatives of the conference committee, pledge themselves to use every honorable means to enforce the acceptance and observance of this agreement by all parties affected; to discourage any opposition on the part of individuals and to favor in every reasonable way those employers and employees who faithfully and honorably abide by this contract in all its provisions.

*8. Pledge To Enforce Recommendations of Joint Committee or Impartial Chairman*

The conference committee hereinafter provided shall have power to recommend the disciplining of any employer, or of any member of the union, for violation of the terms of this agreement, after due trial, and both parties agree to enforce any recommendation made by the conference committee, or by the impartial chairman as the case may be.

*9. Either Party Entitled To Require Specific Performance of the Agreement Provisions*

Either party hereto shall be entitled to require specific performance of the provisions of this agreement.

*10. Waiver of Any Breach of Agreement Not To Constitute a Precedent*

The waiver of any breach or condition of this agreement by either party

shall not constitute a precedent in the future enforcement of all terms and conditions herein.

**11. *Employer Responsible for Compliance, Including Work by Contractor***

The employer shall be responsible for the performance of all of the terms of this agreement, whether the work is performed by him in his own shop or for him in the shop of a contractor.

### *Aids to Enforcement*

Agreements sometimes contain provisions designed to aid unions in obtaining adequate information so as to check employer compliance with the agreement. Some agreements grant union representatives access to the plant for checking on compliance. In others, union representatives are authorized to examine pay rolls and other personnel records and, in some cases, refusal to submit such records is deemed presumptive evidence of violation of the agreement. (See also Bulletin 908-12, *Union and Management Functions, Rights, and Responsibilities.*) Advance notice to the union of certain employer actions, such as those involving discipline, discharge, and lay-off, also permits the union to see if the provisions of the agreement have been carried out.

Agreements covering employers' associations sometimes provide for committees, usually composed of an impartial chairman and representatives of the association and union, to supervise enforcement of the agreement.

**12. *Union Representatives To Have Access to Shop To Determine Whether Agreement Is Being Observed***

The representatives of the union shall have free access to the shop of the employer during its operation for the purpose of investigating whether all the terms and conditions of this agreement are lived up to by the employer in good faith.

**13. *Union May Inspect Employer's Records For Purpose of Checking on Compliance With Agreement***

The employer agrees to permit the inspection of his pay rolls and books by authorized representatives of the union for the sole purpose of investigating whether the employer is living up fully to all the provisions of this agreement.

**14. *Examination of Employer's Books by Association To Check on Dealings With Nonunion or Nondesignated Shops. Union Representative May Be Present***

The association, on its own motion, will investigate any or all of the books and records of its members to ascertain whether they are giving work to or dealing with nonunion or nondesignated shops. Upon complaint filed by the union, the privilege will also be accorded a representative of the union to accompany a representative of the association to examine the books and records of the member against whom a complaint has been filed, for the purpose only of determining whether such member is giving work to nonunion or non-

designated shops. Such examination shall be undertaken within 48 hours from the receipt of the request, and shall be conducted under such conditions and limitations as may be prescribed by the impartial chairman hereinafter designated.

15. *Impartial Chairman, Union, or Association Permitted To Inspect Employer's Records*

Records relating to pay rolls and labor relations shall be adopted by all members of the association and by all other \* \* \* manufacturers in [city] and vicinity who are in contractual relationship with the union. All such employers shall be required to make true and accurate entries in such records. All such records and books shall be examined by the impartial chairman, his accountants or other agents, at reasonable times, and he may require their production at his office for that purpose. Upon request, the said records shall be available for inspection by either the association or the union.

16. *Impartial Chairman May Examine Books Upon Union Request or at His Own Initiative*

Upon the request of the union, the impartial chairman or his accountants shall examine the books of any designated council member for the purpose of ascertaining whether the provisions of this agreement are fully complied with. The impartial chairman, upon his own motion, may make the aforementioned investigation.

17. *Employer Responsible for Keeping Records To Facilitate Enforcement. Investigation by Public Accountant*

Upon request by the union, the employer shall submit for examination all books, data, and records necessary for the purpose of investigating whether the provisions of the agreement are being complied with.

Failure to keep the books required herein, or to immediately produce same for investigation upon request, shall constitute a presumption of guilt of the employer of the charges preferred against him.

The investigation of books, data, and records referred to herein shall be conducted on behalf of the union and the employer by a public accountant.

18. *Employer's Refusal To Submit Records Deemed Presumptive Evidence of Violation*

Upon the determination by an arbitrator that the employer has employed, directly or indirectly, window cleaners not members of the union, he shall pay liquidated damages of \$50 for each man so employed for the first offense and \$100 for each man employed for a second offense. Said damages as assessed by the arbitrator are to be paid to the union within 10 days of the date of said award. Employers charged with employing nonunion window cleaners shall be required to produce their compensation pay roll records for the disputed period and their failure to produce said records before the arbitrator shall be deemed presumptive evidence of the truth of the charges filed against them.

19. *Employer Liable for Expense Incurred Because of Failure To File or Falsification of Required Reports*

Should any member of the association fail or refuse to file with the union the required statements or pay rolls, or should it appear that such statements or pay rolls have been falsified or prepared in a manner to mislead the union, the member of the association shall be liable for any expense incurred in

obtaining the statements and pay rolls, or in the event of falsification of records, in ascertaining what are the correct statements and pay rolls.

**20. *Joint Association-Union Board To Supervise Enforcement of Contract***

The union and the association shall designate and maintain a joint labor board to be composed of three (3) members of the union and three (3) members of the association who shall in turn select a chairman and a secretary. The function of the board shall be to supervise the enforcement of this contract, to mediate disputes arising hereunder as elsewhere provided, and to perform such other duties as are herein imposed upon it. It shall meet at such time and place as it shall decide unless otherwise required by the provisions hereof.

**21. *"Nonmember Disciplinary Committee" To Supervise Enforcement of Contract for Nonassociation Members Covered by Association Agreement***

Parties who are not members of an association and/or chapter, who agree to be bound by the terms of this agreement, shall be subject to discipline by the members of a special committee known as Nonmember Disciplinary Committee, after notice and hearing before the committee for any violations of this agreement. The said committee shall consist of two (2) members of an association and/or chapter, and one (1) nonmember signatory. They shall be empowered to impose such discipline as may be appropriate including payment to the local joint committee of money by the way of damages for such violation and the suspension of rights under the agreement which otherwise such violator would have. The members of the disciplinary committee may require the surrender of any card or cards issued under or in connection with this agreement.

In the event a nonmember signatory feels an adverse decision has been rendered by the disciplinary committee, he or they shall have the right of appeal to the members of a board of review, said board shall consist of two (2) employer members of the \_\_\_\_\_ County Joint Committee, Inc., and one (1) nonmember signatory. The decision of the said board shall be final and binding.

**22. *Joint Patrol Committee To Police Compliance With Working Hours Provisions of Contract***

It is mutually agreed that upon the execution of this agreement a permanent joint committee shall be established for the purpose of patrolling the market before and after regular working hours of any day, Saturday, Sunday, or holidays, to ascertain if any shop is open or if any person is on the premises, and also for the purpose of ascertaining whether the hours and workday provisions of this agreement are being fully complied with; however, it is agreed that no more than two or any two of such committee shall investigate any one given shop.

It is further understood that the duties of that committee shall be limited to patrolling and reporting to the union and the association whatever irregularities they may find. Such committee members shall be furnished with a card properly signed by the managers of the association and the union, identifying the purpose of their visit; upon presentation of such card to whoever is in charge of the shop, the committee shall be admitted to the workrooms for the purpose hereinabove mentioned.

It is further agreed that the members of the association will extend all courtesies to the patrol committee and that the patrol committee will do likewise.

