

FILE NAME: National Safety Council (NSC)

DATE: 1935 July 7

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DOCUMENT DESCRIPTION: Voluntary Agreement between Members of the
Asbestos Manufacturing Industry

a
Jul. 7th, 1934.
Third Draft.

VOLUNTARY AGREEMENT

BETWEEN MEMBERS

of the

ASBESTOS MANUFACTURING INDUSTRY

The undersigned members of the Asbestos Manufacturing Industry have entered into this agreement pursuant to Section 4 (a) of the National Industrial Recovery Act and subject to approval by the President.

ARTICLE I - PURPOSE

The parties hereto agree with each other to observe all the provisions of this agreement in consideration of the benefits thereby accruing to each party hereto and for the purpose of eliminating unfair competitive practices in the Industry, reducing unemployment, improving the standards of labor, and otherwise aiding in effectuating the policy of Title I of the National Industrial Recovery Act.

ARTICLE II - DEFINITIONS

Whenever used in this Agreement or any schedule or supplement appertaining thereto, the terms enumerated in this Article shall have the meanings herein defined unless the context shall otherwise clearly indicate.

Section 1. The term "the President" means the President of the United States of America.

Section 2. The term "the Act" means the National Industrial Recovery Act.

Section 3. The term "products" means the products listed in Schedule I hereto attached.

Section 4. The term "Industry" as used herein shall mean and include the manufacture and sale by a manufacturer, either by himself or by subsidiaries or affiliates of the manufacturer, of the products listed in Schedule I hereof.

Section 5. The term "Division" means a section of the Asbestos Industry comprising a group of manufacturers who are parties to this Agreement and who manufacture and/or sell a group of related products as set forth in Schedule I. A party to this Agreement who manufactures products in more than one Division shall be a member of each such Division.

Section 6. The term "member of the Industry" means any person including without limitation any other legal entity, engaged in the Industry in the United States as defined in Section 4 above, and who is a party to this Agreement.

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General Trade Commissioner
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Section 7. The term "employee" means any person engaged in the Industry, as defined in Section 4 above, in any capacity receiving compensation for his services from a party to this Agreement, irrespective of the method of payment of this compensation.

Section 8. The term "employer" means anyone in the Industry who is a party to this Agreement by whom such employee is compensated.

Section 9. The term "learner" as used herein, means a person who has had no previous experience in the manufacture of Asbestos products and whose employment as such shall not exceed six weeks.

Section 10. The term "Southern section" means the States of North Carolina, Tennessee, Arkansas, Oklahoma, Texas, New Mexico, and the States south thereof.

Section 11. The term "Northern section" means that part of the United States not included in the Southern section.

Section 12. Population for the purpose of this Agreement shall be determined by reference to the 1930 Federal Census.

ARTICLE III - HOURS OF LABOR

Section 1. Factory employees, mechanical workers, or artisans, except as hereinafter provided in Sections 2 to 4, inclusive, shall not be employed (a) in excess of 40 hours per week, except that to meet seasonal requirements or emergencies 48 hours per week for not more than 12 weeks in any six months' period shall be permitted; (b) in excess of 8 hours in any 24-hour period, except that to meet seasonal requirements or emergencies more than 8 hours may be worked, provided time and one third is paid for overtime in any one day.

Section 2. There shall be a tolerance of 10% additional hours for (a) employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities, (b) watchmen, firemen, and engineers, and (c) shippers and delivery employees; provided, however, that any such work by such employees in excess of an average of 44 hours per week over a twelve weeks' period shall be compensated for at the rate of time and one third.

Section 3. The limitation as to hours of labor in any 24 hours shall not apply to very special cases where restriction of hours of labor of highly skilled workers in continuous processes would unavoidably reduce production, provided, however, that employees in such cases shall not work more than 48 hours in any one week.

Section 4. The limitation as to hours of labor shall not apply (a) to outside sales or sales-service men, technicians (highly skilled factory workers are not to be classed as technicians), nor to any persons in a managerial, executive, or supervisory capacity who receive more than \$35.00 per week (foremen regularly engaged in manual labor shall not be considered to be in such supervisory capacity), nor (b) to employees engaged in emergency maintenance or repair work necessary because of breakdowns or involving danger to life and property, providing that such emergency overtime work in excess of 48 hours in any one week shall be paid for at the rate of time and

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Obtained from
6-11-46
Federal Trade Commission
Exhibit 8
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H. H. Bergman

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one third.

