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# AGREEMENT

1,600  
workers

between

**METROPOLITAN ASSOCIATION  
OF DOLL, STUFFED TOY  
AND  
PLASTICS MANUFACTURERS, INC.**

and

**AMALGAMATED, INDUSTRIAL  
and  
TOY & NOVELTY WORKERS OF AMERICA,  
LOCAL 223, affiliated with  
INTERNATIONAL UNION OF ALLIED,  
NOVELTY AND  
PRODUCTION WORKERS, AFL-CIO**

July 1, 2006 - June 30, 2009

21 Pages

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ASSOCIATION OF DOLL, STUFFED  
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WORKERS OF AMERICA, LOCAL 223, affiliatec. with  
INTERNATIONAL UNION OF ALLIED, NOVELTY AND  
PRODUCTION WORKERS, AFL-CIO

July 1, 2006-June 30, 2009

[NOTE: Any employee affected by this agreement who does not speak or understand English may apply to the union for translation and explanation of those provisions affecting such employee]

[NOTA: Cualquier empleado cubierto por este acuerdo, que no hable ni entiende Ingles puede aplicar a la union para una traduccion y explicacion de las proviciones. afectando al empleado]

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AGREEMENT made as of the 1st day of July, 2006, by and between METROPOLITAN ASSOCIATION OF DOLL, STUFFED TOY AND PLASTICS MANUFACTURERS, INC. (hereinafter called "Association") and AMALGAMATED, INDUSTRIAL and TOY & NOVELTY WORKERS OF AMERICA, LOCAL 223 (hereinafter called "Union"), affiliated with International Union of Allied, Novelty and Production Workers, AFL-CIO.

## **WITNESSETH**

The Association and the Union declare that the purpose of this agreement is to promote and improve the industrial and economic relations between the employees and their employers who are members of the Association.

NOW, THEREFORE, it is agreed as follows:

### **ARTICLE I THE PARTIES**

1.1 The word "Association" refers to both the Association and its members, unless specifically provided otherwise.

1.2 The word "Union" refers to Amalgamated, Industrial and Toy & Novelty Workers of America, Local 223, in whatever affiliation it might have.

1.3 The term "unit" shall mean all employees of members of the Association employed in all plants of each member, except those employed as executives, supervisors, foremen, guards, watchmen, salesmen, and office clerical, and professional employees who devote less than 20% of their working time to work done by employees in the unit.

1.4 The word "member" except in Article III and the word "company" are used interchangeably herein. Both words shall mean persons, firms, or corporations which are members of the Association and employ employees covered by this contract, or who were members but withdrew or were expelled from the Association during the term of this Agreement.

### **ARTICLE II RECOGNITION**

2.1 The Association recognizes the Union as the sole and exclusive collective bargaining agent for all employees, as defined in paragraph 1.3 hereof, in the unit.

2.2 The Union and all members shall comply with all laws prohibiting discrimination either in the offering of terms and conditions of employment to any person or with regard to the terms and conditions of employment of employees hereunder.

### **ARTICLE III UNION SHOP**

3.1 It shall be a condition of employment that all employees covered by this agreement who are members of the Union in good standing on the execution date of this agreement shall remain members in good standing, and those who are not members on the execution date of this agreement shall on or after the thirtieth day following the execution date of this agreement become and remain members in good standing in the Union. It shall be a condition of employment that all employees covered by this agreement and hired on

or after its execution date shall on or after the thirtieth day following the beginning of such employment become and remain members in good standing in the Union. Since the effective date of this agreement is later than the execution date, the reference to execution date shall be deemed a reference to effective date.

#### **ARTICLE IV** **CHECK-OFF**

4.1 Each member will deduct from its employees' wages the prescribed Union membership dues and initiation fees upon condition that such member has received from each employee on whose account such deduction is made, a written authorization and assignment of such deductions. The amounts checked off shall be promptly remitted to the Union using only the Record of Check-Off Deduction forms supplied by the Union to each member and in no other manner and in no event less frequently than once per month during the term of this agreement. In the event that there is a written authorization and the member fails to check off from the next payroll thereafter or shall check off but fail to remit such checked off dues and/or initiation fees to the Union at the next succeeding date for such remitting, then and in such event the member shall be liable to the Union therefor.

Such deductions shall be checked off currently and may not be made retroactively.

4.2 Whenever an employee quits, is discharged, is laid off, or his employment is otherwise terminated, any of the foregoing amounts will be deducted from the last pay to be made.

4.3 The member's obligation to checkoff shall end upon the employee's termination of employment, transfer from the bargaining unit, or revocation of authorization. The Union assumes full responsibility for all sums turned over to it by the member. The Union hereby indemnifies and holds the member, the Association, its and their officers, directors, agents and employees, harmless from any claims, actions or proceedings by an Employee arising from deductions made by the member hereunder. Once the sums deducted hereunder are remitted to the Union, their disposition shall be the sole and exclusive responsibility of the Union.

#### **ARTICLE V** **NEW EMPLOYEES AND TRIAL PERIODS**

5.1 The trial period for new employees shall be 30 calendar days except for Machine Shop and Maintenance Department employees, and except for hand sewer, forklift operator, sewing machine operator, cutter, molding machine operator, hand sprayer, and hairdresser, for which the trial period shall be 45 calendar days.

5.2 Provided that there are no employees on layoff within the job classification who retain recall rights, a member may assign work to a non-employee, temporary agency workers ("agency workers") on the following terms:

a) A member shall notify the Union of the need for temporary help and shall consider qualified applicants who are on layoff from other Union facilities and who are referred by the Union. A member will not unreasonably reject such applicants and referrals;

b) A member shall assign available overtime to members of the bargaining unit before assigning overtime work to agency workers;

c) Agency workers may be assigned for up to 30 calendar days;

d) In the event the member chooses to retain an individual agency worker beyond 30 calendar days, that individual agency worker shall be offered a regular bargaining unit position as an employee;

e) If that individual accepts the offer, and is ready, willing and able to work, he/she shall become a bargaining unit employee, and have bargaining unit seniority, as of the 31st calendar day, without serving any additional trial period;

f) The member shall commence making contributions to the pension and sick funds for such new employee as of the 31st calendar day (without the retroactivity provided in Article XXII and XXIII);

g) If an individual agency worker declines the offer of employment, subject to the provision of Section 5.2 (h) below, the member shall no longer assign that individual to work in the member's facility beyond the 30th calendar day; and

h) At any time, a member may continue to assign up to 5 agency workers for a period beyond the 30 calendar day period described in 5.2 (c) and (d), above, but not for more than 90 days, in which time such agency worker shall be offered a regular bargaining unit position. If that offer is accepted, contributions to the pension and sick benefit funds shall begin on the 91st calendar day. If such agency worker declines the offer of employment, the member shall no longer assign that individual to work in the member's facility beyond the 90th calendar day, except that, once such an individual has not been assigned work in the member's facility for a period of 180 calendar days, such individual may again be assigned work by the member and the requirements of this Section 5.2 shall be applied to the individual as if the individual were a new agency worker. Bargaining unit seniority shall begin on the 91st calendar day, without serving any additional trial period.

5.3 Before completion of the trial period, employees may be discharged without cause. Upon completion of the trial period, an employee may only be discharged for just cause. Agency workers are not employees under the collective bargaining agreement and, instead, are employees of the employment agency. Agency workers shall have no contractual rights unless, and until, hired as employees as provided in Section 5.2, above.

5.4 The member shall furnish to the Union the names of new employees within 2 days after they are hired. On a monthly basis, the member shall furnish the names of agency workers and their dates of assignment to work in the member's facility.

5.5 If a temporary agency worker is terminated or quits before 30 calendar days and is later rehired within 180 days, his prior employment shall be counted towards the above stated time periods.