It is further agreed that members of the association and members of the union

found by the patrol committee violating the working hours as stipulated in this agreement, shall be subject to penalties.

#### PERFORMANCE OR SECURITY BONDS

Occasionally, one or both parties are required to post a cash deposit or surety bond, as security for compliance with the terms of the agreement, or for the collection of damages in case of violation, or to assure payment of any fines, back wages, etc.

Some agreements covering employers' associations do not require a security deposit from members who maintain good standing in the association; members who have resigned or have been expelled, and nonassociation employers, however, may be required to make such deposits. In other cases, independent employers are subject to the jurisdiction of the joint agencies or arbitration and enforcement machinery established to administer the association contract and are required to contribute to the support of this machinery.

When damage compensation is paid for violation of the agreement, the employer involved is usually required to make an additional payment in order to maintain the security deposit at the amount specified by the agreement.

#### 23. *Association To Collect Security Deposit From Each of Its Members*

The \_\_\_\_\_ association agrees to collect from each of its members a deposit of one hundred and fifty (150) dollars as security for the faithful performance of this agreement on the part of each of its members.

#### 24. *Association To Provide Bond as Protection Against Default of Wages by Any of Its Members*

The employers' association shall provide a blanket bond in the amount of one thousand (1,000) dollars as a protection to local union No. \_\_\_\_\_, international [union] for any default of wages to its members by any of the association members.

#### 25. *Resigned or Expelled Association Member To Deposit Security With Union*

Such resigned or expelled member [of the association] shall deposit with the union cash in the amount of one thousand dollars (\$1,000), or 1 week's wages, whichever is the greater, to assure the payment of wages to the employees of such employer and the full, prompt and faithful performance by such employer of all the terms and conditions of this agreement, including the payment to the union or to the trustees of all sums required to be paid by such employer.

#### 26. *Independent Employers Eligible for Association Membership To Post Security Deposit With Union*

The union agrees to make no individual contract with any firm eligible to be covered by the terms of this contract, i.e., manufacturers of \* \* \*, in the [city] trade territory, without first requiring and having a cash indemnity bond or security first of \$3,500 posted in escrow to insure observance of the terms of this agreement to the end of eliminating a disadvantage to the firms who

subscribe hereto, and agrees further to make no individual contract more favorable in any particular or generally than the terms hereof.

*27. Independent Employers To Contribute To Maintenance of Enforcement Machinery and Deposit Cash Security. Amounts Based on Size of Shop and Volume of Business.*

The union agrees to insert a clause in all its agreements with independent employers to the effect that such employers shall submit to the supervision of the impartial chairman herein provided for.

All such independent employers shall be required by the union to contribute to the maintenance of the impartial machinery in the industry and to deposit cash security for the performance of the agreement on their part. The amount of such contribution and cash security deposits shall be based on a schedule and shall take into account the size of the employer's shop and the volume of his business.

*28. Security Deposit from Nonmember Firms Not Less Than Specified Charges Paid to Association by Its Members*

[The union] will in each case require from nonassociation contractors a cash deposit as security for the performance of their agreement in amounts at least as large as the amounts of initiation fees, membership dues, and other charges which members of the association may be required to deposit or pay to the association during the term of this agreement.

*29. Association To Deposit Specified Amount With Bank. Damages Paid Directly or Deducted From Security Deposit, at Option of Association*

As security for the faithful performance of this agreement on its part, and on the part of all contractors constituting its membership, the association agrees, upon the request of the union, to deposit with a bank or trust company to be designated by the union, to the joint credit of the parties hereto, the sum of \$10,000, which sum shall continue on deposit. Any and all awards of damages in favor of the union or any of its members made by the managers of the parties hereto, or their deputies, or by the impartial chairman, shall be paid out of such security and the association shall, within 72 hours after such payment replenish the security deposit to the full amount of \$10,000, or, at its option, pay the damages so awarded directly and leave the deposit intact.

*30. Employer To Refund Any Deductions From Security Deposited With Union*

Upon the signing of this agreement the employer shall deposit with the union the sum of \_\_\_\_\_ to be held by the union as security for the full and faithful performance of their agreement.

In addition thereto, the union shall be entitled to equity relief, enjoining and restraining the employer from breaching the terms of the contract during the term provided for in this agreement. The workers, in addition thereto, shall be entitled to any moneys due them for wages or to any damages sustained by them as a result of the employer's breach of contract.

In case the employer shall fail for any reason whatsoever to pay any of the obligations assumed by him under this agreement, the union may, at their option, apply the amount deposited as security towards the payment of the obligations assumed herein by the employer. The employer agrees to refund the union the amount thus expended by it within seventy-two (72) hours. Failure on the part of the employer to refund to the union the amount thus expended within seventy-two (72) hours, shall be considered as a breach of

the terms of this agreement on the part of the employer and shall entitle the union to judgment for the amount thus expended and to injunctive relief restraining the employer from breaching the terms of the contract.

**31. *Security Deposit To Cover Expenses Incurred by Union in Enforcing Agreement and Default on Wages. Deposit May Be Mingled With Union's Own Funds***

As security for the faithful performance of this agreement on his part, the employer hereby deposits with the union the sum of \$———. This sum shall be deemed as liquidated damages for the expenses that the union may have to make in enforcing the provisions of this agreement in the event of a breach of the terms of this agreement by the employer, since the exact amount of such expense cannot be ascertained. This sum shall further be held by the union as a fund for the purpose of making payments to workers to make good any default on the part of the employer, for wages or otherwise. If and when the union depletes the said security by reason of a default on the part of the employer, the employer agrees to replenish the security to bring it up to \$———.

It is further agreed that the union is hereby authorized to mingle said money with its own funds.

**32. *Security Bond Required of Employers Who Violate Agreement. Bond Returned at Expiration of Agreement If No Further Violations Occur***

Any contractor violating any part of these articles of agreement shall have same canceled at once and employees withdrawn. Any contractor whose employees have been so withdrawn, for violation, shall be recognized as unfair with the [union]. Such unfair contractor shall post with the arbitration board, such bond as the arbitration board may decide, before being restored to good standing.

The Board shall administer any bond placed in its hands by any contractor as security against a second violation of these articles of agreement. Said bond shall be returned to the contractor posting same at the expiration of these articles of agreement, provided, no additional violations are evident.

**33. *No Security Required From Employer Who Maintains Good Standing in Employers' Association and Complies With Agreement***

As long as an employer is a member in good standing of the association, and complies with the terms of this agreement, the union shall not exact any security from such member to insure the faithful performance of the covenants herein contained on his part to be performed \* \* \*.

### *Termination of Agreement as Penalty for Violation*

Agreements are usually in effect for a definite period, most frequently for a year, but it is sometimes provided that a violation by one party gives the other party the right to terminate the agreement before the expiration date. However, it is often required that no termination can be effective until an arbitrator determines whether the agreement has been violated. In agreements covering associations of employers, violation by one member company may terminate the agreement insofar as that company is concerned, but

usually this does not give the union the right to terminate its agreement with the other members of the association. If an employer has agreements with more than one local of the same national union, violation of the agreement with one local may terminate the employer's agreements with all the other locals.

*34. Aggrieved Party May Terminate Agreement If Arbitrator Finds There Has Been a Violation*

Should either of the parties hereto claim or allege that the other has violated this agreement, or actively promoted the violation of this agreement, the agreement shall nevertheless continue in full force and effect, and the question of whether there has been a violation shall be subject to the grievance procedure, and in the event the arbitrator finds there has been a violation, the nonoffending party may, at its option, terminate this agreement.

*35. Union May Terminate Agreement If Employer Refuses To Comply With Arbitration Award*

In the event any employer shall refuse to abide by the determination of the impartial chairman, the union may upon application to the impartial chairman, declare the agreement abrogated with respect to such employer, and in addition, the union shall have such other legal and equitable remedies which it may deem necessary, and to which it may by law be entitled.