Section 5. No employer shall work any accounting, clerical, office, inside sales, or other employees not provided for otherwise in this Article III who receives less than \$35.00 per week, more than an average of 40 hours per week during a six-month period.

Section 6. No employee shall be permitted to work a total number of hours in excess of the prescribed number, whether employed by one or more employers.

ARTICLE IV - MINIMUM WAGES

Section 1. Except as provided in Sections 2 to 5 below, the minimum wages that shall be paid to factory workers in the Northern section by any employer shall be at the rate of 40 cents per hour or of \$16.00 per week of 40 hours of labor; except that for such light work as does not usually require the strength and skill of male labor, and for which male labor has not been used, the minimum rate paid to female employees may be at the rate of 35 cents per hour or at \$14.00 per week of 40 hours of labor.

Section 2. In the Southern section the above-mentioned minimum rates shall be $2\frac{1}{2}$ cents per hour lower.

Section 3. The above Sections 1 and 2 establish minimum rates of pay, regardless of whether the employee is paid a time rate or for piece-work performance.

Section 4. The minimum wage that shall be paid by employers to any accounting, clerical, office, sales employee in any office, department, or establishment, or other employee not provided for otherwise in this Article IV, shall be at the following rates in cities of the sizes listed below and their immediate trade areas:

Over 500,000 population, not less than \$15.00 per week.
Between 250,000 and 500,000, not less than \$14.50 per week.
Between 250,000 and 10,000 not less than \$14.00 per week.
Under 10,000 not less than \$12.00 per week.

Section 5. The minimum rate of pay paid to office or messenger boys and girls and learners (the latter for not over the six weeks' period specified in the definition of learners) may, in the case of those members of the Industry where the total of such classes never exceeds 5% of their total employees, be 20% less than the rates specified in Sections 1 and 2 above for learners, and Section 4 above for office or messenger boys and girls.

Section 6. No distinction in rates shall be made between male and female employees where the same class of work is performed, regardless of whether compensation is calculated on an hourly, weekly, monthly or piece-work basis.

Section 7. Employers shall not re-classify employees, or duties, or occupations performed by employees for the purpose of this Agreement.

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Att. 7
Federal Trade Commission

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ARTICLE V - CHILD LABOR

No person under 16 years of age shall be employed in the Industry, by any party hereto, and no person under 18 years of age engaged in unsanitary occupations or when operating hazardous manufacturing machinery.

ARTICLE VI - ADMINISTRATION

Section 1 (a). For the purpose of directing action under this Agreement, an Administrative Committee of six individuals shall be elected as specified in Article VI, Section 1 (d), to hold office until April 1, 1936, and for such period thereafter as may be necessary to liquidate and terminate this Agreement. Each member of the Committee shall be an executive officer of one of the parties to this Agreement. The President, in his discretion, may appoint not more than three additional members without vote and without expense to the members of the Industry to represent the President or such groups or interests as he may designate.

(b) For the purpose of administering this Agreement and selecting members of the Administrative Committee, the Industry is divided into the following Divisions:

Asbestos Paper and Allied Products Division
Asbestos Cement Products Division
Asbestos Magnesia Products Division
Asbestos Textile Products Division
Asbestos Brake Lining and Related Friction Products Division

The products manufactured by members of each of said Divisions are set forth under the designated Divisions in Schedule I hereto attached.

(c) Every party to this Agreement who manufactures one or more of the products listed in Schedule I under a designated Division may be a party to the Agreement within that Division.

(d) One voting member of the Administrative Committee shall be selected by a two-thirds vote of the parties to this Agreement within each Division. The sixth voting member shall be elected by a majority vote of the five so elected.

(e) The Administrative Committee shall adopt its own rules of procedure and may appoint such officers or agencies as it may deem necessary properly to administer the Agreement. It shall delegate to a Divisional Administrative Committee of each Division, consisting of three members elected by each Division, the administration of all Articles of this Agreement.

