

R15-41-12

Need Not Be Returned to Conciliation

CONFIDENTIAL AGREEMENT

U. Retail # 543
St. Louis, Mo.
199.3732
5-1-41
St. Louis, Mo.

THIS AGREEMENT is made and entered into as of the 1st day of May, 1939, by and between SHAPLEIGH HARDWARE COMPANY, a corporation under the laws of the State of Missouri, hereinafter referred to as "Company," and UNITED WAREHOUSE EMPLOYEES, LOCAL NO. 543, or its successor, chartered by the UNITED RETAIL AND WHOLESALE EMPLOYEES OF AMERICA, affiliated with the CONGRESS OF INDUSTRIAL ORGANIZATIONS, hereinafter referred to as "Union," for the purpose of establishing rates of pay, wages, hours of employment, and other conditions of employment to be observed between the parties hereto.

ARTICLE I - RECOGNITION

SECTION 1. The Company recognizes the Union, its agents, representatives or successors, as the exclusive collective bargaining agency for all of the employees of the Production Department of the Company.

SECTION 2. The Company furthermore agrees that it will not sponsor or promote, financially or otherwise, any group or labor organization for the purpose of undermining the Union; nor will it interfere with, restrain, coerce, discriminate against, or in any way dominate or influence, directly or indirectly, any of its employees in connection with their membership in the Union. The Company also agrees that it will not bargain collectively with any labor organization or group, other than the Union, during the life of this agreement.

SECTION 3. The Company and the Union furthermore agree that those employees who now belong to the Union and those who may hereafter join the Union shall, during the term of this contract, maintain their Union membership in good standing; provided, however, that this provision shall apply only to those employees who, in response to a letter from the Company in the form hereinafter set forth, shall voluntarily indicate in writing their agreement to have their Union membership in good standing as a condition of their continued employment during the remaining term of this contract. The Company, however, shall not be required to discharge any employee who has been suspended or expelled from Union membership.

LETTER TO BE SENT TO EMPLOYEES

TO EMPLOYEES OF THE PRODUCTION DEPARTMENT OF SHAPLEIGH HARDWARE COMPANY:

Section 3 of Article I of the contract between the Company and the Employees of the Production Department reads as follows:

"Section 3. The Company and the Union furthermore agree that those employees who now belong to the Union and those who may hereafter join the Union shall, during the term of this contract, maintain their Union membership in good standing; provided, however, that this provision shall apply only to those employees who, in response to a letter from the Company in the form hereinafter set forth, shall voluntarily indicate in writing their agreement to have their Union membership in good standing as a condition to their continued employment during the remaining term of this contract. The Company, however, shall not be required to discharge any employee who has been suspended or expelled from Union membership."

Under the terms of the foregoing provisions employees

A G R E E M E N T

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LETTER TO BE SENT TO EMPLOYEES

TO EMPLOYEES OF THE PRODUCTION
DEPARTMENT OF SHAPLEIGH HARDWARE
COMPANY:

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Under the terms of the foregoing provisions employees

who are now members of the Union or who may later join the Union and who desire to have this section apply to them shall during the period of the contract be required to maintain their Union membership in good standing as a condition to continued employment by the Company. All such employees are to certify in writing on the attached form to their desire to have this provision apply to them, and the attached form has been prepared for use in this connection. All employees who wish to have Section 3 of Article I apply to them should sign this form and return the same in the enclosed stamped envelop as soon as possible.

Very truly yours,

SHAPLEIGH HARDWARE COMPANY

By W. G. Yantis
President

EMPLOYEE'S REQUEST

St. Louis, Missouri

_____, 1939

Shapleigh Hardware Company,
4th and Washington Avenue,
St. Louis, Missouri

Dear Sirs:

This is to certify that I desire to have Section 3 of Article I of the contract between the Company and the employees in its Production Department apply to me.