## ARTICLE VI

### WORK WEEK

6.1 The regular work week shall be 40 hours divided into 5 days and 8 hours each from Monday through Friday.

6.2 The regular work day shall be 8 A.M. to 5 P.M. with one (1) hour lunch. The work day may be from 8:30 A.M. to 5:30 P.M. or from 9 A.M. to 6 P.M. provided that the written consent of the Union (which shall not be unreasonably withheld) is first obtained.

6.3 If any employees are individually required to report to work earlier than their regular scheduled hours, the Union's written consent shall first be obtained and they shall be given two days prior notice of such change of schedule.

6.4 Where there are shifts they shall be as provided in Article XI unless changed with the prior consent of the Union.

6.5 There shall be a ten (10) minute break period in the morning and a ten (10) minute break period in the afternoon for all employees.

## ARTICLE VII

### OVERTIME

7.1 Work performed in excess of 8 hours in any day shall be paid for at the overtime rate of 1-1/2 times the regular rate of such employee regardless of whether such employee completes 40 hours of work during the week.

7.2 Work performed in excess of 40 hours in any work week shall be paid for at the overtime rate of 1-1/2 times such employee's regular rate

7.3 In computing overtime, the regular work week provided for in paragraph 6.1 above, shall be considered as starting at 8 A.M. Monday morning (at which time the first shift starts) and ending Saturday at 8 A.M. in the morning, at which time the third shift ends which begins at 12:01 A.M. Saturday morning. Employees working on such third shift, as part of their regular work week schedule, shall receive straight time for Saturday work between 12:01 A.M. and 8:00 A.M. unless they have previously completed 40 hours of straight time work during the week, in which event they shall receive time and one-half. The provisions of this paragraph may be modified in individual cases with the written consent of the Union.

7.4 Work performed before or after the hours established for the regular work day, as provided in paragraph 6.2 above, shall be paid for at the rate of 1-1/2 times the employee's regular rate regardless of the number of hours worked on such work day, unless, with respect to hours worked after the regular work day, the employee shall have failed to report for work at the regular shift starting time.

7.5 Work performed on Saturday as such (except for work during the regular third shift on Saturday as provided in paragraph 7.3 above) shall be paid for at the rate of 1-1/2 times the regular rate.

7.6 Work performed on Sunday shall be paid for at the rate of double the employee's regular rate.

7.7 The regular rate shall be the regular straight time hourly rate including shift differential and production incentive payment for time rate workers and their average hourly piece rate earnings for that week for piece rate workers.

7.8 Employees shall be expected to work a reasonable amount of overtime and on premium pay days, including 12 mandatory Saturdays per year, no more than two of which Saturdays may be consecutive. The members shall distribute overtime and all other premium pay work equally among the employees in the unit with due regard to the

member's requirements for such work and the employee's ability to perform the same with average ability. It is recognized that work after regular hours and on premium pay days may be served as needed. Subject to all of the above, employees will cooperate with members to enable such work to be truly accomplished and the Union will use its best efforts when called on by a member to endeavor or try to see that overtime and premium pay days needs may be satisfied.

7.9 There shall be no pyramiding of premium or overtime pay.

**ARTICLE VIII**  
**HOLIDAY PAY**

8.1 New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day and Christmas Day shall be holidays with pay on which days employees shall not be required to work, but shall be paid therefor. If the Union and a member shall agree thereon in writing, there may be substituted for up to three of said holidays up to three different holidays.

8.2 If any of said holidays fall on Saturday, then even though no work shall be performed, the employee shall be paid for that day.

8.3 If any of said holidays shall fall on Sunday, then the Monday following shall be considered the holiday, and even though no work shall be performed on such Monday, the employee shall be paid for that day.

8.4 If any of the above holidays shall fall within an employee's vacation period, such vacation shall be extended one day with pay.

8.5 Pay for holidays not worked shall for piece rate workers be 8 hours pay at the employee's average earnings plus shift differential, if any, and for time rate workers, shall be 8 hours pay at their base rate plus shift differential, if any, but not including bonus.

8.6 A new employee (i.e., one not previously employed by the member or who has not quit or been discharged by the member) employed for a period of 8 weeks immediately before the holiday shall be entitled to be paid for such holiday.

8.7 Holiday pay shall be included in the pay envelope of the employee for the week in which the holiday occurs. In the event that an employee is entitled to holiday pay but is on vacation during the week in which the holiday occurs such holiday pay shall be included in the pay envelope of such employee given for the last week in which he was paid prior to the holiday. Such payment before vacation shall not be subject to the requirements of paragraph 8.9 hereof.

Where an employee is entitled to holiday pay and it is not included in the pay envelope, such employee may call for it and shall be entitled thereto. Such holiday pay shall be part of an employee's wages and shall vest in such employees as of the end of the day of each such holiday.

8.8 Where employees have not been working prior to the holiday, only such employees who have not worked by reason of layoff or sickness or disability (including maternity) provided it shall not be for more than six (6) weeks before such holiday, shall be paid for such holiday. Six weeks shall equal 42 calendar days for purposes hereof. This provision shall not serve to make eligible for a holiday benefit any new employee who does not also satisfy Section 8.6.

8.9 A worker who is unjustifiably absent (absence which would not justify a leave of absence under this agreement) on the regularly scheduled work day preceding New Year's Day, President's Day, Independence Day, Memorial Day, Columbus Day, Labor Day, Election Day, Veteran's Day, Thanksgiving Day or Christmas Day or the regularly scheduled work day following any such holiday shall not be entitled to receive pay for the holiday. The burden of proving that an absence was unjustified shall at all times be on the members of the Association. An employee must work four (4) hours or more on the day before and on the day after the holiday in order to be eligible for holiday pay.

8.10 Where an employer fails to pay holiday pay, as herein provided and pursuant to the grievance machinery hereunder the Arbitrator renders an award requiring such payment, such award shall include an award to the Union for all expenses including but not limited to payments made or to be made to employees participating in such arbitration, whether as witnesses, parties or otherwise, for time lost in attending such arbitration.

8.11 For holidays worked an employee shall be entitled to time and one-half for all hours worked and in addition shall receive one day's pay for the holiday. Employees not eligible for holiday pay shall nevertheless be entitled to time and one-half for all hours worked on any of said holidays.

## **ARTICLE IX**

### **VACATIONS AND SICK LEAVE**

9.1 Employees employed for less than one year by June 15 but who have actually worked on at least 170 days in the 12 month period ending June 15 shall receive one week of vacation with pay.

9.2 Employees employed for one year or more but less than three years by June 15 and who have actually worked on at least 120 days in the 12 month period ending June 15 shall receive one week of vacation with pay.

9.3 Employees employed 3 years or more but less than 10 years by June 15 and who have actually worked on at least 120 days in the 12 month period ending on the most recent June 15 shall receive two weeks of vacation with pay.

9.4 Employees employed 10 years or more but less than 18 years by June 15 and who have actually worked on at least 120 days in the 12 month period ending on the most recent June 15 shall receive three weeks of vacation with pay.

9.5 Employees employed 18 years or more but less than 28 years by June 15 and who have actually worked on at least 120 days in the 12 month period ending on the most recent June 15 shall receive four weeks of vacation with pay.

9.6 Employees employed 28 years or more by June 15 of any year and who have actually worked on at least 120 days in the 12 month period ending on the most recent June 15 shall receive five weeks of vacation with pay.

9.7 Holidays, parts of days, and those days on which work is available for an employee who is unable to perform the same because of an industrial accident suffered in the employ of a member, jury duty, attendance at legal proceedings, death in the family or Union activity, shall be considered days worked for the purposes of this Article.

9.8 Employees who worked less than 120 days in the twelve month period ending on the most recent June 15 after their first year shall be entitled to pro-rated vacation with pay based on the ratio of the number of days on which they worked during such 12 month period to 120 days.

9.9 Vacation pay during 2006 shall be based on the employee's pay for the period preceding June 15, 2006, and vacation pay during 2007 shall be based on the employee's pay for the period preceding June 15, 2007, and vacation pay during 2008 shall be based on the employees pay for the period preceding June 15, 2008.