(f) Each Divisional Administrative Committee shall adopt its own rules of procedure with respect to administering the Agreement, not inconsistent with the provisions of this Agreement, and may appoint such officers or agencies as it may deem necessary properly to administer the Agreement within the Division. Each Division may, upon approval of the Divisional Administrative Committee of such Division and three-fourths of the parties to this Agreement within the Division, create sub-Divisions within its Division.

(g) The parties to this Agreement agree to pay their reasonable

FEDERAL TRADE COMMISSION

4613

IN THE MATTER OF

DATE 6-9-42

REPORTED BY

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D. Bergman
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share of the expenses of the administration of the Agreement and agree that such reasonable share of expenses shall be determined from time to time by the Divisional Administrative Committees on an equitable basis (proportionate to dollar sales or volume of production or otherwise as Divisions may determine). Payments shall be made by the parties to this Agreement in the manner and at such times as shall be directed by the Divisional Administrative Committees.

Section 2. The Administrative Committee shall have the following specific duties and powers:

(a) With a view to keeping the President and the members of the Industry informed as to the observance or non-observance of this Agreement and as to whether members of the Industry are taking appropriate steps to effectuate the declared policy of the Act, the Administrative Committee shall report to the President, at such times and concerning such conditions in the Industry as he may from time to time require, and each member of the Industry agrees to file in such office as the Administrative Committee may designate and at such time, in such form, and for such periods as required by the Administrative Committee, duly certified reports with respect to wages, hours of labor, conditions of employment, number of employees, sales, production and other matters concerning conditions in the Industry and of action taken by members of the Industry under this Agreement as may be deemed pertinent by the President or by the Administrative Committee, to the proper administration of this Agreement.

(b) All confidential information of any nature so requested shall be collected through agents, not members of the Industry, selected by the Administrative Committee and such information shall be kept confidential by the said agents except when required by the Administrative Committee for the proper administration of this Agreement.

(c) The Administrative Committee and Divisional Administrative Committees, may designate agents, not members of the Industry, to investigate complaints of violations of this Agreement. The parties hereto agree to facilitate such investigation by opening their correspondence, books, and accounts, relating to alleged violations, for examination by such authorized agents and by furnishing relevant information. All such information shall be kept confidential by the agent except that in the event of any such violation being substantiated in the opinion of the agent, the Administrative Committee or the Divisional Administrative Committee concerned, shall be informed and may present evidence thereof to the Arbitrator hereinafter referred to. If the Arbitrator shall determine, in the manner hereinafter provided, that the complaint of violation of this Agreement has been substantiated in any material respect, the party hereto found by the Arbitrator to be guilty of such violation agrees to pay the cost of the investigation; and otherwise the party who made the complaint, agrees that he will pay such cost. The cost referred to shall be the expense incurred by the Administrative Committee or the Divisional Administrative Committees in making the investigation and presenting the evidence thereof, to the Arbitrator.

(d) A disinterested individual who is not a member of the Industry shall be elected by a two-thirds vote of the Administrative Committee to serve as Arbitrator. The duties of the Arbitrator shall be to hear all complaints or violations of Articles III, IV, V and X of this Agreement which may be referred to him for determination by the Administrative

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EXHIBIT NO. 287 E

IN THE MATTER OF

DATE 6-9-42

REPORTER

WILLIAM BERGMAN

JOHN J. HANCOCK

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Committee. In a similar manner each Division shall elect an Arbitrator, either by a vote of the Divisional Administrative Committee or a two-thirds vote of the Division members of the Industry, as the Division may determine, who shall hear all complaints of violations of those Articles, except III, IV, V and X of this Agreement, which may be referred to him for determination by the Divisional Administrative Committee. The services of such Arbitrators shall be paid for by the Administrative Committee or by the Divisional Administrative Committee concerned, and shall constitute one of the expenses of the administration of this Agreement. Any party hereto against whom a charge of violating the Agreement has been filed shall have a reasonable opportunity of appearing personally or by counsel, before the Arbitrator concerned and being heard and presenting his defense. Subject to such requirement the respective Arbitrators may make reasonable rules for the hearing of complaints, but the Arbitrators shall in all instances file with the Administrative Committee or Divisional Administrative Committee concerned, a written report of their decision upon any complaint of violation heard and determined by them, and the Administrative Committee or Divisional Administrative Committee concerned, shall promptly furnish a copy of such decision to the complainant and to the party hereto against whom the complaint was filed, and shall also report the substance of all such decisions to the members of the Division or Industry. The parties hereto agree to accept and be bound by all such decisions rendered by the Arbitrators, provided, however, that the complainant shall have the option, at any time prior to the hearing of such complaint by the Arbitrator, to decline to arbitrate and upon written notice, to the Administrative Committee or Divisional Administrative Committee concerned, of exercise of such option shall be free to follow such other remedies as he may have.