Very truly yours,

The foregoing letter shall be accompanied by a stamped return envelop addressed to the Company at a Post Office Box accessible jointly to a representative of the Company and a representative of the Union. Requests from employees shall be opened only in the presence of both representatives of the Union and the Company, whereupon the names of those who have indicated their desire in the foregoing manner, to have Section 3 of Article I of this contract apply to them, shall be listed in an appropriate instrument in writing which shall be executed in duplicate by both the Company and the Union; and thereupon all such requests received from employees shall be delivered to the Union to be retained by it. Similar requests received from employees from time to time hereafter shall be handled and evidenced in the same manner.

SECTION 4. Department Supervisors, Watchmen, Maintenance Men, Clerical, Office, and Gun Shop Employees, Foremen, Assistant Foremen not to exceed seven (7) in number designated as such by the Company and any other employees employed in solely supervisory, sales, or executive capacities are excluded from the provisions of this agreement; and wherever the term "Employee" or "Employees is used in this agreement, it shall be construed to refer only to the employees of the Production Department of the Company other than those herein exempted. Edward C. Mueller and William Silhavy, or any employees who may hereafter do that work which is now performed by either or both of them, shall be included as member of this bargaining unit.

SECTION 5. The Union agrees not to intimidate or coerce employees into membership in said Union, and agrees that there shall be no solicitation of members to join said Union, nor any Union meetings, or other Union activities held or carried on either on the Company's premises or the Company's time; it being understood that the collection of Union dues and other incidental

Union activities which do not interfere with the operation of the business shall be permitted on the Company's premises; and any violation hereof shall be justifiable cause for immediate discharge of the offending employee or employees.

ARTICLE II - MANAGEMENT

Except only as hereinafter specifically provided, the management of the Company's business and the direction of the working forces including the right to hire, suspend, or discharge for proper cause, or to transfer, and the right to relieve employees from duty because of lack of work, or for other legitimate reasons, together with the right to engage the services of the new employees not theretofore employed by the Company when in the exclusive judgment of the Company, no one is qualified for such employment among the then existing employees of the Company, are all vested exclusively in the Company and its directors, officers, and supervisory employees; provided, however, that none of the powers herein reserved to the Company shall be used for purposes of discrimination against any members of the Union.

ARTICLE III - SENIORITY

SECTION 1. The Company agrees to apply seniority, as herein defined, so far as practicable in all cases of promotion or increase or decrease in the force of employees. Seniority, as herein used, shall take into consideration -

- (a) Length of service of an employee from the date of his or her first employment unless during this period such an employee has been justifiably discharged, has voluntarily quit the service of the Company, or has been absent from service through lay-off for a period of at least one year, hereinafter termed "length of continuous service."
- (b) Knowledge of and training in the hardware business and efficiency in the performance of the employee's duties.
- (c) Physical fitness.

Whenever the seniority factors hereinabove designated as "b" and "c" are relatively equal, factor "a", to wit, length of continuous service, as hereinabove defined, shall govern. The determination of the aforesaid factors and the qualifications of employees shall be determined exclusively by the Company, subject to the provisions of Section 8 of this article.

SECTION 2. In applying seniority, as herein defined, the Company agrees that it will make every fair and reasonable effort to apply the same on a plant-wide basis in the Production Department, reserving, however, to the Company the exclusive right and power to determine whether such application of seniority is practicable or feasible and if, in the judgment of the Company, the application of seniority on a plant-wide basis in said Production Department is either not practicable or not feasible, or is likely to be harmful to the Company's best interests, the Company is hereby authorized to deviate therefrom and to substitute in lieu thereof such other action as may be fair and reasonable under the circumstances.

SECTION 3. Any employee promoted or transferred by seniority shall be given a fair trial on the job in question and if, in the judgment of the Company, he or she fails to qualify for such new position, such employee shall be returned to his or her former position.

SECTION 4. Employees serving as members of the Shop Committee of the Union, not exceeding seven (7) in number, shall during such service as shop committeemen have ranking seniority regardless of the actual length of continuous service.