9.10 The vacation period shall be from July 1 to August 31, except that the third, fourth and fifth weeks only of a three, four or five week vacation may at the discretion of the company be at a different time during such calendar year. Permission to take the third, fourth or fifth weeks shall not be unreasonably withheld. A company may require an employee to take the first 2 weeks of vacation during a vacation shutdown. A company shall give at least 75 days notice prior to a vacation shutdown.

9.11 An employee shall be entitled to vacation pay based on the foregoing eligibility requirements even if he is not employed by the member at the time of the vacation period unless he shall have been discharged or quit prior thereto. Notwithstanding any other provisions herein contained, employees who die or retire under the Social Security Act or Pension Fund of Local 223 and by reason thereof are not employed by the member at the time of the vacation period, shall be entitled to full vacation pay if prior to death or retirement they have actually worked on at least 120 days in the most recent 12 month period ending June 15 and if they have not actually worked on at least 120 days in such 12 month period shall be entitled to pro-rated vacation pay, pursuant to paragraph 9.8 hereof. Employees who are entitled to vacation pay pursuant hereto but who are not employed by the member at the time of the vacation period shall receive their vacation pay at vacation time. An employee's right to vacation pay shall immediately vest in such employee as he meets the foregoing eligibility requirements and to the extent thereof and each member hereby agrees that such vested vacation pay shall be deemed part of such employee's wages and paid to each such employee in the pay envelope given immediately preceding his vacation period unless the member shall discontinue operating the business by reason of liquidation, bankruptcy, or for any other reason, in which event such vacation pay to the extent due shall become immediately payable to such employee, without demand, as of the date of commencement of such discontinuance of operations.

9.12 A week's vacation pay for piece rate workers shall be 40 hours times their average hourly earnings plus shift differentials, if any, at vacation time and for time rate workers shall be base pay plus shift differential, if any, but not including incentive bonus, at vacation time.

9.13 Vacation pay shall be in the pay envelope given to the employee immediately preceding such employee's vacation period. The third, fourth and fifth week's vacation pay shall be paid immediately preceding the third, fourth and fifth week's vacation if the third, fourth and fifth week of vacation is at a different time than the first two weeks of vacation, but in no event shall such third, fourth and fifth week's vacation pay be paid later than August 31 of the calendar year to which such vacation is applicable.

9.14 Any pay earned by an employee during the week immediately preceding such employee's vacation period and which becomes payable on the pay day within such vacation period shall be paid to such employee on the first day of return to work after vacation, but in no event more than 7 days after such vacation is completed.

9.15 Accrued vacation pay will not be forfeited if any employee is discharged without cause, or if the employee gives 30 days written notice of intent to leave.

9.16 Workers shall be entitled to sick leave based upon the following schedule:

(a) Upon completion of one year of employment, all workers shall be entitled to one (1) day of sick leave.

(b) Upon completion of two years of employment, all workers shall be entitled to two (2) days of sick leave.

(c) Upon completion of three years of employment, all workers shall be entitled to three (3) days of sick leave.

(d) Upon completion of four years of employment, all workers shall be entitled to four (4) days of sick leave.

(e) Upon completion of five years of employment, all workers shall be entitled to five (5) days of sick leave; however, the fifth day can not be taken until the fifth month of each year that the worker is entitled to the 5th day of sick leave.

9.17 No sick leave shall be taken the day before or the day after a holiday or a vacation.

9.18 Sick days not used shall be paid for at the end of each such year.

## **ARTICLE X**

### **EARLY DISMISSAL PAY**

10.1 Employees who report to work at their regular time, unless notified to the contrary on the previous day or night, shall be given 4 hours work or if no work is available 4 hours pay, unless they are unable to work because of weather conditions or other conditions beyond the control of the member.

10.2 Employees who are unable to work because of machinery or similar breakdown shall be entitled to call in pay pursuant to paragraph 11.1 unless such machinery or similar breakdown is beyond the control of the member.

## **ARTICLE XI**

### **SHIFT DIFFERENTIAL**

11.1 Shift differential premium pay shall be paid on the following basis. Effective July 1, 2006 Shift Differential premium pay shall be paid on the following basis: (a) 20¢ per hour for employees who work on the second shift, and (b) 25¢ per hour for all employees who work on the third shift. Unless otherwise agreed to by the Union and member in writing and in advance, the first shift shall start at 8:00 A.M. and end at 4:00 P.M.; the second shift shall start at 4:00 P.M. and end at 12:00 midnight, and the third shift shall start at 12:00 midnight and end at 8:00 A.M., except that changes of shift times of no more than two hours from the otherwise stated starting and ending times may be made by the member on the giving of two week's notice to the Union and the affected employees.

## **ARTICLE XII**

### **OMITTED**

**ARTICLE XIII**  
**WAGES AND WAGE INCREASES**

13.1 Effective as of July 1, 2006, there shall be a general wage increase of \$12.00 per week, based on a 40 hour week for all employees covered by this agreement who by such dates have completed their trial period, and all employees hired prior to such date, who by such date have not completed their trial period, shall receive such increase on completion of their trial period.

13.2 Effective as of July 1, 2007, there shall be a further general wage increase of \$12.00 per week based on a 40 hour week for all employees covered by this agreement who by such date have completed their trial period, and all employees hired prior to such date who by such date have not completed their trial period shall receive such increase on completion of their trial period.

13.3 Effective as of July 1, 2008, there shall be a further general wage increase of \$12.00 per week based on a 40 hour week for all employees covered by this agreement who by such date have completed their trial period, and all employees hired prior to such date who by such date have not completed their trial period shall receive such increase on completion of their trial period.

13.4 Except where the effective date of a general and cost of living wage increase is the same during the term hereof as the effective date of an increase in federal, state, or city minimum wage, the general and cost of living wage increases provided for in paragraphs 13.1, 13.2, 13.3 and 13.5 hereof shall be given in addition to any progression increases to which such employees may be entitled and the progression increases (except for those employees in their trial period at the time of such general increase) shall be continued until such employee reaches his minimum, which shall bring his wage to the minimum plus the general and cost of living wage increase. Where an employee is in their trial period prior to the effective date of any general and cost of living wage increase, then for purposes of this paragraph such increase and any progression increases of such employees shall be deemed given as to the same date as the increase in such statutory minimum, so that no such employee shall be entitled to receive greater increases than similarly classified employees who have completed their trial period.

13.5 If the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index For All Urban Consumers, for the New York-North-Eastern New Jersey area, shall at any time after July 1, 2006, be in excess of the same Index by at least ten (10%) percent, then the members shall pay a general increase of four (\$4.00) dollars per week for a forty (40) hour week effective January 1, 2009, to employees actually working on the first generally scheduled work day after January 1, 2009, except that such increase shall not be applicable to any employees hired less than six (6) months before January 1, 2009.

13.6 All machine shop mechanics shall receive the following wage increases.

(A) For all those machine shop mechanics employed prior to July 1, 2006, a general wage increase as of July 1, 2006 of \$17.00 per week (comprised of \$12.00 per week for all employees and an additional \$5.00 per week for all machine shop mechanics.)

(B) For all those machine shop mechanics employed prior to July 1, 2007, a general wage increase as of July 1, 2007 of \$17.00 per week (comprised of \$12.00 per week for all employees and an additional \$5.00 per week for all machine shop mechanics.)

(C) For all those machine shop mechanics employed prior to July 1, 2008, a general wage increase as of July 1, 2008 of \$17.00 per week (comprised of \$12.00 per week for all employees and an additional \$5.00 per week for all machine shop mechanics.)

13.7 Wages shall be paid not later than Friday of each week for work done in the preceding week, except where the company, with the prior written consent of the Union, arranges for another pay day.

13.8 Wages shall be marked on pay envelopes or checks.

13.9 A procedure shall be established by each member to assure immediate correction of all payroll errors and adjustments made in the next week's payroll check.