(e) The Administrative Committee and Divisional Administrative Committees shall make a preliminary investigation of all complaints of violations of this Agreement, within their respective administrative powers, and in their discretion may adjust complaints with the consent of the parties thereto upon a basis deemed equitable by the Committee. The Committees shall submit to the Arbitrator concerned for determination only those complaints, which, in the opinion of the Committee, are supported by reliable evidence and constitute a substantial violation of this Agreement, except that every member of the Industry shall have the right to require that a complaint filed by such member shall be submitted to the appropriate Arbitrator for decision. The Committees shall report to the members of the Division or Industry, as the case may be, all formal complaints of violations of this Agreement, and the manner in which such complaints are dealt with by the Committee.

(f) The parties hereto agree to facilitate the hearing of any complaint before the Arbitrator concerned and upon the request of such Arbitrator to furnish him with any documentary evidence under their control respectively, which relates to the charge of violation, and upon request of such Arbitrator, to produce before him any witnesses within their control who are believed by the Arbitrator to have knowledge of facts pertaining to the complaints. The reasonable expense incurred in producing any document or witness at the hearing by any party hereto who is not a complainant or defendant shall be an expense of administering this Agreement, to be paid for by the Administrative Committee or the Divisional Administrative Committee concerned.

(g) The members of the Administrative Committee shall choose a Chair

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 COMMISSIONER
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man who shall preside at meetings of the Committee and shall exercise such functions as may be delegated to him by the Committee. The Divisional members of the Industry within each Division shall choose a chairman who shall preside at meetings of the Divisional Administrative Committee and at meetings of the Divisional members of the Industry and shall exercise such functions as may be delegated to him by the Divisional Committee.

(h) The Administrative Committee, and each Divisional Administrative Committee or Divisional members of the Industry (as Divisions may determine) shall appoint a secretary who shall be in charge of the business office of the Committee concerned and who shall perform such duties from time to time as shall be designated by such Committee.

(i) The Administrative Committee and each Divisional Administrative Committee shall appoint a Treasurer who shall collect and disburse the funds contributed by members of the Industry pursuant to the terms of this Agreement. Each Treasurer shall give a bond in amount and form satisfactory to his Committee. He shall keep a full and accurate record of receipts and disbursements and shall render to the Committee concerned and to the parties to this Agreement, when required, an accounting of his acts as Treasurer.

(j) Industry members of the Administrative Committee and Divisional Administrative Committees shall receive no compensation for their services, but shall be paid any out of pocket expenses for performance of their duties as may be approved by the Committee concerned from time to time.

(k) The records of the Administrative Committee and Divisional Administrative Committees shall be open for inspection to such agencies as may be designated for the purpose by the President.

Section 3. The members of the Industry in each Division may prepare a Merchandising Plan for such Division, incorporating the merchandising policies best calculated to promote fair competition in such Division and present the Plan to the President for approval. In the event of such a Merchandising Plan being approved by the President, the same shall have the same force and effect with respect to the parties agreeing thereto, as this Voluntary Agreement.

Section 4. The Administrative Committee may at any time delegate any or all of its duties and powers to the respective Divisional Administrative Committees and discontinue the Administrative Committee office.

ARTICLE VII - SUPPLEMENTAL AGREEMENTS

Section 1. The members of the Industry agree that the Administrative Committee shall make a study of conditions in the Industry and shall from time to time make such recommendations to the Divisions, as the Committee deems desirable to effectuate the policy of the National Industrial Recovery Act and the purposes of this Agreement with respect to Section 7 (a), including minimum wages, maximum hours, prohibition of child labor, and the prohibiting of unfair competitive practices, and otherwise to promote the purposes of this Agreement as stated in Article I hereof.