SECTION 5. Any employees elected or appointed as officers or delegates to any labor activity, necessitating a temporary leave of absence, not exceeding in number one (1) for each fifty (50) employees of said Production Department who are members of aforesaid Union, shall be granted one leave of absence without pay during each twelve months' period of this contract not to exceed thirty (30) days each and at the end of such leave of absence shall be re-employed at the same work and with the same seniority rating as when the leave of absence was granted.

SECTION 6. The Company agrees, so far as practicable, to continue to pursue the policy of advancing its present employees by the application of seniority as herein defined before increasing the working force by hiring new employees, provided, however, that the Company reserves at all time the right and power to hire new employees when in the judgment of the Company there are no existing employees qualified by the application of seniority as herein defined to fill such vacancy.

SECTION 7. Without abridging or in any way waiving its right to discharge employees for just cause, the Company nevertheless, agrees that it will, so far as feasible, notify the president of the Union or, in his absence, the vice president of the Union of its intention to discharge any employee and the reason or reasons therefor prior to the effective date of such discharge. In the event it shall be finally decided under the terms of this agreement that an injustice has been dealt the employee with regard to the discharge, the Company shall reinstate such employee and pay full compensation at the employee's regular rate of pay for the time lost less any other compensation he may have earned elsewhere in the interval.

SECTION 8. The provision of Article VII hereof, relating to grievances, shall be applied in the case of any disputes arising under this article.

ARTICLE IV - WAGES

SECTION 1. Employees shall receive an increase of ten per cent (10%) in the wages now being paid to them effective from and after the first day of May, 1939.

SECTION 2. Employees shall from and after the first day of May, 1939, receive for forty (40) hours of work per week the minimum weekly wages hereinafter specified for the type of work performed by said employees respectively:

- (a) Those employees who are employed as Substituters, Receiving Clerks, Stock Counters, Hearbacks, Packers, Order Clerks, and Shipping Room Checkers, shall be paid not less than Twenty Dollars (\$20) Weekly
- (b) Those employees who are employed as Billworkers, Stockmen, Elevatormen, and Truckers shall be paid not less than Seventeen Dollars (\$17) weekly.
- (c) Female employees shall be paid not less than Fifteen Dollars (\$15) weekly.
- (d) Errand boys shall be paid not less than Thirteen Dollars (\$13) weekly.
- (e) The foregoing schedule of minimum weekly wages shall not apply to newly hired employees during the first six (6) months of their employment, it being agreed that during such period of six (6) months the minimum weekly wages of each such newly hired employees shall be an amount Two Dollars (\$2) less per week than the minimum weekly wages hereinabove specified for work of the type performed by such newly hired employee; and if said newly hired employee

continues in the employ of the Company after the expiration of such period of six (6) months, such newly hired employee shall thereafter be entitled to receive minimum weekly wages in accordance with the foregoing schedule. Said six (6) months' period shall be computed from the most recent date when said employee was hired but absence from duty for temporary periods at the order of the Company (commonly termed "lay-off") shall not interrupt said period of six (6) months.

(f) From and after the effective date of this agreement the Company shall not be obligated to pay any bonus as heretofore. (This provision refers to the premium system abandoned in 1937)

(g) The wages of all employees to whom this agreement applies shall henceforth be paid weekly.

(h) In the case of all persons in the employ of the Company as of May 1, 1939, the differentials between the various classifications as above provided shall be maintained after having given effect to the ten per cent (10%) wage increase hereinabove specified.

ARTICLE V - HOURS OF WORK

SECTION 1. It is agreed that the standard work day shall comprise eight (8) hours and the standard work week shall contain forty (40) hours and the work week shall begin on Monday and end with Friday except as hereinafter provided; it being understood, however, that the Company through its representatives, in cooperation with a committee from the Union, will make every effort to establish a uniform work day and work week for all employees in so far as the same may be practicable, and when established the same shall be added to this contract by a supplemental agreement.

