Approved Code No. 515 Registry No. 1201—08

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

ALLOYS INDUSTRY

AS APPROVED ON SEPTEMBER 5, 1934

NRA MEMBER U.S.

WE DO OUR PART

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1934

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Approved Code No. 515

CODE OF FAIR COMPETITION

FOR THE

ALLOYS INDUSTRY

Approved on September 5, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE ALLOYS INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Alloys Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:
R. W. LEA,
Assistant Administrator for Industry.

WASHINGTON, D.C.,
September 5, 1934.

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REPORT TO THE PRESIDENT

The President,
The White House.

Sir: The original Code of Fair Competition was presented as a Code of Fair Trade Practice for the Electro Chemical Ferro Alloy Industry as a division of the Chemical Manufacturing Industry, supplementary to the Code of Fair Competition for the Chemical Manufacturing Industry, as presented by the Chemical Alliance, Inc.

Subsequently in keeping with the desires and policies of the N.R.A. the scope of this code was broadened to cover alloys other than those made by Electro Chemical processes.

This code is presented by the American Alloy Producers Association, an unincorporated membership society organized in 1933, representing over 90% of the known members of industry, and over 90% in volume of production.

Several revisions of the proposed code were made prior to the Public Hearing which was held on June 25, 1934. This code was revised during the recess of this hearing and was submitted in its present form for approval.

Every person who requested an appearance was properly heard in accordance with statutory and regulatory requirements.

The Alloys Industry, as outlined in this code, embraces the production, within the United States, by any process of manufacture, of primary alloys and/or non-metallic metallurgical reagents for subsequent use as an additive agent for the purpose of alloying and/or deoxidizing, and/or refining, but not for fluxing, and the original sale in the United States of any Industry Product by a Member of Industry producing the same directly or indirectly either by himself or his agent, which includes without limitation any person or corporation occupying a subsidiary or controlling relationship or one of common, mutual or joint ownership, or control to a Member of Industry.

Industry Products include the alloy combinations of the elements of the Periodic System with iron, the constituent elements or combinations thereof of such alloys without iron, and/or non-metallic metallurgical reagents for subsequent use as an additive agent for the purpose of alloying, and/or deoxidizing, and/or refining, but not for fluxing. Industry Products do not include standard high carbon ferro manganese or spiegeleisen, or the production of such metals which may be used for alloying processes which are governed by other Codes of Fair Competition.

Although this is a relatively small Industry, the Alloys Industry has played a very important role in our industrial development.

Prior to the advent of the automobile and high speed tool steel, ferro manganese, spiegeleisen and ferro silicon were the most commonly known alloys and were used primarily as deoxidizing agents

and for the alloying value of the residual manganese and silicon. Although ferro manganese, spiegeleisen and ferro silicon still continue to represent the greatest tonnage of alloys used, the use thereof has been supplemented by other alloys designed to add to metals certain properties to meet the demands of stress and service.

Although alloy combinations without iron and non-metallic metallurgical reagents are used extensively, the manufacture of ferro alloys represent the predominant activity of the Industry.

Each alloy constituent, either singly or in combination with other elements, contributes certain properties to meet the requirements of Industry; not only to meet the requirements of increased stress demands but also for resisting corrosion as is evidenced by the development of stainless steel. To meet these varying requirements necessitates the use of ferro chrome, ferro tungsten, ferro vanadium, ferro titanium, ferro zirconium, ferro phosphorus, ferro molybdenum and the combination thereof. The raw materials from which many of these alloys are made are imported from Africa, China, Peru and India.

The Industry employed about 4,000 employees in 1929 and about 2,500 in 1933. The Industry represents a capital investment of $82,000,000 and sales of about $17,000,000 in 1932 and $9,000,000 in 1933. With return to normalcy and continued and increased demands for the use of alloys the Alloys Industry should again enjoy its former position in Industry.

The total quantity of ferro alloy code products shipped from United States furnaces in 1929 was 372,000 short tons valued at $39,000,000; in 1933 the total was 244,000 short tons, valued at $18,000,000. Ferro silicon, used as a deoxidizing agent in steel making constitutes the largest item of the group. Shipments in 1929 amounted to 310,000 short tons valued at $15,700,000 and in 1933 to 200,000 short tons valued at $7,400,000. Shipments of ferro tungsten in 1929 were 3,000 tons, valued at $5,800,000 and in 1933, 952 tons, valued at $1,500,000; of ferro vanadium 1,800 tons valued at $4,700,000 in 1929 and 900 tons, valued at $2,000,000 in 1933. All other varieties of ferro alloys accounted for 57,000 tons valued at $13,000,000 in 1929 and 42,000 tons valued at $7,300,000 in 1933.