Section 2. For the purpose of keeping the President and the members of the Industry informed of the progress made in effectuating the pur-

poses of this Agreement as stated in Article I hereof, and of presenting recommendations for consideration by the members of the Industry, the Administrative Committee may present its recommendations to the Divisions, who, after considering the recommendation of the Administrative Committee, may, through the Divisional Administrative Committees, authorize the Administrative Committee to present supplemental agreements to the President from time to time for approval pursuant to the provisions of Section 4(a) of the Act, and in the event of such Agreements being approved by the President, the same shall have the same force and effect with respect to the parties agreeing thereto as this Voluntary Agreement.

ARTICLE VIII - UNFAIR COMPETITIVE PRACTICES

The members of the Industry agree not to engage directly or indirectly in the following practices or any of the same and not to endeavor to accomplish through subterfuge the objects of said practices.

Section 1. False Marking or Branding - the false marking or branding of any products of the Industry which has the tendency to mislead or deceive customers or prospective customers, whether as to grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry, or otherwise.

Section 2. Imitating trade mark - Knowingly imitating or simulating any trade mark, trade name, package, brand or label of a competitor in such degree as to deceive or have the tendency to deceive customers.

Section 3. Misrepresentation or False or Misleading Advertising - The making or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the trade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry or the credit terms, values, policies, or services of any member of the Industry, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

Section 4. Defamation - The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

Section 5. Interference with Contractual Relations - Maliciously inducing or attempting to induce the breach of an existing contract between a competitor and his customer or source of supply, involving the purchase of specific quantities of the products and/or their component parts or materials, or interfering with or obstructing the performance of any such contract.

Section 6. Threats of Litigation - The publishing or circularizing of threats or suits for infringement of patents or trade marks or of any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

Section 7. Espionage of Competitors - Securing confidential information concerning the business of a competitor by false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

GENERAL TRADE COMMISSION
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Section 8. Giving of Prizes, Premiums, or Gifts - The offering or giving of prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto, by any scheme which involves lottery, misrepresentation, or fraud.

Section 9. Commercial Bribery - Directly or indirectly to give or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals, to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

Section 10. Secret Rebates - The secret payment or allowance of rebates, refunds, commissions, credits or unearned discounts, whether in the form of money or otherwise, contrary to the terms of sale established by a member of the Industry for his trade, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers of the same class on like terms and conditions, contrary to terms of sale so established.

Section 11. Injuring a Competitor - The selling of products below cost with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade.

ARTICLE IX - PUBLICITY

Section 1. For the purpose of determining whether members of the Industry are engaging in unfair competitive practices prohibited by this Agreement and to discourage such practices, the members of the Industry agree to take such action hereunder as is provided for in this Article.

Section 2. Each member of the Industry agrees to publish to his trade concerned and to file simultaneously with a confidential and disinterested agent of the Divisional Administrative Committee concerned, identified lists of all prices, discounts, rebates, allowances, and all other terms or conditions of sale and all changes therein hereinafter in this Article referred to as "terms of sale", which lists shall completely and accurately conform to and represent the terms of sale of said member. The member filing such lists shall place upon each list the date the same was published to his trade concerned. Such list shall contain the terms of sale for all products of the Industry sold and offered for sale by said member. Terms of sale and revised terms of sale shall become effective immediately upon the publication thereof to the trade and the simultaneous filing thereof with said Agent, except that any terms of sale revised to meet competition may be made retroactive to the effective date of such competing terms of sale. The effective date of terms of sale of a manufacturer not a party to this Agreement shall be deemed to be the date when such terms become known to the members of the Industry concerned. All such lists and revisions shall, upon receipt, be immediately and simultaneously distributed by said Agent to all members of the Industry concerned and to all of their customers concerned who apply therefor and who defray the cost actually incurred by the Divisional Administrative Committee in the preparation and distribution thereof. The said lists

THE NATIONAL ASSOCIATION

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and revisions and trade classifications and qualifications shall be available for inspection to members of the Industry and any of their trade customers concerned, at the office of said agent. Such lists or revisions, or any part thereof, shall not be made available by said agent to any person until released to all Divisional members of the Industry and their customers as aforesaid. Each Divisional Administrative Committee shall maintain a permanent file of all terms of sale filed as herein provided and shall not destroy any part of such records. Each Division shall designate which trade classifications shall be subject to the provisions of this Section 2 by a vote of two-thirds of the parties to this Agreement within the Division, representing not less than 80% of the volume of sales of the Division.