*36. Arbitrator To Determine Whether Contract Violation Warrants Termination of Agreement*

In the event that either of the parties or any employer shall claim a termination of this agreement by reason of an alleged substantial violation of this agreement, the same shall be submitted to the board of arbitration for its determination and decision as to whether or not the facts and circumstances constitute a substantial violation of this agreement, entitling any of the parties or any employer to terminate this agreement.

*37. Legal Remedies Not Waived by Termination of Agreement*

In the event that either party shall violate this agreement in any substantial particular, and the fact of such violation shall be found by the arbitration committee, hereinbefore provided for the other party thereto may at its option by written notice served within ten (10) days after such finding, declare the contract is terminated, but nothing in this paragraph shall be construed to impair or waive any other right or remedy which either party may have either in law or in equity on account of any violation of this agreement.

*38. Breach by Association Member Does Not Terminate Agreement With Other Members or Subject Them to Legal Liability*

This agreement shall be construed as divisible as to each employer, and the failure of any employer to abide by the terms hereof shall not operate to terminate this agreement as to any other employers. No breach of this agreement by any employer shall operate to subject the association or another employer to any legal liability to the union.

*39. Violation of Agreement Terminates All Agreements Between Employer and Other Locals of International Union*

It is further understood that the union is a part of the international [union] and that a violation, which would cause the annulment of this or other agree-

ments the company may have with other local unions of the international [union], annuls all agreements entered into between the company and any local union of the international [union], after the facts have been finally determined by the international office of the international [union].

*40. Offending Party Allowed 10 Days to Correct Violation Before Agreement Terminated*

If either party to this agreement claims it is relieved of its obligations hereunder as a result of an alleged breach of the agreement by the other party, he shall notify the other party of such claim and alleged breach and allow ten (10) days to such other party for redress or correction.

*41. Violation Not Cause for Cancellation of Agreement. Party Violating Agreement Liable for Court Costs and Attorney Fees*

No violation of this agreement by the proprietors of the union shall of itself work a forfeiture thereof, and either party may enjoin by proper legal proceedings any violation of this agreement pertaining to prices, closing hours of \* \* \* shops, and wages and any party guilty of violating this agreement shall be liable for court costs plus reasonable attorney fees set by the court incident to such violation, and the enforcement of this agreement in any legal proceedings.

### *Sanctions and Penalties Against Employers*

For enforcement, employers and unions generally rely upon methods other than the imposition of fines and penalties, but such measures may be resorted to because of conditions peculiar to the industry. For example, where severe competition encourages wage cutting, as in the clothing trades, the agreement may provide for payment of damages to reimburse the workers who have had wage cuts to offset any competitive advantage an employer may have obtained through the violation.

Some provisions specify the amount of the employer's fine for violations. The amount is usually graduated according to the type of offense and the number of previous offenses. In many cases, however, the arbitrator or impartial chairman is authorized to determine the amount of damages to be paid for each violation. In addition to damages, the employer is sometimes required to make a penalty payment to defray the cost of investigation. An additional penalty may be imposed as a deterrent to further violation.

Agreements covering employers' associations often penalize flagrant or persistent offenders by suspension or expulsion from the association. In other cases, the offender is permitted to remain in the association but is to receive no support from the association.

Another penalty is to deprive the employer of certain privileges received under the agreement. For example, the union may be authorized to withdraw the union label or union shop card—which

indicates observance of union conditions—when violations occur.

Authorization of strike action by the union is probably the most severe penalty for employer violation of the contract. Some agreements specifically reserve the union's right to strike to enforce the contract even though strike action is otherwise barred. (See Chapter 1, Strikes and Lock-Outs.)

*42. Schedule of Penalties for Specified Types of Violations; Conference Committee To Impose Penalties for Other Violations*

In the event that any clause of this agreement shall be violated by the employer, the penalty shall be referred to the conference committee, except as to the other penalties hereinafter provided:

The following shall be the penalties imposed for violation of the provisions of the agreement in regard to hours of work, piece work and contracting: for the first violation, fifty (50) dollars; for the second violation, one hundred (100) dollars; for the third violation the employer shall be suspended from the association. A member suspended shall not be entitled to the protection of any provisions of the collective agreement. Such suspended members shall not be reinstated to the provisions of the collective agreement unless the union and the association agree to such reinstatement.

The following shall be the penalties imposed for violation of section 21 [minimum wage scale] of this agreement:

For the first offense the employer shall pay to the union for the worker the difference between the amount paid the worker and the amount that should have been paid under section 21 of this agreement; in addition, the employer shall pay to the union a penalty equal to the amount of difference paid to the union for the worker.

For the second offense the employer shall pay to the union for the worker the difference between the amount paid the worker and the amount that should have been paid under section 21 of this agreement; in addition, the employer shall pay to the union a penalty of twice the amount of the difference paid to the union for the worker.

For the third violation of the same offense, the employer shall be suspended from the association. A member suspended shall not be entitled to the protection of any provisions of the collective agreement. Such suspended member shall not be reinstated to the provisions of the collective agreement unless the union and the association agree to such reinstatement.

*43. Minimum and Maximum Cash Penalties Specified; Expulsion From Association for Repeated Offenses*

If it is determined upon trial of any complaint in the manner provided in paragraph 26 hereinabove, that a member of the association has breached this agreement, a fine may be imposed upon such member in connection therewith, said fine to be paid by the member into a fund to be controlled jointly by the union and the association, and to be applied to defray the expense of the impartial chairman, and other costs involved in the machinery provided in this agreement for the determination of controversies hereunder. Said fine shall be limited in amount to a minimum of twenty-five dollars (\$25), and a maximum of one hundred and fifty dollars (\$150), as may be determined and fixed by the adjudicating party.

In the event of repeated offenses or breaches of this agreement by any mem-

bers of the association, such member if required by decision reached in accordance with provisions of paragraph 26 hereinabove, may be expelled from the association and in such case shall be deprived of all benefits under this agreement, and the union shall be relieved of its obligations to such member under this agreement.

*44. Liquidated Damages for First Violation Agreed Upon by Union and Association; Union Free To Take Enforcement Action for Second Offense*

Should a member of the association violate the provisions of this article, the union and the association shall agree upon the amount of liquidated damages which the member shall pay for a first offense, which shall be sufficiently high to offset any advantage gained by the member through such transaction. In the event of their inability to agree, the same shall be determined by the impartial chairman. The proceeds of such damages shall be used toward defraying the expenses incurred by the impartial chairman in the industry in making investigations or for similar purposes. For a second offense the member shall automatically lose all rights and privileges under this agreement, and the union shall be free to take action to enforce the rights of the workers against such member, in addition to paying damages, determined as aforesaid, which damages shall be turned over to the union.

*45. Penalties for Dealing With Nonunion or Nondesignated Contractors and Submanufacturers*

Should a member of the association be found giving work to or dealing with a nondesignated contractor or submanufacturer, the association and the union shall agree upon the amount of damages which the member of the association shall pay for a first offense, which sum shall be sufficiently high—

(a) To offset any advantage gained by the member through such transaction, giving due regard to the amount involved;

(b) To pay the costs of any investigations made in connection therewith.

In the event of the inability of the association and the union to agree upon the amount of damages, the same shall be determined by the impartial chairman.