Article I. States the purpose of the code.

Article II. Accurately defines specific terms applicable to the Alloys Industry as used in this code.

Article III. The maximum hours are limited to 40 hours per week except that employees may be permitted to work in excess of 40 hours per week in not more than six weeks in any six month period in order to meet seasonal or peak requirements; such employees my be permitted to work not more than 48 hours per week with the proviso that time and one-third shall be paid to any employee so employed for all hours worked in excess of 40 hours per week or eight hours per day. Similar provisions are made to meet the requirements of continuous processes. Clerical and office employees shall not be permitted to work in excess of 40 hours per week averaged over any five week period; provided, that in one week of such five week period any employee may be permitted to work not in excess of 48 hours. Watchmen may be permitted to work either 84 hours in any two week period or 56 hours in any one week period; provided, that such

employees shall have at least one day's rest in each seven day period. Employees engaged in an executive, managerial, supervisory or technical capacity and their immediate assistants who receive not less than $35.00 per week, and to outside sales and outside sales service employees and to those engaged in emergency maintenance or emergency repair work involving plant breakdown or protection of life or property which necessitates longer hours, are not subject to hourly limitations.

Article IV. This Article provides that no employee shall be paid in any pay period less than at the rate of 30¢ per hour in the Southern District, nor less than at the rate of 40¢ per hour elsewhere in the United States. Wage rates in effect on July 1st, 1933, above the minimums specified shall not be reduced in any case. The minimum weekly wage for persons employed in clerical or office work is $15.00 per week. The minimum rate of pay for work performed in any pay period shall apply irrespective of whether an employee is actually compensated on a time rate, piece work, or other basis. Provision is also made for the employment of handicapped persons, as well as for the adjustment of wages above the minimum if such adjustment has not heretofore been made under the National Industrial Recovery Act.

Article V. This Article provides that no employer shall employ any person under 16 years of age and that no person under 18 years of age shall be employed except in clerical, office, sales, service, technical and engineering departments. This Article also sets forth mandatory provisions respecting the rights of employees to organize and bargain collectively. It also provides for matters having to do with reclassification of employees, standards for safety and health, the observance of state laws and the posting of complete copies of this code so that they are accessible to employees. Provision is also made with reference to company towns and stores and dismissals for complaint.

Article VI. This Article establishes a Code Authority consisting of seven members who shall be selected by and who may be members of the Executive Committee of the Alloy Producers Association, and one other member who shall be a Member of Industry not a member of the Association. The selection of all members of the Code Authority shall be by a fair and equitable method of election to be approved by the Administrator. In addition to the above membership there may be not more than three representatives without vote and without compensation from the Industry to be appointed by the Administrator for such terms as he may specify. In addition to the organization of the Code Authority the powers and duties thereof are outlined in this Article.

Article VII. This Article makes provision for Trade Practice Rules.

Article VIII. This Article makes provision that the Code Authority may recommend to the Administrator that present capacities be not increased until such time as the Code Authority and the Administrator, or the Administrator acting on his own behalf, shall determine that the demand for such products of Industry cannot be met by the fullest possible use of such present capacities.

Article IX. This Article provides for Export Trade.

Article X. This Article makes provisions for the modification of this code.

Article XI. This Article provides that no provision of this code shall be so applied as to promote monopolies or monopolistic practices, or to eliminate, oppress or discriminate against small enterprises.

Article XII. This Article provides that this code shall become effective ten days after its approval by the President.

The Deputy Administrator in his final report to me on said code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) Said code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant Association is an industrial Association truly representative of the aforesaid Industry; and that said Association imposes no inequitable restrictions on admission to membership therein.

(d) The code is not designed to and will not permit monopolies or monopolistic practices.

(e) The code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said code.

For these reasons, therefore, this code has been approved.

Respectfully,

Hugh S. Johnson,
Administrator.

September 5, 1934.