Section 3. Each party hereto agrees to file with said agent all trade classifications and qualifications established by him from time to time and all groupings of his trade made by him thereunder, in such manner as may be directed by the Divisional Administrative Committee concerned, to determine whether such member is complying with the provisions of this Agreement.

Section 4. No member of the Industry shall sell or offer to sell any product except in strict accordance with the terms of sale which have been filed and have become effective pursuant to the provisions of this Article. It is a purpose of this Article to prevent any secret or indirect method of granting concessions and this Agreement shall be so construed.

Section 5. When a member of the Industry is a member of more than one Division, the publicity requirements of any Division of which he is a member shall apply only to terms of sale of products listed under such Division in Schedule I of this Agreement.

Section 6. Prices, discounts and other terms of sale shall at all times be determined by each party to this Agreement individually, and nothing contained in this Agreement shall be construed to limit the right of each party hereto to determine the prices, discounts, and other terms of sale of all products manufactured and sold by him, nor limit the right of such party to change such prices, discounts or other terms of sale at any time.

Section 7. Merchandising Plans adopted pursuant to Section 3 of Article VI, shall be controlling with respect to members of the Industry within the Divisions who agree to such a plan, even though said provisions supplement or vary the publicity requirements of this Article IX.

ARTICLE X - LABOR PROVISIONS

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraints, or coercion of employers of labor, or their agents, in the designation of such representatives, or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Section 2. No employee and no one seeking employment shall be required as a condition of employment to join any company union, or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

FEDERAL TRADE COMMISSION
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 IN THE MATTER OF
 DATE 6-9-42
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 12407 Atty
 Federal Trade Commission

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ARTICLE XI - GENERAL

Section 1. No provision of this Agreement shall be so construed or applied as to permit monopolies or monopolistic practices or to eliminate, oppress, or discriminate against small enterprises.

Section 2. For the purposes of this Agreement all transactions between manufacturers who are members of the Industry and their respective subsidiaries and affiliates, which shall be defined in the respective Divisional Merchandising Plans as described in Section 3 of Article VI, shall be considered as inter-departmental transactions of the manufacturer. No such manufacturer shall sell to such subsidiary or affiliate unless such subsidiary or affiliate shall agree to and does conform to the pertinent provisions of this Agreement.

Section 3. Nothing contained in this Agreement shall be construed as prohibiting any member of the Industry from exercising all his existing lawful patent rights or as requiring any member of the Industry to do any act in conflict with the terms of any existing valid patent licensing agreement.

Section 4. Section 3 of Article VI and Articles VIII and IX of this Agreement shall not apply to products exported from the United States.

ARTICLE XII - LIQUIDATED DAMAGES

As further action under the provisions of this Agreement putting into effect the requirements of Section 7 (a), including minimum wages, maximum hours, and prohibition of child labor and prohibiting unfair competitive practices which offend against existing law or which constitute unfair methods of competition under the Federal Trade Commission Act as amended, it is contemplated that members of the Industry in each Division, may enter into an agreement with each other substantially in the form of Exhibit A hereto attached, providing for the payment of liquidated damages by any party to such Agreement upon violation by him of any provision of this Agreement.

ARTICLE XIII - MODIFICATION

Section 1. This Voluntary Agreement and all the provisions thereof are expressly made, subject to the right of the President, in accordance with the provisions of Section 10 (b) of the Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under Title I of said Act.

Section 2. This Agreement shall remain in effect until April 1, 1936, unless terminated prior thereto by agreement of two-thirds of the parties to this Agreement, within each Division. This Agreement may be modified by consent of two-thirds of the parties hereto within each Division upon the approval of such modification by the President.

ARTICLE XIV - EFFECTIVE DATE

This Agreement shall be effective upon approval by the President.