Should a member of the association be found giving work to or dealing with a nonunion contractor or submanufacturer, or for the second or any subsequent time be found giving work to or dealing with a nondesignated contractor or submanufacturer, the association and the union shall agree upon the amount of damages which the member of the association shall pay, which sum shall be sufficiently high—

(a) To offset any advantage gained by the member through such transaction, giving due regard to the amount involved, and upon which any amount paid under “(c)” hereof shall be credited on account;

(b) To pay the costs of any investigations made in connection therewith;

(c) To remunerate the workers of the inside shop of the members of the association, if he maintains one, and the workers of his regularly designated contractors or submanufacturers who have sustained damages by reason of the above violations.

In the event of the inability of the association and the union to agree upon the amount of damages, or whether any damages have been sustained by the workers, the same shall be determined by the impartial chairman.

*46. Employer To Reimburse Workers for Underpayment of Wages and Pay Penalty to Arbitration Board*

Payment by the employer and acceptance by the employee of less than the wage herein stipulated shall be a violation of this agreement upon the part of each. Upon conclusive proof to the joint arbitration board of such violation, the employer shall immediately pay the unpaid balance due, in accordance with the wages herein stipulated; and in addition thereto, shall pay the joint arbitration board an amount equal to the penalties provided in article XIV of general conditions of this agreement, but under no circumstances shall such penalties be less than 50 percent of the amount of such pay shortage as just and liquidated damages because of such violation.

*47. Employer To Reimburse Workers for Underpayment of Wages and Pay Progressive Penalty to Union. Suspension from Association Penalty for Third Offense.*

The following shall be the penalties imposed for violations of section 21 [minimum wage scale] of this agreement:

For the first offense the employer shall pay to the union for the worker the difference between the amount paid the worker and the amount that should have been paid under section 21 of this agreement; in addition, the employer shall pay to the union a penalty equal to the amount of difference paid to the union for the worker.

For the second offense the employer shall pay to the union for the worker the difference between the amount paid the worker and the amount that should have been paid under section 21 of this agreement; in addition, the employer shall pay to the union a penalty of twice the amount of the difference paid to the union for the worker.

For the third violation of the same offense, the employer shall be suspended from the association. A member suspended shall not be entitled to the protection of any provisions of the collective agreement. Such suspended member shall not be reinstated to the provisions of the collective agreement unless the union and the association agree to such reinstatement.

*48. Employer To Reimburse Contractor, Submanufacturer, or Workers for Underpayment and Pay Additional Liquidated Damages*

Where it shall be established that there has been an underpayment made by a member of the council to the contractor or submanufacturer or the workers, the amount of such underpayment shall be paid by such member of the council to the parties so underpaid and he shall, in addition to the foregoing, be subject to such additional liquidated damages as may be agreed upon between the council and the union, or, upon their failure to agree, as may be determined by the impartial chairman.

*49. Amount of Wage Underpayment Determined and Collected by Union*

If the employer is found by the union to have paid any journeyman less than the prevailing rate of wages he shall within forty-eight (48) hours after the decision of the union pay to union, the amount specified in the finding of the union as the difference between the amount the union has found that the employer has paid and the prevailing rate of wages for the last thirty (30) working days worked within the last three (3) months.

*50. Fine Equal to Twice the Sum of Wage Payments Saved by Violation*

In the event that the employer deliberately violates the provisions of the

foregoing articles or deliberately violates any provision elsewhere in this agreement relating to wages, hours of work, seniority rights, overtime differentials, and vacations, any back pay owed to the employee because of such violation shall be paid by the employer at the rate of two times the standard straight time and overtime rate. Reasonable evidence of clerical error or honest mistake in interpretation of this agreement shall exempt the employer from the double penalty provision, and in such case the employer shall be required to pay only the actual amount of back pay involved, at the standard straight time and overtime rate. When there is evidence of collusion between employer and employee to violate the contract, any back pay collected shall be made payable to the employee only and shall be deposited with the union, if the board of arbitration so orders.

51. *Amount of Penalty Payment for Wage Underpayment Determined by Mutual Agreement or by Impartial Chairman If Parties Unable to Agree*

Where it shall be established that there has been an underpayment made by a member of the \_\_\_\_\_ association to the workers, the amount of such underpayment shall be paid by said member of the \_\_\_\_\_ association to the union for distribution to the workers so underpaid. If such underpayment shall have been deliberate or the result of any collusive arrangement, the member of the \_\_\_\_\_ association shall in addition to the foregoing, be subject to such additional liquidated damages as may be agreed upon between the parties hereto or, upon their failure to agree, as may be determined by the impartial chairman.

52. *Impartial Chairman To Impose Fine Sufficient To Offset Advantage Gained and To Act as Penalty. Fine Paid to Chairman Within 3 Days*

In the event the impartial chairman shall adjudge any employer guilty of any violation of any of the terms, conditions, and provisions of this agreement, he may in addition to any direction or orders which he may make in the premises, impose a fine in money which shall be paid by such employer within 3 days after the imposition of such fine. The amount of such fine shall be discretionary with the impartial chairman and shall be determined with reference to the nature and extent of the violation; it shall be sufficiently adequate to offset any advantage gained by the employer by reason of such violation and in addition thereto appropriately and fairly penalize him therefor. Resignation from the association shall not terminate liability for any penalty or fine imposed. In addition, the union shall have other legal and equitable remedies which it may deem necessary, and to which it may by law be entitled.

All fines collected under this agreement shall be paid to the impartial chairman to be used as he may deem fit.

53. *Conference Committee To Determine Penalty for Violation of Agreement*

In the event that any clause of this agreement shall be violated by the employer, the penalty shall be referred to the conference committee.

54. *Union Grievance Committee To Determine Penalty for Employer Violation. Legal Remedies Not Waived*

Having full and complete confidence in the integrity, discretion, and sense of justice of the grievance committee of the union, the proprietor agrees that in the event he is charged with violation of any terms, covenants or conditions of this agreement, he shall, upon receipt of notice of said charges by mail, submit to the determination of said charges to the grievance committee of said union, before which grievance committee he is to be granted a hearing and

the right to present proof and call witnesses on his behalf, and agrees to be bound by and pay any fine, not over \$100 for a first offense and \$200 for any subsequent offense, imposed by the decision of said committee.

Proceedings under this provision shall not be necessary to enable the union or any of its members from enforcing any legal remedy by reason of a breach of this agreement, nor shall such provision preclude the union from instituting any proceedings in the courts of this State for specific performance of the terms and conditions of this agreement and for the enjoinder and restraint of any violation thereof.

*55. Association Agreement: Damage Assessment Not to Exceed 50 Percent of Loss Caused by Violation Paid to Association*

Should a member of the association be found to have violated the provisions of this agreement with respect to hours, wages, or overtime, or clause "twenty-seventh" concerning outside work, he shall be directed to pay to the unions, for the respective workers an amount sufficient to reimburse the workers for the loss sustained by such violation; and in addition thereto, the member shall be obligated to pay to the association an amount to be fixed as liquidated damages for the particular violation only, which amount shall be sufficient to offset any advantage intended to be gained by the member by reason of such violation; but not to exceed fifty (50) percent of the amount directed to be paid to the unions as aforesaid. The adjustment board referred to in this agreement is hereby given the power to decide upon the amount of damages to be paid. Should the board disagree with respect to said amount, then the matter shall be referred to an impartial arbitrator, who is likewise vested with power to make such decision, which decision shall be binding upon the parties and their respective members.

*56. Individual Form Agreement: Damage Assessment Not to Exceed 50 Percent of Loss Paid to Union*

Whenever the employer has been found to have violated the provisions of this agreement with respect to hours, wages, overtime, or sending work to outside shops, or any other provision of this agreement, he shall pay to the union for the respective workers in the shop, an amount sufficient to reimburse the workers for the losses caused by such violation, and in addition thereto, pay to the union an amount not to exceed fifty (50) percent of the amount directed to be paid for the losses of the workers as a liquidated amount towards disbursement incurred by the union in investigation of the particular violation.