CODE OF FAIR COMPETITION FOR THE ALLOYS INDUSTRY

Article I—Purposes

To effectuate the policies of Title I of the National Industrial Recovery Act, this code is established as a Code of Fair Competition for the Alloys Industry and its provisions shall be the standards of fair competition for such Industry and be binding upon every member thereof.

Article II—Definitions

Wherever used in this code or any 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 "President" means the President of the United States of America.

Section 2. The term "Act" means Title I of the National Iudustrial Recovery Act.

Section 3. The term "Administrator" means the Administrator for Industrial Recovery.

Section 4. The term "Member of Industry" includes, but without limitation, any individual, partnership, association, corporation or other form of enterprise engaged in the Industry, either as an employer or on his or its own behalf.

Section 5. The term "Employee" means and includes anyone engaged in the Industry in any capacity receiving compensation for his services irrespective of the nature or method of payment of such compensation, except a Member of the Industry.

Section 6. The term "Employer" means anyone by whom any such employee is employed or compensated.

Section. 7. The term "Industry" includes all those producing, within the United States, by any process of manufacture, primary alloys, and/or nonmetallic metallurgical reagents for subsequent use as an additive agent for the purpose of alloying, and/or deoxidizing, and/or refining, but not for fluxing, and the original sale in the United States of any such Industry products by the Member of Industry producing the same directly or indirectly either by himself or his agent, which includes without limitation any person or corporation occupying a subsidiary or controlling relationship or one of common, mutual, or joint ownership, or control to a Member of Industry.

Section 8. The term "Industry Products" includes the alloy combinations of the elements of the Periodic System with iron, the constituent elements or combinations thereof of such alloys without iron, and/or nonmetallic metallurgical reagents for subsequent use as an additive agent for the purpose of alloying, and/or deoxidizing,

and/or refining, but not for fluxing. The term "Industry Products" does not include standard high carbon Ferro Manganese or Spiegeleisen, or the production of such metals which may be used for alloying processes which are governed by other Codes of Fair Competition.

SECTION 9. The words "Export Trade" mean (as defined in the Export Trade Act adopted April 10, 1918) solely trade or commerce in goods, wares or merchandise exported, or in the course of being exported from the United States or any territory thereof to any foreign nation; but the words "Export Trade" shall not be deemed to include the production, manufacture, or selling for consumption or for resale within the United States or any territory thereof of such goods, wares or merchandise, or any act in the course of such production, manufacture or selling for consumption or for resale.

SECTION 10. The term "Association" shall mean the American Alloy Producers Association, a voluntary unincorporated Association.

SECTION 11. The term "Executive Committee" shall mean the Executive Committee of the Association.

SECTION 12. The term "Secretary" shall mean the Secretary of the Code Authority, who shall also be the Secretary of the Association.

SECTION 13. The term "Southern District" shall mean: Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas and Texas.

ARTICLE III—HOURS OF LABOR

SECTION 1. *Maximum Hours.*—No employee shall be permitted to work in excess of forty (40) hours in any calendar week or eight (8) hours in any twenty-four (24) hour period, except as herein otherwise provided.

SECTION 2. *Hours for Clerical and Office Employees.*—No person employed in clerical or office work shall be permitted to work in excess of forty (40) hours in any one (1) week, or eight (8) hours in any one (1) day, except that during one (1) week in any four (4) or five (5) week period that shall correspond as nearly as may be to the calendar month any of such employees may be permitted to work a maximum of forty-eight (48) hours.

SECTION 3. *Exceptions as to Hours.*—The limitation as to hours of labor as specified in Sections 1 and 2 of this Article III and Section 4 as applied to Subparagraphs (b), (c) and (d) of this Section 3 shall not apply to the following:

(a) During any period in which a concentrated demand upon any division of the Industry shall place an unusual and temporary burden for production work upon its facilities, or to meet peak requirements, or production emergencies, an employee of such division may be permitted to work not more than forty-eight (48) hours per week in not more than six (6) weeks in any six (6) month period; provided, however, that at least one and one-third (1⅓) times his regular wage rate for any employee so employed shall be paid for all hours worked in excess of forty (40) hours per week or eight (8) hours per day. Each member who shall permit any employee to

work in excess of eight (8) hours per day or forty (40) hours per week under the provisions of this Subsection (a) shall report, upon the request of the Administrator, such overtime to the Code Authority, which shall in turn report to the Administrator.