13.10 There shall be a breakdown on each payroll check stub of all deductions made.

#### ARTICLE XIV

##### TRANSFERS

14.1 When an employee has been transferred and there is a reopening of his previous job the member will notify said employee of such reopening and will give him first opportunity to accept and such employee shall retain his seniority in his old job.

14.2 Whenever an employee is temporarily transferred by the company to another job, for its own convenience, he shall receive his own rate of pay or the transferred rate of pay, whichever is higher.

14.3 In promotions and reclassifications, employees with the longest seniority, if qualified, shall be given priority consideration.

14.4 An employee shall not be permanently transferred (i.e., for more than 60 days) without the prior consent of the Union.

14.5 A member may only make a temporary transfer which shall not exceed 60 days, without the consent of the Union. Such temporarily transferred employee shall retain his seniority in the job from which he was transferred.

14.6 Where an employee requests a transfer, he shall relinquish his seniority in the job from which he was transferred and his seniority shall begin in his transferred job, for purposes of layoff only. However, with respect to holidays, vacations, and other benefits, his length of service shall be deemed to have commenced as of the date he was first employed by the member and seniority for fringe benefits shall not be deemed relinquished upon such transfer.

14.7 Where an employee is for any reason transferred he shall receive such pay as is provided for in this agreement plus such general and cost of living wage increases as shall have been given during the term of this agreement.

minimum rate for such open job, plus such general wage increases as shall have been given during the term of this agreement, before any new employees are hired for such job or jobs, or at the option of the employee, severance pay.

E. An employee's seniority shall begin from the original date of hiring. After employment for 2 weeks, the names of such employees shall be added to the seniority list as of the original date of hiring.

F. An employee shall lose his seniority rights for the following reasons only:

1. Voluntary quitting.
2. Discharge for just cause.
3. Absence without authorization for 3 working days unless satisfactory reason is given. A satisfactory reason shall be one which would justify a leave of absence hereunder.
4. Failure to return to work within 4 working days after recall, by certified mail, return receipt requested, or telegram, after layoff, unless a satisfactory reason is given within said period.
5. Not working for any reason for more than 9 months.

G. Members will on demand of the Union but not more frequently than every 6 months, prepare and submit a seniority list.

19.2 If a department is slow and layoffs in that department shall become necessary, then employees classified in General Help, in lieu of such layoff if they so desire, shall be transferred temporarily to another department before the busy department hires any employees from the outside.

## **ARTICLE XX**

### **LEAVE OF ABSENCE**

20.1 An employee with one or more years employment shall be entitled to a leave of absence because of sickness for a period of not in excess of 9 months and for the duration of a disability caused by industrial accident in the member's shop provided that notification of such sickness is given to the company within a reasonable time. "Sickness" wherever used in this agreement shall include but not be limited to accidental injury, disability and pregnancy. An employee disabled because of industrial accident in the member's shop shall be entitled to return to the job provided such employee is able to do the work.

20.2 An employee shall be entitled to a reasonable leave of absence for urgent matters: illness in the immediate family, death in the family, jury duty, or attendance at legal proceedings.

20.3 An employee shall be entitled to a leave of absence of not more than 60 days for Union activity.

20.4 Any leave of absence permitted by federal or state law shall, to the extent permitted by such law, run concurrently with the unpaid leave of absence provided for in this Article XX.

**ARTICLE XXI**  
**SHOP CHAIRPERSONS**

21.1 Subject to the prior approval of the Union, employees in the shop shall have a shop chairperson for the shop designated by the Union. Such shop chairperson shall be certified in writing by the Union to the member. The Union shall have the right to revoke, change or modify such designation as shop chairpersons upon written notification to the member. While such designation remains unrevoked by the Union, the shop chairpersons shall head the seniority list over all employees plant-wide.

**ARTICLE XXII**  
**SICK BENEFIT FUND**

22.1 In order to protect and promote the health and welfare of employees in the industry, the Union before January 1, 1946, established the Sick Benefit Fund of Local 223 which is administered under a Constitution and By-Laws adopted by its members, and is part of the Sick Benefit Division of the Union.

22.2 Each member shall pay to the Sick Benefit Fund weekly as of July 1, 2006, the sum of \$114.20 for each employee covered by this agreement who has been employed for 32 or more hours during such week. Where such employee is employed for less than 32 hours during any week, the member shall pay to the Sick Benefit Fund the sum of \$2.86 per hour as of July 1, 2006 or each hour or fraction thereof for each such employee. The foregoing payments shall commence as of the date of hire of all employees, except only that the member need make no payment for new employees who work 30 days or less and are then terminated or quit. If the new employee works more than 30 days, payment shall be made for such first 30 days as well.

22.3 Each member shall pay to the Sick Benefit Fund weekly as of July 1, 2007, the sum of \$121.20 for each employee covered by this agreement who has been employed for 32 or more hours during such week. Where such employee is employed for less than 32 hours during any week, the member shall pay to the Sick Benefit Fund the sum of \$3.03 per hour as of July 1, 2007 for each hour or fraction thereof for each such employee. The foregoing payments shall commence as of the date of hire of all employees, except only that the member need make no payment for new employees who work 30 days or less and are then terminated or quit. If the new employee works more than 30 days, payment shall be made for such first 30 days as well.

22.4 Each member shall pay to the Sick Benefit Fund weekly as of July 1, 2008, the sum of \$128.20 for each employee covered by this agreement who has been employed for 32 or more hours during such week. Where such employee is employed for less than 32 hours during such week, the member shall pay to the Sick Benefit Fund the sum of \$3.21 per hour as of July 1, 2008, for each hour or fraction thereof for each such employee, except only that the member need make no payment for new employees who work 30 days or less and are then terminated or quit. If the new employee works more than 30 days, payment shall be paid for such 30 days as well.

22.5 Payment to the Sick Benefit Fund for agency workers who accept bargaining unit positions shall commence as of the first day they become bargaining unit employees.

22.6 In the event a new employee works continuously for six (6) months but is not qualified for benefits by reason of having failed to work at least 24 hours in any weekly period during the six (6) month period, the Association member shall make a contribution to the Sick Benefit Fund for such employee for those weeks in which the employee worked less than 24 hours. To be eligible for this benefit an employee must work at least one (1) hour each week, during the six (6) month period.

22.7 Holiday and vacation times shall be considered time worked for the purposes of this Article and Article XXIII at the rate of 8 hours per day.

22.8 Each member will forward to the Sick Benefit Fund a completed form supplied by the Sick Benefit Fund at the same time as the remittances are forwarded as provided above.

22.9 The member shall forfeit all rights under this agreement and the employees may cease to work if the company fails to file such forms, or falsifies such forms, or completes them in a manner which is misleading to the Union or the Fund or fails to pay his contributions as provided above.

22.10 In addition to all of the Union's and Fund's rights set forth in the immediately preceding paragraphs, if the member fails to make payment to the Fund for any employee entitled to benefits under the Fund the member recognizes that such employee would ordinarily not be entitled to any benefits under the Fund by reason of such failure and the member shall be responsible individually and independently of the Sick Benefit Fund for providing such benefits or the equivalent thereof to such employee in addition to the payments provided for in paragraphs 22.2, 22.3, and 22.4 hereof. In the event that the Union or the Sick Benefit Fund of the Union shall be held responsible under existing law, for paying such benefits, or shall pay all or part of such benefits to the employee concerned, which the Union and Fund reserve the right to do, the member hereby holds the Union and the Sick Benefit Fund harmless against such liability under the law and agrees to repay the Union and Sick Benefit Fund for all such payments. To enforce such liability the Union or Fund shall submit the matter to the Arbitrator, whose award shall be final and binding and may be confirmed in the courts of this State with the same force and effect as any arbitrator's award. The Arbitrator's decision shall include an award to the Union and the Sick Benefit Fund for all such payments made to the employee and all costs and expenses of the Union and Sick Benefit Fund including arbitration costs and expenses, arbitrator's fees and attorney's fees.