Docket No. 463 COMMISSIONER'S Exhibit No. 287K
IN THE MATTER OF Acme Asb.
DATE 6-4-42 Bergman

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REPRODUCED AT THE NATIONAL ARCHIVES

SCHEDULE I

Divisions of the Asbestos Industry and Products Included.

1. Asbestos Paper and Allied Products.

All Asbestos Papers
All Types of Asbestos Millboard
Asbestos and Wool Felt Pipe Covering
Air Cell Pipe Covering
Asbestos Laminated Pipe Covering
Pipe Covering Accessories
Asbestos Insulating Cement

2. Asbestos Cement Products:

Asbestos Shingles
Asbestos Corrugated Lumber
Asbestos Flat Lumber
Asbestos Wallboard Plain
Asbestos Board Pre-Decorated
Impregnated Asbestos Lumber
Asbestos Encased Insulating Board
Miscellaneous Molded Products

3. Asbestos Magnesia Products:

85% Magnesia Pipe Covering, Blocks and Cements
High temperature Insulation, Blocks and Cements
Insulating Bricks
Carbonate of Magnesia

4. Asbestos Textile Products:

All Types of Asbestos Roving
All Types of Asbestos Yarn
All Types of Asbestos Cloth
All Types of Asbestos Listing
All Types of Asbestos Tubing
All Types of Asbestos Cord
Carded Asbestos Fibre Made from Grade Asbestos
And products made therefrom except those covered by Sec.5 below.

5. Brake Lining and Related Friction Products:

Brake Lining and/or Clutch Facings, excepting only
friction elements made exclusively of metal or wood.

235

FEDERAL TRADE COMMISSION
Jacket No. 4613 COMMISSION'S Exhibit No. 287-L
DATE 6-9-42
MATTER OF *Acme Asbestos*
Bergman
Trainor

Bergman Exhibit 9
Obtained 6-19-40 by *Better*
Not 12407. Atty. *J. C. P.* Interview
Federal Trade Commission

287-L

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EXHIBIT A

LIQUIDATED DAMAGE AGREEMENT

Recognizing that the violation by any member of the _____ Division of the Industry of any provision of the Voluntary Agreement between members of the Asbestos Manufacturing Industry, approved by the President 1935, will disrupt the normal course of fair competition in the _____ Division of the Industry and will cause serious damage to the members thereof, and that it will be impossible to determine accurately the amount of such damage, the undersigned members of the _____ Division of said Industry, acting pursuant to Article XII of the said Voluntary Agreement, agree with each other and with the Treasurer of the Divisional Administrative Committee appointed under said Voluntary Agreement, as follows:

Section 1. Each member of the _____ Division of the Industry assenting to this agreement and violating any provision of the said Voluntary Agreement shall pay to the Treasurer of the Divisional Administrative Committee as an individual and not as Treasurer, in trust, as and for liquidated damages, upon determination of such violation by the appropriate Arbitrator appointed pursuant to Article VI, Section 2 (d) of said Voluntary Agreement, amounts as set forth below:

- (a) For the violation of any wage provision, an amount equal to the difference between the wages which have been paid and the wages which would have been paid if the member had complied with the applicable provisions of the Voluntary Agreement;
- (b) For the violation of any hour provision, an amount equal to the wages payable for the overtime at the regular rate payable under the terms of the Voluntary Agreement, to the employee or employees who worked overtime;
- (c) For the violation of any labor provision of the Voluntary Agreement other than an hour or wage provision; _____ dollars.
- (d) For the violation of any provision of the Voluntary Agreement (other than a labor provision) involving a transaction incidental to or connected with a sale of any product of the Industry, an amount equal to _____ per cent of the actual selling price of the products sold in violation of any such provision;
- (e) For the violation of any provision of the Voluntary Agreement (other than a labor provision) not involving a transaction incidental to or connected with a sale of any product of the Industry, _____ dollars.