*57. Additional Penalty for Failure to Pay Damages Within 10 Days After Award*

Any employer failing to make payment of damages assessed against him by an arbitrator within the time above provided [10 days] shall have added to said award the further sum of \$50 as the reasonable cost plus filing expenses of having said award filed and confirmed by the Supreme Court of the State of \_\_\_\_\_.

*58. Damage Payments Temporarily Waived or Suspended Become Collectible Upon Further Violation, Even If Agreement Expires*

Any damages awarded to the union, payment of which have been temporarily waived or suspended shall be collectible in the event of a further violation of the terms of this or any subsequent agreement at any time within the period of 1 year, beyond the expiration date hereof. Should the employer be found to have violated for a second time any of the provisions of this agree-

ment at any time during the life of this contract or at any time within 1 year from the date of its expiration, he shall be deemed a second offender under the terms of this section and the provisions hereof in this respect shall survive this contract.

*59. Penalty Default by Association Member Not To Constitute Breach of Agreement by Association or Nondefaulting Members*

The association in no event shall be deemed the guarantor or surety of a defaulting member, and the failure of any individual member or members to pay the amounts herein assessed shall not be deemed a breach of this agreement by the association or any of its nondefaulting members.

*60. Absence of Specific Damage Provision No Bar to Assessments Set by Association and Union or by Arbitrator. Fines Used To Finance Enforcement Machinery*

A member of the association who shall intentionally or deliberately violate any of the terms or provisions of this agreement, either alone or in collusion with others, shall in all cases where no specific provision for the payment of damages is provided for in this agreement, nevertheless pay damages for such violations in a sum as may be agreed by the parties hereto, or upon their failure to agree, as may be determined by the impartial chairman. The proceeds of all damages collected hereunder shall be used toward defraying the expense incurred by the investigating machinery of the impartial chairman.

*61. Agreement May Be Enforced by Strike*

It is agreed that a strike to enforce any or all articles of this agreement shall not be construed to be a violation of this agreement.

*62. Union May Strike or Take Any Other Action Against Employer Who Does Not Comply With Arbitration Award on a Noncompliance Complaint*

Should a member of the association fail to comply with the decision of the impartial chairman within twenty-four (24) hours after the rendition of his decision on a noncompliance complaint, the member of the association shall automatically lose all rights and privileges under this agreement and the union shall be free to take any action it may deem appropriate to enforce the rights of the workers against such member, including the right to strike against such member.

*63. Union Shop Card Withdrawn From Employer Who Violates Agreement*

The union shop card is the property of said local union No. ———, [name of union], and subject to withdrawal from the place of business of the party of the second part, if terms of this agreement as outlined herein are violated by the party of the second part.

*64. Use of Union Label Forfeited by Violation of Contract*

The violation of any of the terms of this entire contract shall singly, or in the aggregate, be sufficient cause for the revocation of the right to use the aforementioned trademark of the [union] and shall further be sufficient to cause the employees herein involved to refuse to work in any shape, manner, or form, \* \* \*.

*65. Use of Union Label Forfeited for 1 Year by Violation of Constitutional Rules Governing Its Use*

The party of the first part [employer] shall forfeit for 1 year the privilege of said [union] label if proven that said party has aided or abetted in the

violation of article 18 of the [union] constitution relative to the rules governing the use of the label.

**66. *Withdrawal of Right To Use Union Label Subject to Arbitration***

The use of the union label or label stamp shall not be withdrawn from the employer herein except upon 24 hours' notice by registered mail to the employer and to the board of arbitration and only after a hearing had and upon the determination by the board of arbitration.

In the event of an alleged misuse of the union label by the employer and/or members the union shall have the right to a hearing within 24 hours before the impartial chairman concerning the alleged misuse. Failure or neglect to permit the use of the same as herein provided shall, at the option of the International, constitute a breach of this agreement.

**67. *Employer Violating Agreement Removed From Union Fair List and Made Subject to Special Agreement***

Should the employer violate the terms and conditions hereof, he may be taken from the fair list by the executive board of local union \_\_\_\_\_ and shall be denied the benefits hereunder. In such event, the brotherhood reserves the right to place the employer under such special agreement as the executive board of the local union \_\_\_\_\_ may deem equitable.

**68. *Union Entitled to Equity Relief Restraining Employer From Breach or Threatened Breach of Agreement***

It is hereby agreed that the union shall be entitled as a matter of right to equity relief restraining the employer from any breach or threatened breach of the agreement.

**69. *Union or Workers May Maintain Action for Loss of Wages Caused by Breach of Agreement***

In the event of a breach of this agreement by the employer resulting in a loss of employment to any of the workers, such workers shall be compensated for the loss of wages sustained by reason of such unemployment and an action therefor may be maintained by such workers or by the Union on their behalf.

**70. *Association To Suspend Noncomplying Member and Withdraw Support Against Union Action***

In the event of a violation of any part of the agreement by a company, party to this agreement, such violation shall be immediately brought before the central adjustment board, herein provided for, and the ruling handed down by said board shall be final and binding upon the parties. If such company does not abide by that ruling it shall then be necessary for the [association] to immediately suspend that company and no assistance will be given him against the action deemed advisable and necessary by the union, because of the refusal of the company to accept the ruling handed down by the central adjustment board.

**71. *Suspension or Expulsion From Association: No Union Workers Unless Employer Meets Association Obligations and Posts Security With Union. Nonassociation Member Barred From Using Adjustment-Arbitration Machinery***

The union shall not furnish workers to any members of the association who may resign, be expelled or otherwise cease to be a member thereof, unless and until such former member of the association shall have fulfilled all his obliga-

tions to the association and shall have posted security with the union in an amount to be determined by the union, subject to the approval of the impartial chairman. In the event of a dispute as to obligations the union may request the impartial chairman to decide the same. The union shall not permit such former member of the association to employ the machinery of arbitration and adjustment provided for in this agreement. Any question as to the nature and amount of obligations is to be determined by the impartial chairman.

### *Sanctions and Penalties Against Union and Employees*

Local unions guilty of violating the terms of their agreements are sometimes subject to disciplinary action by the national union. Provision for such action, however, is usually made in union constitutions rather than in collective bargaining agreements. Fines and penalties for union violation of the agreement usually apply specifically to the "no-strike" clause. A monetary fine may be levied, or the employer may be allowed to cancel the union-security or check-off provisions of the agreement or to stop the processing of grievances.

Individual employees who violate the agreement may be subject to disciplinary action by the company, the union, or both. Serious or frequent violations usually lead to discharge, but less drastic methods of discipline may be applied for first offense or minor violations. Union investigation or consent is sometimes required prior to discharge for violation of the agreement, and usually such discharges may be reviewed through the grievance procedure.

Some agreements require the union to discipline its members for violation of the agreement, and in some cases, expulsion from the union is required. Occasionally, the union agrees to assist the employer in obtaining replacements for workers who violate the agreement.

#### *72. Employee Subject to Disciplinary Action for Violation of Agreement*

Any employee violating any term of this agreement shall be subject to disciplinary action.

#### *73. Discipline and Discharge Penalty for Violation Includes Advocating Violation. Penalty Reviewable Through Grievance Procedure*

It is further mutually agreed that any employee who purposely violates or openly advocates the violation of this agreement shall upon first offense be promptly disciplined by the company and upon second offense shall be discharged by the company. Differences of opinion or question of fact arising under this paragraph shall be settled as provided in the grievance section of this agreement.

#### *74. Employee Disciplined by Company, Union, or Both for Violation of Agreement*

Any employee who violates any provision of this agreement shall be subject to disciplinary action by the company or the union, or by both.