22.11 The Sick Benefit Fund shall be administered solely by the Union and the types of benefits to be paid may be extended or decreased as the Union determines. All expenses including salaries, pension, disability, severance pay and other benefits for employees of the Sick Benefit Fund and other services and other fees of administration and operation of the Sick Benefit Fund shall be borne by the principal of said Fund.

22.12 The funds of the Sick Benefit Fund collected under this Article XXII hereof may be commingled and utilized to provide whatever benefits are provided by the Sick Benefit Fund and for whatever purposes may be determined by the Sick Benefit Fund.

22.13 For whatever benefits are provided under this Article, and under Article XXIII hereof, all payments and contributions to the Sick Benefit Fund and Pension Fund shall be made by the member of the Association and no part of such contributions or payments required to be made by the member shall be deducted from or defrayed from the employee's wages or in any other manner charged to the employee by the company.

22.14 In job related accidents in the member's shop, the member will pay the contributions to the Sick Benefit Fund for the first four weeks of any absence where the injury is due to accident but not more than once in any twelve month period.

## ARTICLE XXIII

### PENSIONS

23.1 Each member shall pay into the Pension Fund of Local 223, the sum of \$6.00 per week as of July 1, 2006, for each employee covered by this agreement who has been employed for 32 or more hours during such week. Where such employee is employed for less than 32 hours during any week, the member shall pay into the Pension Fund the sum of 15¢ per hour as of July 1, 2006 for each hour worked or fraction thereof for each employee. The foregoing payments shall commence as of the date of hire of all employees, except only that the member need make no payment for new employees who work 30 days or less and then are terminated or quit. If the new employee works more than 30 days, payment shall be made for such first 30 days as well.

23.2 Each member shall pay into the Pension Fund of Local 223, the sum of \$7.00 per week as of July 1, 2007, for each employee covered by this agreement who has been employed for 32 or more hours during such week. Where such employee is employed for less than 32 hours during any week, the member shall pay into the Pension Fund the sum of 17.5¢ per hour as of July 1, 2007 for each hour worked or fraction thereof for each employee. The foregoing payments shall commence as of the date of hire of all employees, except only that the member need make no payment for new employees who work 30 days or less and then are terminated or quit. If the new employee works more than 30 days, payment shall be made for such first 30 days as well.

23.3 Each member shall pay into the Pension Fund of Local 223, the sum of \$8.00 per week as of July 1, 2008, for each employee covered by this agreement who has been employed for 32 or more hours during such week. Where such employee is employed for less than 32 hours during any week, the member shall pay into the Pension Fund the sum of 20¢ per hour as of July 1, 2008 for each hour worked or fraction thereof for each employee. The foregoing payments shall commence as of the date of hire of all employees, except only that the member need make no payment for new employees who work 30 days or less and then are terminated or quit. If the new employee works more than 30 days, payment shall be made for such first 30 days as well.

23.4 Such Pension Fund shall be administered by a Board of Trustees composed of four Pension Trustees, two of whom shall be selected jointly by the Board of Directors of the Metropolitan Association of Doll, Stuffed Toy and Plastics Manufacturers, Inc. and who shall serve for such time as may be so determined by the Board of Directors of such Association, and two of whom shall be selected by the Manager of Amalgamated, Industrial and Toy & Novelty Workers of America, Local 223, and who shall serve for such time as may be determined by the Manager of said Union.

23.5 The Fund shall be administered pursuant to a Declaration of Trust and shall provide such benefits and privileges as shall be determined by the Board of Trustees.

23.6 All expenses including salaries, pension, disability, severance pay and other benefits for employees, committeemen and other services and fees of administration shall be borne by the Fund.

23.7 At any time during the first and second year of the agreement, the Union shall have the right to reopen this agreement for the purpose of renegotiating increases in Pension Fund contributions where the actuary for the Pension Fund has advised in writing that such increases are necessary in order for the Pension Fund to avoid having unfunded vested benefits and the Pension Trustees have concurred with such advice. In the event that there shall be any dispute or difference between the parties with respect to this provision of this Agreement, the matter may be submitted to the Arbitrator pursuant to the provisions of Article XXXI hereof for final determination.

## ARTICLE XXIV ESCROW FUND

24.1 Simultaneously with the payments made pursuant to Articles XXII, XXIII, XXV of this agreement, each such member shall pay in escrow to those individuals who shall then be serving as Trustees of the Pension Fund hereunder, who shall hold the same as Escrow Agents (herein referred to as "escrowees" and not as "Trustees") the sum of 15¢ per week for each employee covered by this agreement who works during any week regardless of the number of hours worked by such employee, which payments (15¢ per week) shall be included with the payments to the Sick Benefit Fund, but forthwith paid over by the Sick Benefit Fund as a remitting agent to the aforesaid escrowees, which escrowees shall hold, accumulate, and disburse the same as follows:

1. In the event that any member of the Association fails to pay its workers wages due them; or
2. If a member fails to pay its workers accrued but unpaid vacations and holiday pay, or required severance pay; or
3. If a member fails to remit the Union dues and initiation fees checked off from workers' wages as a result of such member being bankrupt, making an assignment for the benefit of creditors, or being insolvent or in proceedings for an arrangement or in any other insolvency proceedings; or
4. If the Funds referred to in Articles XXII, XXIII and XXV fail to collect payments required to be made to such Funds by any member or members as a result of such member or members being bankrupt, making an assignment for the benefit of creditors, or being insolvent or in proceedings for an arrangement or in any other insolvency proceedings;

then the escrowees shall:

- a. Upon proof to the escrowees that such worker or workers have not been paid their wages, and upon receipt by the escrowees of an assignment of such workers' rights to such unpaid wages from any source, the escrowees shall make payment thereof to such worker or workers to the extent of two weeks' wages only; and
- b. Upon proof to the escrowees that any such worker or workers have not received accrued but unpaid vacations and holiday pay, or required severance pay, and upon receipt by the escrowees of an assignment of such workers' rights to such accrued but unpaid vacations and holiday pay from any source, or required severance pay, the escrowees shall make payment thereof to such worker or workers; and

c. Upon proof to the escrowees that any member of the Association has not remitted to the Union check-off dues and initiation fees and such member of the Association is bankrupt, has made an assignment for the benefit of creditors, or is insolvent and has sought relief under any insolvency laws, and upon receipt by the escrowees of an assignment of the Union's rights to such dues and fees from any source, the escrowees shall make payment to the Union of the amount of such checked-off dues and initiation fees; and

d. Upon proof to the escrowees that the Funds referred to above have failed to collect payments required to be made to such Funds as a result of circumstances set forth above, and upon receipt by the escrowees of an assignment of the Funds' rights to such payments from any source, the escrowees shall make payment thereof to such Funds.

24.2 The costs and expenses of operating and administering the within Escrow Fund shall be borne by the Escrow Fund.

24.3 Neither the existence of the within Escrow Account nor any other provision of this agreement nor any payment made into the account by any member shall relieve any member or principal officer, director or stockholder of any member of any such member's obligations to the employees concerned to pay wages when due or holiday, vacation, severance pay or other fringe benefit pay required hereunder or by law, nor shall the same relieve any member or principal officer, director or stockholder of any member of any such member's obligations to remit to the Union checked-off dues and initiation fees or to make payments to the Sick Benefit Fund, Pension Fund and Scholarship as required by Articles XXII, XXIII and XXV of this agreement nor shall the same be deemed payment or constitute a defense, in whole or in part, of or to any claim or any prosecution for violation of the Labor Law or the Penal Law of the State of New York or any similar law of any other state or the federal government nor shall the Union, the Funds involved or any employee be required to proceed in the first instance or at all against said Escrow Account.

24.4 The Escrowees may combine similar escrow funds paid by employer members of the Metropolitan Association of Doll, Stuffed Toy and Plastics Manufacturers Inc. and by Independent Shops, pursuant to collective bargaining agreements with the Union into one fund for the benefit of the employees of all of the employers covered by the said agreements with the Metropolitan Association of Doll, Stuffed Toy and Plastics Manufacturers, Inc. and such Independent Shops.