Section 2. Each member of the _____ Division of the Industry assenting to this agreement shall furnish the Treasurer of the Divisional Administrative Committee, as an individual, with the bond of a surety company approved for the purpose by the Divisional Administrative Committee, providing for the payment to the Treasurer by said Surety Company of any and all damages, payable from time to time by such member to the Treasurer, individually, pursuant to the provisions of this Agreement. The bond so furnished shall be in the form approved by said Divisional Administrative Committee. All such payments shall be due and

TRADE COMMISSION
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payable by the Surety Company promptly upon receipt of a certificate of said Divisional Administrative Committee, signed by the Chairman or by any three members thereof, certifying to the Surety Company that damages in a specified amount have been duly assessed against said member pursuant to this agreement; that demand for the payment thereof has been duly made upon said Division member of the Industry; that fifteen days have elapsed since such demand, and that the said damages have not been paid. The bond so furnished shall be in the sum determined by the Divisional Administrative Committee with the approval of the member furnishing the same but such sum shall in no case be less than \$_____ nor more than \$_____. The member furnishing the bond shall maintain the same in effect during the life of this agreement. In the event of an assessment for damages being set aside by any Court or by order of the President, the Treasurer shall return to the Division member of the Industry or to the Surety Company, whichever paid the same, any amount found to have been improperly assessed.

Section 3. All amounts so paid to or collected by the Treasurer of the Divisional Administrative Committee under the provisions of this agreement, shall be applied by him as follows: First, if the violation shall have been of a labor provision of the Voluntary Agreement, equitable distribution of all damages paid therefor, shall be made among all employees directly affected by such violation as determined by the Divisional Administrative Committee and approved by the President; Second, if the violation shall have been of a provision of the Voluntary Agreement other than a labor provision, the damages arising therefrom shall be utilized to defray proper expenses of administration of the Voluntary Agreement, and the balance, if any, remaining in the hands of the Treasurer shall be distributed equitably from time to time as may be determined by the Divisional Administrative Committee, among Division members of the Industry who are parties hereto.

Section 4. By assenting to this Liquidated Damage Agreement, each party hereto agrees with every other party and with the Treasurer, individually (1) that violation of a provision of the Voluntary Agreement shall breach this agreement and shall render the violator liable for the payment of liquidated damages as herein provided, (2) that all rights and causes of action arising hereunder are assigned to the Treasurer, individually and in trust, and (3) that the Treasurer, as such assignee and as attorney in fact for each assenting member, may take all proper legal action concerning damages found due hereunder.

Section 5. The Treasurer of the Divisional Administrative Committee, as an individual and not as Treasurer, by accepting office or continuing in office, accepts the trust established by this contract and agrees to perform the duties of Trustee hereunder until his successor in office may have been appointed.

Section 6. The Divisional Administrative Committee may waive liability for payment of liquidated damages for any violation it finds to have been innocently made and resulting in no material injury, and may reduce the amount of damages assessed against a member of the Industry, if, in the opinion of the Committee such reduction in the case under consideration would be equitable and would further the purposes of the National Industry Recovery Act.

Section 7. This agreement shall remain in effect until April 1, 1936, unless terminated prior thereto by vote of two-thirds of the parties

hereto, provided, however, that such termination shall not relieve any member from payment of liquidated damages due as a result of any violation committed prior to said termination. A party to this agreement may withdraw therefrom upon _____ days' written notice of such withdrawal filed with the Divisional Administrative Committee. Such withdrawal shall not relieve any member from payment of liquidated damages due as a result of any violation committed prior to the date of such withdrawal.

Section 8. Nothing contained herein shall be construed or applied to relieve any party hereto from any contractual or legal obligation arising out of the Voluntary Agreement.

The foregoing is assented to by the following member of the _____ Division of the Asbestos Manufacturing Industry:

Company _____

By _____

Dated _____, 1935.

Accepted: _____ (Treasurer)

A bond in the sum of \$ _____ is approved for the undersigned member, pursuant to Section 2 of the foregoing Agreement.

Company _____

By _____

Dated _____, 1935.

FEDERAL TRADE COMMISSION
EXHIBIT NO. 4613 COMMISSION'S EXHIBIT NO. 287-0
IN THE MATTER OF Acme Asb.
DATE 6-9-42 WITNESS Bergman
RECORDED Trains

Bergman Exhibit 10c
On 6-19-40 Letter
No. 1-12407 Atty. J. P. B. Interview
Federal Trade Commission