**75. *Investigation by Company and Union Prior to Discharge for Violation of Agreement***

Employees who disturb the terms and relationship of this agreement and are reported to the officials of the companies or the shop committee of the local union, shall not be retained in the employ of the companies if found guilty of the offense, after careful investigation conducted by the officials of the companies and the shop committee of the local union.

**76. *Union To Discipline Members for Violation of Agreement***

The union agrees to discipline any member of the union who in any way violates this agreement.

**77. *Rights To Discipline Members for Violation of Agreement Vested Exclusively in Union***

The union reserves the right to discipline or penalize any member for violation of any part of this agreement, or other rules of the union, without interference on the part of the employer in any way.

**78. *Union Discipline of Members Violating Agreement Reviewable by Arbitration Committee***

The union agrees to discipline to the satisfaction of the arbitration committee any of its members who has or have been found by the arbitration committee to have been guilty of a violation of this agreement.

**79. *Union To Discipline Its Members Violating Agreement; Employers' Association To Discipline Member Companies***

Any person found guilty of violating this agreement shall be penalized by his own organization. Employers shall be disciplined by the employers association, and clerks shall be disciplined by the \_\_\_\_\_ union.

**80. *Union To Discipline Its Members; Company To Discipline Nonunion Members. Disputes Arbitrable***

The parties hereto agree that no worker or group of workers shall have the right to waive or modify any of the terms of this agreement.

The company agrees to discipline any employee, not a member of the union, who violates this agreement.

The union agrees that when a violation of this agreement by any of its members is established to the satisfaction of the union, the union will discipline such employee.

In the event the union suspends a member, the company agrees it will not continue in its employ any such employee during the period of suspension.

Any dispute that arises out of this provision shall be subject to arbitration as herein provided.

**81. *Association Agreement: Each Party Disciplines Own Members; Discipline Reported to Joint Committee***

Any member of an association and/or chapter, or the council and/or local union, who violates this agreement shall be disciplined by his respective organization (each may assess and provide for payment of damages by reason of violations) and such discipline shall be reported to the local joint committee of the territory where the violation occurred. As part of such discipline, each may suspend any rights that such violator may have under such agreement and may require him to surrender for the period of suspension any card or cards that may have been issued to him under or in connection with this agreement.

**82. *Expulsion From Union and Discharge From Employment***

Any employee or group of employees, who violates this contract or any of its provisions shall be expelled from the union and its membership and if an employee of the firm, shall be discharged from its employment.

**83. *International and Local Unions To Assist Employer in Obtaining Replacements for Employees Who Violate Agreement***

The [international union] and the local union No. \_\_\_\_\_, do hereby agree to assist the employer in procuring competent workmen to fill the places of any employees who violate and refuse to abide by this rule and agreement.

**84. *Local Union Denied Official Recognition and Assistance by Parent Body Until It Has Complied With Arbitration Decision Regarding Contract Violation***

Likewise, in the event of a violation of any part of this agreement by a local union, such violation will be immediately brought before the central adjustment board, provided herein, and the ruling handed down by such board, shall be final and binding upon the parties. If such local union refuses to abide by the ruling handed down, it shall then be necessary to immediately recommend to the American Federation of Labor that the local union shall not receive official recognition from the American Federation of Labor and the \_\_\_\_\_ State [union] council, and thereby prevent that local union from receiving any assistance from those bodies until such time as the local union agrees to comply with the ruling handed down by the central adjustment board.

**85. *Employer Permitted To Procure Merchandise From Other Mills If Union Violates Agreement***

In case any branch, body, or local of the union should fail or refuse to live up to the union's obligation hereunder, the member mill affected thereby, in addition to any other remedies it may have hereunder, shall have the right to procure by purchase or otherwise merchandise from outside union or non-union mills, provided that in case of any such failure or refusal the union shall first be notified and failing to correct the condition within 5 days, the right of the member to procure merchandise as above stated shall become effective and shall continue during the existence of such conditions. Whenever such purchases will be made the union will be furnished with a statement of the quantities so purchased.

***Protection Against Liability for Contract Violation***

After the enactment of the Labor Management Relations Act of 1947, some unions attempted to minimize the effect of the damage-suit provisions of the act by insisting on contract clauses which either exempt them completely from suits or limit their liability thereunder. Generally, such clauses take the form of mutual pledges not to take disputes to the courts or governmental agencies for settlement and they usually include an affirmation of the parties' intention to settle all differences by negotiation or arbitration.

Other agreements do not waive entirely the right of appeal to the courts, but specify certain restrictions, such as prohibition of

suits for money damages; or a limitation on the amount of money damages; or a restriction of court appeal to cases involving refusal to submit to arbitration or to comply with the arbitration award.

The Labor Management Relations Act of 1947 specifically provides that in determining whether either party is responsible for the acts of its "agents," the question of whether the acts were actually authorized or later ratified is not controlling. A few agreements, however, require strict proof of authorization or ratification before the company or union can be held responsible for the acts of its agents. Because the international as well as the local union may be held responsible under the local contract, some clauses limit the parent union's responsibility or state that the local union is solely accountable for any payment resulting from alleged breaches of the contract. Some agreements, on the other hand, require that the employer and the union shall assume full responsibility for the actions of their officers and representatives. They state that violations of the agreement by their respective agents are to be considered violations by the employer or union involved. Designation of the union's or company's "agents" in this connection is sometimes provided.

Agreements covering employers' associations sometimes specify that breach of the agreement by any one member of the association shall not subject to liability other members of the association or the association itself.

*86. Neither Party To Resort to Court or Governmental Agency*

In consideration of this national agreement, the union agrees not to sue the company, its officers, or representatives, and the company agrees not to sue the union, its officers, agents, or members, for any labor matters, in any court of law or equity, and neither party will institute any proceeding before any Government administrative board or agency for any act or omission of the other party or its agents or representatives, which occurs during the life of this national agreement.

*87. Grievances To Be Settled by Arbitration Rather Than Court Action. Arbitration Board May Not Assess Damages*

It is the intention of both parties to stay away from the courts and to settle all grievances under this contract by arbitration with the award of the arbitration board to be final and binding. The arbitration board shall not assess damages against either party.

*88. Neither Party To Resort to Court Except To Compel Arbitration or To Enforce Arbitration Award*

The parties further agree that the machinery provided herein for the adjustment of disputes shall be the exclusive means for the determination of such disputes, complaints and grievances and that neither one of them shall institute any proceedings in a court of law or equity other than to compel arbitration as therein provided, or to enforce an arbitrator's award rendered

hereunder. This provision shall be a complete defense in any action instituted contrary to this agreement.

**89. *Resort to Litigation Grounds for Terminating Agreement***

It is specifically understood and agreed that the procedures and forum provided herein for the resolution of any disagreement or differences between the parties shall be the sole and exclusive remedy available to the parties for the disposition of such disagreements or differences, or for any breaches or alleged breaches or violations or alleged violations of the within collective agreement. In the event that any party to this agreement institutes any litigation (other than to compel arbitration or to confirm any award rendered by an arbitrator under the arbitration provisions hereof) then the other party shall have the right, upon 5 days' notice, to terminate this agreement as to such party instituting such litigation.

**90. *Neither Party Subject to Court Suit for Incident Leading to Grievance or Settlement of Grievance***

Neither an incident which leads to a grievance nor the settlement of a grievance shall be considered a breach of the continuing agreement subjecting either party to a suit in the courts but shall be finally and exclusively disposed of as provided in this article.

**91. *Employer Waives Right of Action Against Union Where Violation Involves Less Than Majority of Union Members***

It is further agreed that the company shall not avail itself of the right under title III, section 301 of the Labor Management Relations Act of 1947 to bring action against the union for violation of the within union agreement, except in those instances where the violation of which the company complains is participated in or is approved by a majority of the members of the union, and in such instances the within provision shall not apply. It is mutually agreed that if less than a majority of the union members participate in causing or are in any way involved in the violation of the within agreement, the company may, at its option take any disciplinary action it may select against the employee so participating in causing or in any manner involved in such violation, and the union hereby waives any objection it may or could have to such disciplinary action and agrees to and does hereby approve any action so taken by the company.