SECTION 2. The Company may require employees to work eight and one-half (8½) hours on Friday of any week or on any day preceding a holiday without additional pay of overtime on account of such extra half hour, provided allowance for the additional half hour is made by decreasing to the extent of one-half (1/2) hour any eight (8) hour day in the following week which may be selected by the Company.

SECTION 3. Should a holiday or the observance of a holiday occur during the work week on which day employees have not been required to work, the Company may require its employees to work not to exceed eight (8) hours on the next succeeding Saturday, and for the work done on such next succeeding Saturday the employees shall be paid at their regular rate of pay as specified in Article IV hereof for the number of hours work done on such Saturday.

SECTION 4. The following days shall be recognized as holidays: New Year's Day, Decoration Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

SECTION 5. Except as provided in Sections 2 and 3 of this Article V, all work in excess of eight (8) hours in any one day or in excess of forty (40) hours in any one week shall be considered overtime and shall be paid for at the rate of time and one-half for such overtime. Work done on any of the aforesaid six (6) holidays or work done on Sundays shall entitle the employee performing such work to receive double time therefor. The normal rate of an employee's wages shall be determined by dividing forty (40) hours in to the weekly wages of each employee; and one and one half times the amount so determined shall constitute the rate of overtime; and twice the amount so determined shall constitute the rate of double time.

SECTION 6. The Company shall be entitled to lay off any employee on any designated day or for a period of consecutive days

if the Company shall have given notice to such employee at any time during the day preceding the day or days on which it intends to lay off said employee. Wages shall not be decrease because of holidays occurring during the week but shall be decreased ratably because of absence on account of illness, or whenever by reason of any Act of God, or for any other reason whatsoever, beyond the control of the Company, the operation of the Company's business is prevented, in which event no notice shall be required from the Company.

SECTION 7. If the employee personnel shall be inadequate to handle the Company's volume of business within regular working hours as hereinabove defined, the Company may in its sole discretion (after returning to work all employees laid off who are qualified for such work) employ additional employees and require them to work at a different shift or during different hours than those during which its regular employees are engaged even though this may require work at night; it being understood and agreed that any employees comprised in any such additional shifts shall be subject to all the provisions hereof as to rates of pay and hours of work insofar as they constitute employees of the Company to whom this agreement applies as defined in Section 4 of Article I hereof.

ARTICLE VI - VACATIONS

SECTION 1. Employees who have been in the service of the Company continuously for at least one (1) year prior to the first day of January of any calendar year shall be allowed a vacation of one (1) week with pay during the next succeeding calendar year commencing with the calendar year 1939. The Company shall arrange a schedule of vacations for employees according to the anticipated volume of work, and shall notify each employee of the dates of his or her vacation insofar as possible at least four (4) weeks in advance of the starting time of such vacation; reserving; however, to the Company the right to make changes in the dates of any of said vacations, or to give shorter notice of vacations as the necessities of the business may require.

SECTION 2. Employees who leave the service of the Company of their own volition, and employees who are discharged, before the date of their vacation period, shall forfeit all rights to vacation pay. Absence from duty for less than eight (8) weeks at the order of the Company (commonly termed "lay off") shall not be construed to interrupt the continuous service of the employees.

ARTICLE VII - GRIEVANCES

SECTION 1. Any employee or group of employees who consider that they have a grievance arising out of the meaning or application of any of the provisions of this agreement shall make an earnest effort to settle the same immediately (after working hours) in the following manner:

- (a) The aggrieved employee or employees shall first take up the matter with the Foreman or other person in charge of the department in which such aggrieved employee or employees are then employed.
- (b) If the matter be not adjusted pursuant to the provisions of subdivision "a" hereof, the matter shall be taken up with the House Manager, and said aggrieved employee or employees shall then be entitled to be represented by a member of the Union's Shop Committee if desired.
- (c) If the procedure specified in subdivisions "a" and "b" hereof has not resulted in an adjustment, the matter shall then be taken up with the executive committee of the Board of Directors of the Company, said aggrieved employee or employees to again

have the privilege of being represented by a member of the Union's Shop Committee if desired.