24.5 If as of the end of any month the balance of the Escrow Fund is \$300,000 or more, contributions to the Fund by the Association will be suspended, beginning with the month following the month in which the Escrowees notify the members that contributions will be suspended. Contributions will not be resumed until the balance falls below \$275,000 and the conditions of either Section 24.6, 24.7 or 24.8 are satisfied.

24.6 If as of the end of any month the balance of the Escrow Fund is below \$275,000 as a result of the payment of the costs and expenses of the administration of the Fund and/or payments pursuant to Section 24.1 of this agreement, contributions shall resume with the month following the month in which the Escrowees notify the members that contributions will resume.

24.7 If as of the end of any month the balance of the Escrow Fund is below \$275,000 as a result of market value fluctuations, or as a result of a combination of market value fluctuations and the payment of the costs and expenses of the administration of the Fund and/or payments pursuant to Section 24.1 of this agreement and remains below \$275,000 for a period of 60 consecutive calendar days, at the meeting of the Escrowees next following the end of the 60 calendar day period, the Escrowees shall determine whether contributions are to be resumed, and if contributions are to be resumed, when contributions are to be resumed.

24.8 Notwithstanding the foregoing, if as of the end of any month the balance of the Escrow Fund falls below \$225,000 for any reason including market value fluctuations, contributions shall resume with the month following the month in which the Escrowees notify the members that contributions will resume.

## **ARTICLE XXV**

### **SCHOLARSHIP FUND**

25.1 Effective July 1, 2006, each member shall make payment to the Harry O. Damino Scholarship Fund, a qualified tax-exempt fund to provide scholarships for children of employees in members shops, the sum of 25¢ per week for each employee receiving any pay during such week. Effective July 1, 2008, each member shall make payment to the Harry O. Damino Scholarship Fund, a qualified tax-exempt fund to provide scholarships for children of employees in members shops, the sum of 30¢ per week for each employee receiving any pay during such week. Such payment will be made at the same time as check-off payments are remitted to the Union and as set forth on the Record of Check-off Deduction form furnished to the member by the Union by separate check made payable to the Harry O. Damino Scholarship Fund.

## **ARTICLE XXVI**

### **FAILURE TO PAY**

26.1 Wages, holiday pay, vacation pay, Sick Benefit Fund and Pension Fund payments (pursuant to Articles XXII and XXIII), Escrow Fund payments pursuant to Article XXIV, and Scholarship Fund payments pursuant to Article XXV and checked-off dues and initiation fees shall be held by each member for the benefit of each employee to or for whom the same may be payable and shall vest in each such employee as of the completion of the day's or hour's work, which qualifies the employee or the Union, or the Fund concerned, as the case may be, to receive the same, regardless of the date the same may be payable hereunder. Such payment or payments shall become immediately payable, without demand, upon the occurrence of any of the following: (1) sale or other disposition or discontinuance of the member's business; (2) liquidation, petition in bankruptcy or any other act of bankruptcy or insolvency by or of the member.

The member shall be liable to the Union for failure to timely check-off dues and remit to the Union, without recourse to the employees.

26.2 In the event of the happening of any of the foregoing events, claims for payment may be prosecuted in the name of the Union, in behalf of the worker concerned with respect to such Sick Benefit Fund payments, in the name of the Union or the Sick Benefit Fund, with respect to such Pension Fund payments, in the name of the Union or the Pension Fund, with respect to such Escrow Fund payments, in the name of the Union

or the Escrow Fund, with respect to such Scholarship Fund payments, in the name of the Union or the Scholarship Fund, and may be submitted to the Arbitrator on 24 hours' notice sent by the Union to such member noticing such hearing for any date on or after the expiration of such 24 hours and the Arbitrator shall render an award as quickly as possible. If the member fails to appear, the Arbitrator shall proceed without such member being present and the parties agree that if the Arbitrator or the Union shall have placed such notice in the U.S. mail or have done so by telegram or by hand and the member shall fail to appear the member shall have submitted to arbitration hereunder with the same force and effect as if such member had been personally served and have personally appeared. In the absence of proof otherwise by the member who shall bring to such hearing all books and records pertaining to the matter to be heard, the Arbitrator shall liquidate and determine the amount due each employee and the Union, as the case may be, on the petition of the Union and on a certification or affidavit of an officer of the Union, as the case may be, on the petition of the Union and on a certification or affidavit of an officer of the Union, Sick Benefit Fund, Pension Fund, Escrow Fund or Scholarship Fund, as the case may be, as to the amounts due and payable. In the absence of other proof by the Union, all Sick Benefit Fund, Pension Fund, Escrow Fund and Scholarship Fund payments due shall be based on the average number of employees and hours worked by each such employee as contained in the two highest reports thereof submitted by the member to the Union during the two year period preceding the date of commencement of such hearing or other proceeding.

26.3 The Union, or Trustees of the Sick Benefit Fund, or Trustees of the Pension Fund, or Escrow Agents of the Escrow Fund, or Trustees of the Scholarship Fund may elect not to proceed before the Arbitrator and may proceed in any other manner provided by law, as if the provisions of Article XXXI hereof were not contained in this agreement. In such event, the amounts due and payable shall be determined in such other proceeding or proceedings in the same manner as is provided above for liquidating and determining such amounts before the Arbitrator in the absence of the member from such hearing.

26.4 Fund contributions for a particular month are due by the last day of the next following month (the "Due Date").

26.5 If a member's contributions for a particular month have not been received by the Due Date for the contributions, the Fund will send a Reminder Notice to the member.

26.6 If a member's contributions for a particular month have not been received within 30 days after the Due Date for the contributions, the Fund will send a Notice of Default to the member.

26.7 If a member's contributions for a particular month have not been received within 10 days of the Notice of Default, the member will be sent a Grievance and a Demand to Arbitrate.

26.8 If the contributions for a particular month are not received by the Due Date for the contributions, there shall be added to amount due interest at the rate of 1% for each month, or portion thereof, from the Due Date to the date payment is received.

26.9 Alternatively, if the member has not paid within 10 days after the issuance of the Notice of Default, the Fund may proceed in a court of competent jurisdiction to recover all amounts due and owing.

26.10 If the contributions for a particular month are paid only after the sending of the Grievance or the commencement of suit, all reasonable expenses of collection incurred by the Fund, including but not limited to, filing fees, court or arbitration costs, arbitrator's fees and attorney's fees shall be added to the amount of contributions due and subject to collection as provided above.

## **ARTICLE XXVII** SHOP VISITATION

27.1 A representative of the Union shall have the right to visit the factory during working hours.

## **ARTICLE XXVIII** INSPECTION

28.1 Each member will keep a full set of books and time cards showing the full amount paid to each employee, the number of hours worked on each day, and the number of pieces produced and the rates therefor for each piece worker. The Union, when accompanied by a representative of the Association, may examine the books and records of each member, including but not limited to all payroll records and including withholding tax reports for each worker reported to the City, State and Federal governments, and any other papers, books and records which are necessary to ascertain whether the provisions of this agreement are being fully complied with and if violated, the extent thereof. Should a representative of the Association fail to appear after having been given three days' notice by the Union of its desire to make such examination, the Union shall have the right to make such examination, which shall be made through an accountant or other representative of the Union or through the Arbitrator or his accountant. Should a member of the Association refuse to produce his books and records upon the request of a representative of the Union or the Arbitrator or refuse to grant the representative of the Union or of the Arbitrator access to such books and records, or if it shall appear to the satisfaction of the Arbitrator that such books and records have been falsified or kept in a misleading manner, such member shall automatically forfeit all rights and privileges under this agreement, and the Union shall retain all rights under this agreement including all rights set forth in paragraph 15.4 hereof and as provided by law in addition to such rights as it may have then to compel such examination of books and records.