**92. *Union Relieved of Liability for Money Damages for Breach of Contract***

Without limiting any other remedies the employer may have available, the employers agree not to institute suit for money damages against the union for breach of any of the foregoing provisions.

**93. *Damages for Breach of Contract Limited to Specified Amount***

In the event of a breach of this agreement on the part of either party hereto, not more than one hundred dollars (\$100) shall constitute the total damages for such a breach. Any and all disputes, stoppages, suspensions of work, any and all claims, demands, or actions resulting therefrom, shall be settled as provided in section 3 of this agreement. The decision of the arbitrators shall be final and binding, and the total damages shall not exceed one hundred dollars (\$100), provided, however, that such limitation shall not be on claim for wages.

**94. *International Union Not Subject to Liability***

It is understood and agreed that the [international union], with which Dis-

trict Council No. \_\_\_\_\_ is affiliated, is not a party of this trade agreement or to the agreement and declaration of trust above referred to, and said [international union] in no way accepts any liabilities or obligations under this trade agreement or under the agreement and declaration of trust above referred to.

95. *Local Union Solely Liable for Contract Violation; International Union Approval Limited Solely to Form of Contract*

This contract is approved by the office of the general president as to form only as provided in the constitution. All financial liability for claimed violations of this contract is limited solely to the responsibility of the local union involved and not assumed by any other subdivision or general office of the international union. This conditional approval forms part of this contract.

96. *Responsibility for Enforcement and Contract Compliance Rests Exclusively With Joint Board, Not With International Union, Though Latter is Signatory to Contract*

The international is a signatory to this agreement to denote its approval of the provisions herein contained, negotiated by its affiliate, the joint board of \_\_\_\_\_ union, with the association and because it is keenly interested that these provisions be fully complied with and faithfully observed. However, the responsibility for the administration and enforcement of and compliance with this agreement on behalf of the workers in the crafts enumerated herein rests exclusively with the joint board so long as it continues to be an affiliate of and in good standing with the international. The joint board is a delegated body of duly elected representatives of all local unions chartered by the international in the \_\_\_\_\_ industry in the metropolitan district, whose function it is to transact the business of common interest to the said locals, including the negotiation, administration, and enforcement of and compliance with the collective agreements in the industry. Because the joint board is, in the true sense, the bargaining agent of the workers covered by this agreement, it is invariably designated hereafter as the "union."

97. *Breach of Agreement by Member of Employers' Association Does Not Subject Other Members to Liability*

Although this agreement is entered into between \* \* \* association as representing its membership, it is understood and agreed, between both parties that a breach of this agreement by any manufacturer shall not be considered as a breach by any other manufacturer and no liability or responsibility shall attach to any manufacturer except the manufacturer breaching this contract.

98. *Neither Party Liable for Acts of Agent Unless Authorization or Ratification Is Proved*

Should any violation of this agreement, or any article, section, subsection, clause, phrase, or part hereof be alleged, in determining whether any person is acting as an "agent" of another person, so as to make such other person responsible for his acts, such as the company or the union, in order to support such allegation in any arbitration, court action, or other litigation, the question of whether the specific acts were actually authorized or subsequently ratified shall be controlling, and strict proof thereof required.

99. *Designation of Specific Individual as Sole Agent Authorized to Represent Union*

It is hereby agreed that [name of individual] shall be deemed to be the sole agent authorized by the union to deal with the employer concerning matters with regard to or affecting the collective agreement, and the union reserves the right to substitute said agent or add additional agents provided it does so in a writing addressed to the employer, but no one shall be deemed an agent of the union unless so designated by the union in writing.

100. *Only Persons Designated by Union in Writing May Act as Agents for Union*

It is understood and agreed that only the officers of representatives of the union are authorized to act as agents of the union in the administration of this agreement and in dealing with and determining any questions which may arise thereunder, or in the relations between the employer and the union.

However, the right is reserved to the union (and the employer consents) to substitute a different agent or agents or add new agents at any time during the life of this agreement by serving upon the employer a notice in writing of such change in the agents of the union. No one shall be deemed an agent unless designated as such by the union in writing. Neither the shop chairman or any shop committee shall be deemed or construed to be an agent of the union unless designated in writing as such agent.

101. *Listing of Agents Authorized to Represent Union and Employer*

It is hereby agreed and understood that the following persons for the purpose of performing the terms of this agreement shall be deemed the authorized agents of the respective parties.

(1) Duly authorized agents of the union shall be:

(a) Business agent of the local union.

(b) President of the local union where the local union has no full time paid business agent.

(c) Any other person specifically authorized by the international union whose identity and scope of authority is made known to the employer by written communication from the international union.

(2) Duly authorized agents of the employer shall be:

(a) The manager and/or superintendent of the plant.

(b) Supervisors.

(c) Foremen.

(3) Any other person authorized by the employer to act as his agent whose identity and scope of authority has been known to the international union or to the local union by written communication from said employer.

102. *Local Union Not Authorized To Act as Agent of International Union*

It is agreed that the union, party to this agreement, acts on its own behalf, and is not acting or authorized to act as agent of or for the international [union].

103. *Shop Chairman or Shop Committee Not Authorized To Act as Union Agents*

Neither the shop chairman nor any shop committee or group of workers are authorized to cause or engage in any unauthorized strike, slow-down or stoppage or order the discharge of any worker nor are they for any purposes whatever to be deemed agent for or authorized to act for the union. Neither

the shop committee, shop chairman nor any group of workers are authorized to waive or modify any of the provisions of this agreement.

104. *Company and Union Assume Full Responsibility for Acts of Their Authorized Representatives*

The union assumes full responsibility for the acts of its authorized representatives and guarantees full and complete performance of this agreement. The company on its part guarantees the full and complete acts of its officers and authorized representatives in connection with this agreement.

*Effect of Company and Union Rules on Agreement*

Although working conditions are governed in most respects by the terms of the agreement, they may be affected by the company's plant or shop rules and by union rules, bylaws, and constitutional provisions.

Agreements generally do not incorporate detailed lists of company rules, but usually recognize management's right to make such rules, provided they do not conflict with the agreement. In some cases, rule changes must be discussed and agreed upon with the union before they are established. In others, rules may be initiated without prior discussion with the union, but are subject to protest through the grievance procedure. (See Bulletin 908-12, *Union and Management Functions, Rights, and Responsibilities*, for additional clauses on company rules.)

In a few instances, agreements may not be construed or applied in such a manner as to conflict with the national union constitution, but more frequently the union is prohibited from adopting rules, bylaws, or constitutional provisions which conflict with the agreement.

To assure uniform treatment of all employees in the bargaining unit, contracts sometimes prohibit individual agreements or arrangements between the management and employees, if such agreements conflict with the terms of the collective bargaining contract.

105. *Company Rules To Be Consistent With Contract*

The standard rules and regulations of the company shall continue in full force and effect; and the company shall have the right to amend such rules and regulations and make further rules and regulations, providing such rules and regulations, amendments, and further rules and regulations are not contrary to the terms of this agreement.

106. *Employees To Observe Company Rules Not Inconsistent With Agreement*

The employer may continue, and may from time to time make, such rules and regulations as it may deem necessary and proper for the conduct of its business, provided that the same are not inconsistent with any of the express provisions of this agreement. Union members shall observe such rules and regulations.

107. *Prior Discussion With Union on Rules Changes Affecting Agreement*

Any changes in the company rules now in existence that affect any matters or items that are the subject of this contract shall be discussed with the union and agreed upon before they are put into effect.