(b) Employees engaged in emergency maintenance or emergency repair work, involving plant breakdown or protection of life or property; provided, that in such special cases at least one and one-third times (1⅓) his regular wage rate for any employee so employed shall be paid for all hours worked in excess of forty (40) hours in any one (1) week or eight (8) hours per day.

(c) Outside sales and outside sales service employees.

(d) Persons in a managerial, executive, supervisory or technical capacity and their immediate assistants; provided, that this exception shall apply to no such employee who is paid less than at a rate of Thirty-Five Dollars ($35.00) per week.

(e) Watchmen who, according to the nature of their responsibilities, may be permitted to work either not more than eighty-four (84) hours in any two (2) week period or fifty-six (56) hours in any one (1) week; provided, that such employees shall have at least one (1) day's rest in each seven (7) day period.

(f) Power-house operators, engineers, firemen and pumpmen; provided, the total number of hours worked by such employees shall not exceed forty-five (45) hours in any one (1) week, or nine (9) hours per day.

(g) There may be a tolerance of ten percent (10%) additional hours over the maximum hours in any one (1) week for employees engaged in the preparation, care and maintenance of machinery and production facilities, stock and shipping employees, chauffeurs and truckmen engaged in outside delivery and pick-up service; provided, however, that at least one and one-third (1⅓) times his regular wage rate for any employee so employed shall be paid for all hours worked in excess of forty (40) hours in any one (1) week or eight (8) hours per day.

(h) Skilled workers in continuous processes, the interruption of which would unavoidably reduce production because of demands inherent and peculiar within the process itself; provided, however, that such employees in such cases shall not be permitted to work more than forty-eight (48) hours in any one (1) week, and provided, that in such special cases at least one and one-third (1⅓) times his regular wage rate shall be paid to any employee so employed for hours worked above forty (40) hours per week or eight (8) hours per day. Each employer who shall permit any employee to work in excess of eight (8) hours per day or forty (40) hours per week under the provisons of this Subsection (h), shall report, upon the request of the Administrator, such overtime to the Code Authority, which shall in turn report to the Administrator.

Section 4. *Standard Week.*—No employee shall be permitted to work more than six (6) days in any seven (7) day period.

Section 5. *Employment by Several Employers.*—No employer shall knowingly permit any employee to work for any time which, when totalled with that already performed with another employer or employers in this Industry or other trades or industries, exceeds the maximum permitted herein.

Article IV—Wages

Section 1. *Minimum Wages.*—Except as otherwise herein provided no employee shall be paid in any pay period less than at the rate of thirty (30) cents per hour in the Southern District, nor less than at the rate of forty (40) cents per hour elsewhere in the United States. The minimum rates herein provided shall be construed as hiring rates applying to totally unskilled or common labor and all other classes of labor shall be compensated at rates above the minimum. Wage rates in effect on July 1st, 1933, above the minimums specified hereinabove shall not be reduced in any case.

Section 2. *Clerical and Office Employees.*—No clerical or office employee shall be paid less than at the rate of Fifteen Dollars ($15.00) per week; provided, however, that office boys and girls and messengers may be paid not less than at a rate of 80% of the minimum hereinabove specified, and provided further that the number of such boys and girls and messengers so paid shall constitute not more than 5% of the total number of such employees of any one (1) office of any one (1) employer, but in any case each employer shall be entitled to employ one (1) such employee.

Section 3. *Piecework Compensation—Minimum Wages.*—This Article establishes a minimum rate of pay for any pay period which shall apply, irrespective of whether an employee is actually compensated on a time-rate, piece-work, or other basis.

Section 4. *Wages Above the Minimum.*—Equitable adjustments with respect to rates above the minimum shall be made within thirty (30) days after the effective date of this code by each employer who has not heretofore made such adjustments under the National Industrial Recovery Act. In no event, however, shall hourly rates be reduced in making such equitable adjustments. Within sixty (60) days after the effective date of this code each Member of Industry shall make a report of such adjustment whether made prior to or subsequent to date of approval of this code to the Code Authority.

Section 5. *Payment of Wages.*—Each employer shall make payment of all wages in lawful currency, or by negotiable check therefor, payable on demand. These wages shall be exempt from any payments for pensions, insurance or sick benefits other than those voluntarily paid by the wage earner or required by law. Pay periods for wages shall be at no greater interval than every semi-month, and salaries at no greater interval than every month. No employer shall withhold wages except as otherwise provided by law.