## **ARTICLE XXIX** ASSOCIATION MEMBERS

29.1 Each member shall be bound to the terms and provisions of this agreement for the duration thereof regardless of whether he shall remain a member of the Association or not. The Association will notify the Union of all new members accepted into the Association, and of all former members expelled from the Association, within 48 hours of such admission or expulsion. Such new members shall be required by the Association to sign an agreement (and shall be deemed upon membership to have agreed, whether such agreement is signed or not) to the effect that such membership in the Association shall bind such company to all of the terms and conditions of this agreement with the same force and effect as if such company had become a party signatory thereto as of the date of membership in the Association and that such company shall remain bound

to this agreement for its duration, and the Association shall furnish the Union with a signed copy of such agreement within 5 days after such new member of the Association shall have signed and submitted the same to the Association.

29.2 In the event that a member is expelled or withdraws from the Association during the life of this agreement, the former member shall remain bound by the agreement, the Association shall have no further obligation to act on behalf of such former member, and instead, the Union shall deal directly with the former member with respect to all aspects of the agreement for the duration thereof. In such circumstance only, any provision of this agreement permitting or requiring the Association to take some action shall be deemed amended to permit or require the former member to take such action.

### **ARTICLE XXX**

#### **DOLLS, STUFFED TOYS AND OTHER PRODUCTS**

30.1 Members of the Association who manufacture dolls, stuffed toys and other products during any part of the year shall to the extent that they manufacture the same be subject to the terms and conditions of this agreement pertaining thereto.

### **ARTICLE XXXI**

#### **GRIEVANCES AND ARBITRATION**

31.1 Adjustment of all complaints, controversies, disputes or grievances between the parties, or between any member and any employee, or between any member and the Union relating to the interpretation, operation, application or performance of the terms of this agreement and any complaint, controversy, dispute, or grievance involving a claimed breach of any of the terms or conditions of this agreement shall be processed as follows:

- FIRST:** Such matters shall be jointly investigated, and acted upon within five days after the grievance arises by the Manager of the Union and the President of the Association or their appointees.
- SECOND:** If the Manager and President or their appointees do not adjust the matter within the above five days, it shall within five days thereafter be referred to an Arbitrator who shall render his decision within five days after submission.

31.2 The joint award of the Manager and President or their appointees or the award of the Arbitrator, as the case may be, shall be final and binding, and shall be complied with within five days after it is rendered, unless a shorter time is specified in any award.

31.3 Work shall continue uninterrupted pending the final determination of any complaint, controversy, dispute or grievance hereunder except as may be otherwise specifically provided or permitted in this agreement.

31.4 The Arbitrator's compensation shall be paid equally by both parties. In the event of the unavailability of the Arbitrator for any reason, any person mutually agreed upon as an arbitrator between the parties to serve in any matter or matters during such unavailability shall be deemed the Arbitrator hereunder with respect to such matter or

matters. In the event the parties fail to agree upon such arbitrator, the matter or matters shall be submitted to the American Arbitration Association and the Arbitrator so appointed shall be deemed the Arbitrator hereunder for such matters.

31.5 If a complaint of underpayment or non-payment of any obligation to pay hereunder to the Union, the Sick Benefit Fund, the Pension Fund, the Escrow Fund, the Scholarship Fund or any employee or employees, against any member of the Association be sustained, the award or decision shall assess the member of the Association the full costs and expenses of the hearing and investigation against the member including a reasonable share, as may be determined finally by the Arbitrator, of defraying the costs and expenses of maintaining and operating the Arbitrator procedure and machinery under this agreement.

31.6 The Arbitrator shall not have power to amend, modify, add to, or subtract from this agreement or any provision thereof.

31.7 Except as may be otherwise specifically provided or permitted in this agreement, the procedure herein established for adjustment of disputes shall be the exclusive means for the determination of all disputes, complaints or grievances, including but not limited to strikes, stoppages, lockouts, and any and all claims or demands arising therefrom. Neither the members of the Association nor the employees of such members shall institute or be entitled to institute any proceedings in a court or any governmental agency other than the Union's and Association's right to compel arbitration as provided in this agreement, or to enforce the award of an arbitrator, which rights may only be exercised by the Union in its own behalf or in behalf of any employee or employees or in behalf of the Sick Benefit Fund, Pension Fund, Escrow Fund, Scholarship Fund or by members of the Association only by the Association in its own behalf or in behalf of any of its members. This provision shall be a complete defense to any action instituted contrary to this agreement.

31.8 All claims and adjustments, oral or written, made by a member in a disciplinary case under the grievance procedure herein shall be deemed privileged communications to the same extent as if the same were made in an action at law or in similar legal proceedings.

31.9 The Arbitrator's Award hereunder may be confirmed in any court of competent jurisdiction and judgment entered thereon.

The parties agree that a motion to confirm such Arbitrator's Award may be made or instituted by service of such motion papers by certified mail or by personal service.

## **ARTICLE XXXII**

### **WAGES ON NEW MATERIALS AND MACHINERY**

32.1 Wages (including starting, progression and minimum rates for new classifications) and piece rates for work on materials, operations or machinery not heretofore used in the industry by this contract shall be fixed in accordance with the provisions of Article XIII of this agreement.

## **ARTICLE XXXIII**

### **NO INDIVIDUAL MODIFICATION**

33.1 No member of the Association and no employee or group of employees shall have the right to modify or waive any provisions of this agreement.

**ARTICLE XXXIV**  
**NO STRIKES OR LOCKOUTS**

34.1 Except as may be otherwise specifically provided or permitted in this agreement, unless a member shall be in default in submitting to arbitration before the Arbitrator or complying with the final award of the Arbitrator made in accordance with the arbitration provisions hereof, or if a member shall fail to meet its payroll in whole or in part for a period of 2 working days after it is due and notwithstanding any unfair labor practice, the Union will not call, authorize, or ratify any strike, refusal to work, sit-down, picketing, boycott or other interference with or interruption of the normal conduct or operation of a member's business. If such unauthorized act shall occur, the Union will upon 36 hours' written notice from the Association endeavor in good faith to bring about a return to work of the employees and their members and a cessation of such activity. Upon failure of any employees to return to their work within said 36 hours and upon their failure to cease such activity the member may at its election consider that the employees have abandoned their employment. Compliance by the Union with this provision in good faith shall be deemed full compliance with the Union's obligations hereunder.

34.2 Unless the Union shall be in default in submitting to or complying with the final award of the Arbitrator made in accordance with the arbitration provisions hereof, members will not order, authorize or ratify a lockout. Should there be a lockout in any shop, notice thereof shall be given by the Union to the member and to the Association. Thereupon and within 36 hours after receipt of such notice, the member shall terminate such lockout and re-employ his employees. Upon failure of the member so to do, the Union may elect to consider that the member has forfeited his rights under this agreement and the Union shall in addition have such other rights as may be provided by law or otherwise.

34.3 No shop chairperson, no shop committee, no employee or group of employees are authorized to cause or engage in any strike, refusal to work, sit-down, picket, boycott or other interference with or interruption of the normal conduct or operation of any member's business, nor to order the discharge of any employee, nor shall it or they for any purpose whatsoever be deemed to be the agents of or authorized to act for the Union. Only the Manager of the Union or his appointee is authorized to act as agent of the Union in the administration of this agreement and in dealing with and determining any question which might arise hereunder. The Manager may, however, substitute a different agent or agents or a new agent at any time during the term hereof by serving written notice thereof upon the Association.

**ARTICLE XXXV**  
**PRIOR RIGHTS**

35.1 The equivalent of all rights, privileges and benefits heretofore enjoyed by employees employed by companies not members of the Association or by members under prior contracts with the Union shall be accorded to such employees in addition to all rights and privileges hereunder when such companies become members of the Association. With respect to holidays, however, a member may elect either the number of holidays provided for in this contract or the number of holidays which such member was giving at the time of joining the Association, whichever is greater.