108. *Rule Changes Subject To Protest Through Grievance Procedure*

The members of the union, while working for the company, shall be governed by the safety and other rules outlined in printed booklet titled, "Information for Employees," which is published and distributed to all employees by the company, and such other rules not in violation of this agreement as may be adopted by the company and published to employees on bulletin boards or by general distribution. Any new rule established shall not be effective until seven calendar days after publication and any such established rule will be subject to discussion and adjustment in the same manner as outlined herein for settlement of grievances.

109. *Union Not To Adopt Rules Conflicting With Agreement*

It is understood and agreed by the parties to this agreement that no individual local or group of locals shall at any time during the life of this agreement enact any bylaw, resolution, rule, or regulation which shall in any way conflict with the terms of this agreement.

110. *Local Union Bylaws Amended To Conform With Agreement*

Where the bylaws of a local union signatory hereto, conflict with the stipulation of this agreement, it is agreed that those sections of the bylaws will be amended to conform with this agreement.

111. *Agreement Not To Abridge International Union Constitution or Employers' Association Bylaws*

The terms of this agreement shall not be interpreted to abridge any of the constitution and laws of the [international union] and bylaws of the [employers' association].

112. *General Laws of International Union To Govern on Matters Not Specifically Covered by Contract*

It is understood and agreed that the general laws of the [international union], in effect January 1, 1948, not in conflict with law or this contract, shall govern relations between the parties on conditions not specifically enumerated herein.

113. *Neither Party To Adopt Articles of Incorporation, Constitution, or Bylaws Impeding Performance of Agreement*

Each of the parties hereto warrants and agrees that it is under no disability of any kind, whether arising out of the provisions of its articles of incorporation, constitution, bylaws, or otherwise, that will prevent it from fully and completely carrying out and performing each and all of the terms and conditions of this agreement, and further that it will not by the adoption or amendment of any provision of its articles of incorporation, constitution or bylaws, or by contract or by any means whatsoever, take any action that will prevent or impede it in the full and complete performance of each and every term and condition hereof.

114. *Interpretation Issued by Either Party Not Binding Unless Mutually Agreed to*

It is understood that any interpretation issued by either party signatory

to this agreement will not be considered as binding on the other party unless mutually agreed to between the parties hereto.

*115. Employer Not To Ask Employees To Make Commitments Conflicting With Agreement*

The company agrees that no employee will be required or asked to make any verbal or written contract which conflicts with this agreement.

*116. Prohibition of Individual Arrangements Conflicting With Agreement*

No individual, group, department, or division in this bargaining unit shall change any part or deviate in any manner from the terms of this agreement between the union and the company, nor shall individual arrangements be made covering any part or all of this agreement contrary to the terms thereof, \* \* \*.

*117. Termination of Individual Contracts Conflicting With Agreement*

All individual contracts of employment between the employer and employees covered by this agreement are hereby terminated to the extent that such contracts are in conflict with any term or provision of this agreement.

### *Effect of Legislative and Judicial Action*

Like other contracts, collective bargaining agreements must conform to existing State and Federal Law and are often affected by court decisions, administrative regulations, and executive orders. Certain sections of a particular agreement may be found to be unenforceable or even illegal. Some agreements therefore specifically provide that the invalidity of certain provisions shall not affect the continued effectiveness and enforceability of the valid provisions. Some agreements further state that provisions conflicting with the law will be reopened for negotiation or that the agreement will be considered automatically amended to conform to the law.

Agreements negotiated subsequent to passage of the Labor Management Relations Act sometimes specify that provisions invalidated by the Act will be automatically reinstated in the agreement if the law is amended in such a manner that reinstatement is possible.

*118. Illegality of Any Provision Not To Affect Remainder of Agreement*

In the event that any of the provisions of this agreement shall be or become legally invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of the provisions hereof \* \* \*.

*119. Federal or State Legislation Invalidating Part of Agreement Does Not Affect Remainder*

If any provision of this agreement shall become invalid due to Federal or State legislation now, or hereafter effective, the remainder of this agreement shall not be affected thereby.

*120. Court Decision Invalidating Part of Agreement Does Not Affect Remainder*

Should any part hereof or any provision herein contained be rendered or

declared illegal by reason of any existing or subsequently enacted legislation or by a decree of a court of competent jurisdiction or an unfair labor practice by final decision of the Labor Relations Board, such invalidation of such part or portion of this agreement shall not invalidate the remaining portions hereof. Nothing herein shall be construed to impair or abridge the right of either party hereto to appeal the court decrees or decision of National Labor Relations Board.

*121. Cancellation of Agreement Provisions Conflicting With Law*

This agreement shall be superseded by any legal regulation which is now in effect or may be imposed by any governmental agency to the extent that such regulation is in conflict with any of the terms and provisions of this agreement.

*122. Agreement Provisions Conflicting With Law Reopened for Negotiation*

It is mutually agreed that if the adoption or amendment of any State or Federal law conflicts with or is contrary to any of the provisions of this agreement, negotiations will be opened to make necessary adjustments, but the negotiations will be confined to changes to comply with the new or amended law.

*123. Agreement Provisions Conflicting With Law Suspended As Long As Conflict Exists*

Any provision in this agreement which is in conflict with any law, Executive order, or governmental regulation, order, or request now or hereafter in existence, shall be suspended so long as such conflict exists.

*124. Arbitrator May Suspend Provision Violating National Labor Relations Act*

Should any provision of this agreement violate the National Labor Relations Act, the arbitrator shall have the power to suspend the operation of such provision. If for any reason a provision of the agreement is suspended or becomes invalid, the remaining provisions shall remain in full force and effect for the duration of the agreement.

*125. Agreement Automatically Amended To Conform To Any Conflicting Law*

Both parties recognize and agree to comply with all Federal and State laws to which they are subject, and mutually agree that if any law or regulation of the Federal Government or the State of \_\_\_\_\_ conflicts with the terms of this agreement, then the terms of this agreement shall be automatically amended to conform thereto.

*126. Agreement Automatically Amended To Include Any Liberalization of Union Shop Restrictions of Labor Management Relations Act*

Any liberalization from the union's point of view which may be made in the union shop provision as defined in the Labor Management Relations Act, either by Congressional amendment or judicial decision, shall be adopted by the parties and made a part of this agreement.

*127. Provision Conflicting With Labor Management Relations Act Deemed Modified To Extent Most Favorable to Union; Original Clause Reinstated When No Longer in Conflict With Act*

If any provision of this agreement shall, at any time during the term thereof, conflict with the Labor Management Relations Act, 1947, or said Act as same may be amended, then such provision shall be deemed modified to continue in

effect to the extent (most favorable to the union) permitted by the applicable rule. However, if at any time thereafter such provision shall no longer conflict with the law, then it shall be deemed restored to the agreement with the same force and effect as if it had never been in conflict with the law.

**128. *Where Portion of Agreement Jeopardized by Legislation, Neither Party To Take Action Until Joint Conference Board Has Ruled on Matter***

It is not the intent of either party to violate any laws coming in conflict with the terms of this agreement, and since this agreement is being negotiated for all of the work as covered by the terms of this agreement, and since the parties believe that this agreement is not in conflict with any of the present existing legislation on intrastate work but may be in conflict in some respects on interstate work, if a dispute arises which would in the operation of the administration of the agreement cause any portion of the agreement to be judged in conflict with any present legislation on interstate work, no action shall be taken by either party which will place that portion of the agreement in jeopardy until such time as this matter has been ruled on by the joint conference board.

**129. *Enforcement of Agreement Governed by State Law***

The interpretation and enforcement of this agreement shall be governed by the laws of the State of New York.



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