Section 6. *Handicapped Persons.*—A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State Authority, designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file with the Code Authority a list of all such persons employed by him, showing the wages paid to and the maximum hours of work for such employee.

Article V—General Labor Provisions

Section 1. *Child Labor.*—No person under eighten (18) years of age shall be employed in the Industry, except in clerical, office, sales, service, technical and engineering departments, and no person under sixteen (16) years of age shall be employed in any capacity. In any state an employer shall be deemed to have complied with this provision as to age, if he shall have on file a certificate duly signed by the authority of such state empowered to issue employment or age certificates or permits, showing that the employee is of the required age.

Section 2. *Provisions of the Act.*—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, 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.

(b) 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, and

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

Section 3. *Reclassification of Employees.*—No employer shall reclassify employees or duties of occupations for the purpose of defeating the purposes or provisions of the Act or of this code.

Section 4. *Standards for Safety and Health.*—Every employer shall provide for the safety and health of his employees at the place and during the hours of their employment. Standards of safety and health for each division of the Industry shall be submitted to the Administrator by the Code Authority within three (3) months after approval of this code.

Section 5. *State Laws.*—No provision in this code shall supersede any state or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance or fire protection, than are imposed by this code.

Section 6. *Posting.*—All employers shall post and keep posted complete copies of this code and all amendments thereto in conspicuous places accessible to employees, and shall comply with all rules and regulations relative to posting which may from time to time be prescribed by the Administrator.

Section 7. *Company Towns and Stores.*—Employees other than maintenance or supervisory men, or those necessary to protect property, shall not be required as a condition of employment to live in houses rented from or specified by the employer. No employee shall be required, as a condition of employment, to trade at a store owned or specified by an employer.

Section 8. *Dismissal for Complaint.*—No employer shall dismiss or demote any employee for making a complaint or giving evidence with respect to an alleged violation of this code.

Article VI—Organization, Powers and Duties of the Code Authority

Section 1. *Organization and Constitution.*—A Code Authority to administer this code is hereby constituted, and shall consist of seven (7) voting members who shall be selected by and who may be members of the Executive Committee of the Association, and one (1) other voting member who shall be a Member of Industry and shall be selected by the Members of Industry who are not members of the Association. The selection of all members to the Code Authority shall be by a fair and equitable method of election to be approved by the Administrator. In the event that the selection of the Association's non-member representative on the Code Authority is not made within thirty (30) days after the effective date of this code such member may be selected by the Administrator.

Section 2. In addition to the above membership there may be not more than three (3) members, without vote, and without compensation from the Industry, appointed by the Administrator to serve for such terms as he may specify.

Section 3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall, (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its Articles of Association, By-Laws, Rules and Regulations and any amendments when made thereto, together with such other information as to membership, organization and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

Section 4. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper, and thereafter, if he shall find that any basic Code Authority or Sub-Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of such Code Authority.

Section 5. Nothing contained in this code shall constitute the members of the Code Authority partners for any purpose; nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority; nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this code, except for his own wilful misfeasance or nonfeasance.

Section 6. *Powers and Duties.*—Subject to such rules and regulations as may be issued by the Administrator and to the extent permitted by the Act, the Code Authority shall have the following further powers and duties.

(a) To make investigations as to the functioning and observance of any provisions of this code at its own instance or upon complaint of any person affected and to report thereon to the Administrator.

(b) To insure the execution of the provisions of this code and to provide for the compliance of the Industry with the provisions of the Act.

(c) To adopt By-Laws and Rules and Regulations for its procedure and for the administration of this code. The Code Authority shall promptly furnish to the Administrator for his approval true copies of the By-Laws, Rules and Regulations adopted pursuant to this paragraph.

(d) To obtain from Members of the Industry such statistical information and reports as are required for the administration of this code and to provide for submission by members of such statistical information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such Federal and/or state agencies as the Administrator may designate; provided, that nothing in this code shall relieve any Member of the Industry of any existing obligations to furnish reports to any government agency. No individual reports submitted to the Administrator and/or such government agencies as the Administrator may designate, shall be disclosed to any other Member of the Industry or any other party except such government agencies as may be directed by the Administrator.

(e) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein; provided, that nothing herein shall relieve the Code Authority of its duties or responsibilities under this code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(f) To make recommendations to the Administrator for the coordination of the administration of this code with such other codes, if any, as may be related to the Industry.