- (d) If the procedure specified in subdivisions "a", "b", and "c" hereof has not resulted in the adjustment of the matter in dispute, then an earnest effort shall be made to adjust the matter between a representative or representatives of the Union and a representative or representatives of the Company.
- (e) If no agreement has been reached pursuant to the procedure specified in subdivisions "a", "b", "c", and "d" hereof, the Company and the Union agree to submit the matter to arbitration and to accept the decision of the majority of an Arbitration Board consisting of one member selected by the Company and one member selected by the Union and the third selected by the two members nominated as above; all expenses of the Arbitration Board to be borne equally by the Company and the Union; provided, however, that arbitration shall be resorted to only for the settlement of such grievances as come within the scope of this Article VII and shall not include the establishment of rates of pay, wages, hours of employment and other conditions of employment to be observed between the parties hereto which are recognized as basic subjects of collective bargaining.
- (f) The Union Shop Committee and the Company shall meet regularly after working hours on such dates and at such time as may be agreed upon between them for the presentation of grievances, if any, and for discussion of any other matters that may be brought up.

ARTICLE VIII - MISCELLANEOUS PROVISIONS

SECTION 1. All employees shall be allowed not to exceed seven (7) days sick leave with pay during each of the two annual period covered by this agreement, provided medical or surgical treatment has been required and a doctor's certificate has been presented to the Company.

SECTION 2. It is further agreed that Foremen shall be permitted to do production work in their respective departments during emergencies, it being understood that the existence of the emergency shall be subject to agreement between the Foremen of the department and the Union's Shop Steward and Shop Committeeman.

SECTION 3. The Union shall have the right to post union notices on the Company's bulletin boards, located in the Production Department locker rooms, subject to the Company's approval of the subject to the Company's approval of the subject matter of the notice.

SECTION 4. This agreement shall not have the effect of depriving any employees of any existing benefits or privileges, special awards, or bonuses enjoyed by them at the time of the execution of this agreement.

SECTION 5. Nothing herein contained shall be so construed as to prevent the Company from paying a higher wage to any employee, nor shall any employee have his or her salary reduced because of any of the provisions of this agreement.

SECTION 6. The Company agrees that it will not, directly or indirectly, in any way discriminate against any employee because of his having gone on strike, nor on account of his activity in connection with such strike; and the Union on its part agrees

that there shall be no discrimination of any kind by either the Union or any of its members, directly or indirectly, against those employees who did not go on strike.

ARTICLE IX - STRIKES AND LOCKOUTS

SECTION 1. During the life of this agreement, there shall be no strikes, walkouts, or any activities on the part of the Union or its members which will interfere with the continued normal operation of the Company's business save in the event of a clear breach of this agreement. There shall be no lockout by the Company nor any shutdown save in the event of a clear breach of this agreement or for lack of orders or for inability to secure merchandise or other causes beyond its control; subject to the provisions of the next succeeding article.

ARTICLE X - DURATION

SECTION ; This agreement shall remain in full force and effect for a period of two (2) years from and after the first day of May, 1939, reserving to the Union the right to re-open the question of wages on February 15 of any year during the period of this agreement, and if no agreement can be reached within the following thirty (30) day period, the provisions of Article IX hereof relating to strikes shall not be applicable.

EXECUTED in four copies, all originals, at the City of St. Louis, Missouri, as of the first day of May, 1939.

SHAPLEIGH HARDWARE COMPANY

By W. G. Yantis
President

ATTEST:

L. Mathews Jr.
Secretary

UNITED WAREHOUSE EMPLOYEES, LOCAL
NO. 543

By John O'Malley

Marvin Roy

Arthur Schweniger

Robert Miller

Herman Muenks

S. E. Wheeler

E. H. Oberschelp

Allen Stiller
International Representative

CONGRESS OF INDUSTRIAL ORGANIZATIONS

By Alfred Kojetinsky