## **ARTICLE XXXVI**

### **MILITARY SERVICE**

36.1 An employee who is legally required to serve in the military service of the United States shall not lose his seniority standing or rights, and the time spent by him in such military service shall be added to his record of length of service with his employer. Upon the termination of such employee's service in the armed forces he shall be reinstated to the position which he held at the time of his induction with all intervening improvements, increases and other benefits given to employees in such or similar positions during his period of service provided that he makes such demand for reinstatement within 90 days after his discharge from the armed service.

## **ARTICLE XXXVII**

### **SUCCESSORS AND ASSIGNS**

37.1 This agreement shall be binding upon the parties hereto, the members thereof, and the heirs, executors, administrators, successors and assigns of each.

37.2 This agreement shall be binding upon any person, firm or corporation whether it is a successor to the member or not and whether or not it conducts its business under the same name or a different name, if it is operating (whether through purchase or otherwise) essentially or substantially the same business or a part or subdivision thereof, directly or indirectly, in whole or in part, or manufactures different products using the same or similar premises and/or machinery or equipment. If the member shall sell or otherwise dispose of substantially all its machinery and equipment and the purchaser or person, firm or corporation which receives the same shall use such or similar machinery and equipment for production or assembling or substantially the same employees, then such purchaser or possessor shall be bound to the terms hereof and the employees shall be covered by this agreement.

37.3 In the event that the member shall divide the operation of its business or shall departmentalize or further subdivide any of its operations either in the same location or at different locations and under the same name or different names, directly or indirectly, in whole or in part, all of the employees in all parts of said operation, wherever located, shall be included in the unit herein, and all of said parts or subdivisions of said operation of the member under whatever name and whatever entity, whether a person, firm, or corporation and regardless of whether other individuals or persons may also have an interest in such entity, shall be bound by the terms and provisions of this agreement with the same force and effect as if it or they were a party signatory at the time of execution hereof.

## **ARTICLE XXXVIII**

### **REMOVAL OF FACTORY**

38.1 A member shall be able to remove its present facility or facilities up to 80 miles from their present locations and the limits of New York City. If a member desires to relocate more than 80 miles from its present location or locations and the limits of New York City, then the member and the Union shall negotiate to an agreement concerning the same and an impasse shall be submitted to arbitration.

## ARTICLE XXXIX

### LEGISLATION

39.1 In the event that any federal, state or municipal law or any rule or regulations of any governmental agency shall render unenforceable or compel the cancellation or modification of any provision of this agreement with respect to its application at any location at any time with respect to any member during the term of this agreement, such provision shall thereupon become inoperative as to that location or member only, and the Association and the Union shall within 10 days thereafter meet for the purpose of negotiating changes made necessary by such applicable federal or state law or government regulations, failing agreement on which the matter may be submitted to the Arbitrator as a dispute, by either party, and the Arbitrator shall in his award include substitute lawful and enforceable provisions for those which are unlawful or unenforceable, which most closely approximate the intent and purpose desired to be achieved by the parties in such provision or provisions as of the date of execution hereof.

39.2 If any of the provisions of this agreement are adjudicated to be illegal, unlawful or in violation of existing or future law, no other portion, provision, or article of this agreement shall be invalidated thereby nor shall such adjudication relieve either of the parties hereto from the rights or liabilities hereunder, or limit their rights or liabilities except insofar as the same are made unlawful, illegal or in violation of the law.

## ARTICLE XL

### BULLETIN BOARD

40.1 Each member shall provide and install an adequate number of bulletin boards in his shop for the purpose of posting Union notices.

## ARTICLE XLI

### SAFETY AND HEALTH

41.1 Each member of the Association shall maintain safe and healthful working conditions for his employees in the unit and failure to do so shall constitute a grievance under the arbitration machinery hereof for determination by the Arbitrator.

41.2 A Safety Committee shall be established in all plants with at least one Union Representative. Where there is more than one Union Representative by past practice, that practice shall continue.

41.3 Work gloves and goggles shall be furnished to all employees where applicable. Work shoes and other safety equipment shall be furnished to all employees where applicable, subject to Safety Committee determination.

41.4 Each shop shall have a trained First Aid person in the plant. If warranted, there shall be a Nurse and First Aid Room. Where there is no Nurse, there shall nevertheless be a First Aid Room in the plant.

41.5 The member shall provide employees with an adequate area for eating of meals and adequate facilities for storing clothing.

## **ARTICLE XLII**

### **SEVERANCE PAY**

42.1 A worker who loses his job for any reason other than discharge for just cause, voluntary quitting or temporary layoff for lack of work as distinguished from permanent layoff shall receive severance pay at the time of severance as follows:

1. If he has been employed by the member for five years or more but less than ten years-two weeks pay.

2. If he has been employed by the member for ten years or more-four weeks pay.

42.2 A week's severance pay shall be the same as vacation pay for these purposes as set forth in paragraph 9.9 of this agreement.

42.3 Any such worker shall be given the option to accept such severance pay or have first preference at any open job of his choice at the time of his severance, upon condition that he shall be able to perform such job with average ability, at the minimum rate for such open job plus such general and cost of living increases as shall have been given during the term of this agreement.

## **ARTICLE XLIII**

### **SAMPLE ORDERS**

43.1 Sample order production work shall only be done by members of the unit, and shall be given on the basis of seniority, provided the employee is able to do the work with average ability.

## **ARTICLE XLIV**

### **JURY DUTY PAY**

44.1 Employees who have completed their trial period of employment and *who perform jury duty pursuant to notice, shall be entitled to the difference between their jury pay for each day of jury duty and such employee's actual rate of pay.* Such jury duty differential pay shall be given for each day of actual jury duty service not to exceed in the aggregate 14 days during any 24 month period, provided the employee cashes such jury duty pay check with the company. Actual rate of pay shall be an employee's average hourly earnings during the ten preceding weeks in which he worked multiplied by eight.

## **ARTICLE XLV**

### **BEREAVEMENT PAY**

45.1 Employees who have completed one year or more of employment shall be entitled to three (3) days of bereavement pay where there is a death in such employee's immediate family for purposes hereof shall mean only the employee's spouse, children, brothers, sisters, own parents and natural grandparents. No bereavement pay shall be paid to any employee on the claim of a brother, sister, or grandparent unless written reasonable proof of the relationship is presented to the member. For new employees and for employees not on the active payroll on July 1, 2006, a written list of brothers,

sisters and natural grandparents shall be presented, on hiring or on the date of return to the active payroll and on a form supplied by the member, except that any sibling may be added in writing within thirty (30) days of that sibling's birth, and written reasonable proof of the relationship shall be presented to the member within a reasonable time. For employees on the active payroll, a written list of brothers and sisters on a form supplied by the member must be presented to the member within 30 days of the birth of a sibling born within 30 days with written reasonable proof of the relationship to be presented to the member within a reasonable time.

45.2 No employee shall be entitled to bereavement pay pursuant to paragraph 45.1 unless such employee is absent from work by reason of bereavement, in accordance with this Article.

## ARTICLE XLVI DURATION AND REOPENING

46.1 This agreement shall be effective as of July 1, 2006, and shall continue until and including June 30, 2009, and shall continue in effect thereafter for successive one year periods unless written notice of intention to terminate, change, or modify this agreement is given on or before April 1, 2009, or at the expiration of any subsequent annual period is served in writing by either party on the other party on or before the 1st day of April of any 12 month period ending June 30.

46.2 This agreement shall continue upon such terms and conditions as the parties may agree, provided, however, that the term for the next subsequent period shall expire on June 30, 2009.

IN WITNESS WHEREOF the parties have signed this agreement as of the day and year first above written.

METROPOLITAN ASSOCIATION OF  
DOLL, STUFFED TOY AND PLASTICS  
MANUFACTURERS, INC.

By STEVEN FELL  
President

AMALGAMATED, INDUSTRIAL AND TOY  
& NOVELTY WORKERS OF AMERICA  
LOCAL 223, AFL-CIO

By ROCCO MIRANTI  
Manager

MICHAEL DePAOLA  
Secretary-Treasurer

WITNESSES:  
MICHAEL McGRATH, ESQ.  
RICCARDO IACCARINO, ESQ.