(g) To recommend to the Administrator such further trade practice provisions to govern Members of the Industry in their relations with each other or with other Industries, and measures for industrial planning, including calling of meetings of Members of the Industry to consider control of production through voluntary agreement, stabilization of employment and conservation of natural resources, as the Code Authority shall consider to be for the best interests of the Industry, and to recommend to the Administrator such measures as shall have been voluntarily agreed upon, such recommendations, upon approval by the Administrator after such notice and hearing as he may prescribe, to have the same effect as other provisions of this code.

Section 7. It being found necessary to support the administration of this code in order to maintain the standards of fair competition established by this code and to effectuate the policy of the Act, the Code Authority is authorized:

(1) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of this code:

(2) To submit to the Administrator for his approval subject to such notice and opportunity to be heard as he may deem necessary, (a) an itemized budget of its estimated expenses for the foregoing purposes, and (b) an equitable basis upon which the funds necessary

to support such budget shall be contributed by Members of the Industry:

(3) After such budget and basis of contribution have been approved by the Administrator, to determine and secure equitable contribution as above set forth by all such Members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

SECTION 8. Each Member of the Industry shall pay his or its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided (unless duly exempted from making such contributions) and subject to rules and regulations pertaining thereto issued by the Administrator. Only Members of the Industry complying with the code and contributing to the expenses of its administration as hereinabove provided, shall be entitled to participate in the selection of members of the Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

(a) If, after such budget and basis of contribution shall have been approved by the Administrator in accordance with such regulations as the Administrator heretofore has or hereafter shall prescribe with respect thereto, any Member of the Industry shall fail to pay his or its contribution so determined within thirty (30) days after such members shall have received notice thereof as prescribed by said regulations, such failure so to pay such contribution shall be a violation of this code upon and after appropriate certification of such failure by the Code Authority to the Administrator, unless said member is duly exempted by his action, in accordance with the said regulations.

SECTION 9. The Code Authority shall neither incur nor pay any obligation substantially in excess of the amount thereof as estimated in its approved budget, and shall in no event exceed the total amount contained in the approved budget except upon approval of the Administrator; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

SECTION 10. If the Administrator shall determine that any action of the Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Administrator approves, or unless he shall fail to disapprove after thirty (30) days notice to him of intention to proceed with such action in its original or modified form.

SECTION 11. When the Administrator determines upon the petition of the Code Authority, or otherwise, that an emergency exists in this Industry because of destructive price cutting which is such as to render ineffective or seriously endangers the maintenance of the provisions of this code, the Administrator may cause to be determined, after investigation of costs by the Code Authority through an impartial agency, the minimum price for any product of this Industry

necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, and below which price such product of the Industry shall not be sold. Such determination shall be subject to such notice and hearing as the Administrator may require. From time to time the Code Authority, upon its own initiative, or upon the request of any interested party, may recommend that the determination be reviewed, or the Administrator may cause such determination to be reviewed and appropriate action taken.

Article VII—Trade Practice Rules

Section 1. The following trade practices are declared to constitute unfair methods of competition between Members of the Industry, and no Member of the Industry shall use or engage in any of them, either directly or indirectly, through any officer, agent or employee. Engaging in any one or more of these or any further trade practice provisions which hereafter may be established on recommendation by the Code Authority, approved by the Administrator, after such hearings as he may prescribe, shall be deemed a violation of this code.

(a) Secretly paying or allowing rebates, refunds, commissions, credits, unearned discounts, excess allowances, special services or privileges, whether in the form of money or otherwise, to certain purchasers which are not extended to all purchasers under similar circumstances for the purpose of influencing a sale.

(b) Procuring, otherwise than with the consent of any member of the code, any information concerning the business of such member which is properly regarded by it as a trade secret or confidential within its organization, other than information relating to a violation of any provision of this code.

(c) Imitating or simulating any design, style, mark or brand owned or used with the consent of the owner by any other Member of the Industry.

(d) Using or substituting any material different in quality from that specified by the purchaser of any product, or using or substituting any material or any method of manufacture not in accord with any applicable law, rule or regulation of any governmental authority.

(e) Selling or offering to sell Industry Products to a purchaser not under term-contract for such Industry Products at the term-contract price for such Industry Products, or less.

(f) Cancelling in whole or in part, or permitting the cancellation in whole or in part of, any contract of sale of any product, except for a fair consideration or just cause, or secretly paying or allowing to any purchaser for the purpose of influencing the sale of any product, any rebate, commission, credit, discount, adjustment or similar concession, or permitting the splitting of their commissions by sales agents with, or the allowing of any part of their commissions by sales agents to, any purchaser in connection with the sale of any of the Industry Products.

(g) Disseminating, publishing or circulating any false or misleading information relative to any product or price for any product of any Member of the Industry, or the credit standing or ability of

any member thereof to perform any work, or manufacture, or produce any product, or to the conditions of employment among the employees of any member thereof.

(h) Inducing or in any manner attempting to induce a violation of a contract between a Member of Industry and his customer.

(i) Aiding or abetting any person, firm, association or corporation in any unfair practice.

(j) Making or giving to any purchaser of any product any guaranty or protection in any form against decline in the price of such product. This provision shall not apply to contracts entered into prior to the effective date of this code.

(k) Making any false statement in an invoice and especially stating in the invoice of any product as the date thereof a date later than the date of the shipment of such product, or including in any invoice any product shipped on a date earlier than the date of such invoice.

(l) Making any sale or contract of sale of any Industry Product under any description which does not fully describe such product in the terms customarily used in the Industry.

(m) Failing to add to the prices charged for products of the Industry, whenever such addition may be lawful, any Federal tax assessed against the production or sale of such products, or rebating such charge. This provision shall not apply to contracts entered into prior to the effective date of this code.

(n) Giving or permitting to be given, or directly offering to give anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. This commercial bribery provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

(o) Deviating from the published and previously established specifications, for the purpose of influencing a customer or prospective customer.

(p) Alloying of any Industry Product of previously established specifications in any manner for the purpose of evading the provisions of this code.

(q) Requiring that the purchase or lease of any products or equipment be a prerequisite to the purchase or lease of any other products or equipment.

Article VIII—New Capacity

In the event that the Code Authority shall determine that then existing capacities and capacities then under construction for the production of products of the Industry are in excess of the capacities required to meet the demand for such products, and the Administrator shall approve such determination upon the recommendation of the Code Authority, then such capacities shall not be increased (except for the supplying of foreign demand) until such time as

the Code Authority and the Administrator, or the Administrator acting on his own behalf, shall determine that the demand for such products cannot be met by the fullest possible use of such capacities.

This provision, however, shall not apply in the production of Calcium Molybdate or Ferromolybdenum, or other Molybdenum products in which Molybdenum represents the chief constituent of economic value, or Ferro Phosphorus when such Ferro Phosphorus is incidentally and necessarily produced as a by-product in the manufacture of Phosphorus or Phosphoric Acid.

Article IX—Export Trade

No provision of this code relating to prices or terms of selling, shipping or marketing, shall apply to export trade or sales or shipments for export trade.

Article X—Modification

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

Section 2. This code, except as to provisions required by the Act, may be modified by amendment on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

Section 3. If the Code Authority shall desire to propose an amendment, after having approved the same, it shall submit the same to the Members of the Industry who shall thereupon vote upon said proposed amendment either at a special meeting called for that purpose or by mail ballot, at the discretion of the Code Authority. In such voting there shall be two separate ballots on each amendment so proposed:

(a) Each Member of the Industry voting shall be entitled to cast one (1) vote upon said amendment, which vote shall be known as the "Member Vote".

(b) Each member of the Industry voting upon said proposed amendment shall be entitled to cast one (1) vote for each rated one thousand (1,000) horsepower electric furnace capacity now installed or now under construction in the Industry owned by such member, or the equivalent thereof fairly computed of other type of production capacity for Industry Products. This vote shall be known as the "Capacity Vote."

In order to receive approval of the Industry, any such proposed amendment shall receive the affirmative vote of:

(a) At least 75% of the Member Votes cast and in addition thereto,

(b) At least 75% of the Capacity Votes cast, both separately considered. If such proposed amendment shall be approved in the manner above set forth, the Code Authority shall submit such pro-

posed amendment to the Administrator. Such amendment shall become effective as a part of this code upon approval by the Administrator after such notice and hearing as he may prescribe.

Article XI—Monopolies

No provision of this code shall be so applied as to promote monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

Article XII—Effective Date

This code shall become effective beginning ten (10) days after its approval by the President.

Approved Code No. 515.
Registry No. 1201–08.

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