

NATIONAL RECOVERY ADMINISTRATION

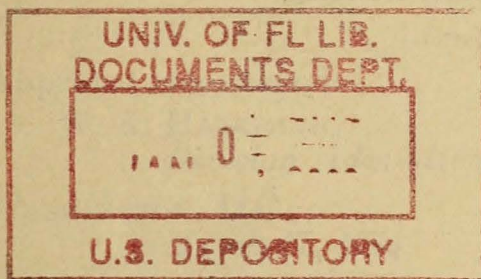
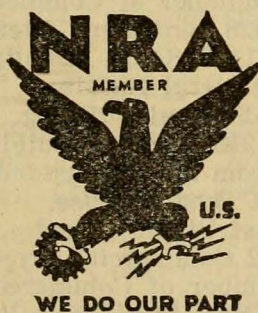
CODE OF FAIR COMPETITION

FOR THE

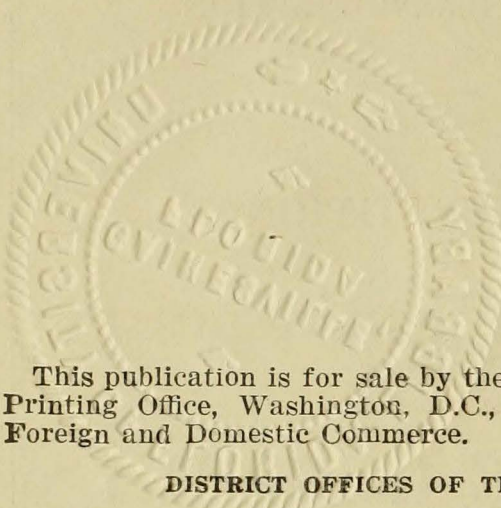
METAL LATH

MANUFACTURING INDUSTRY

AS APPROVED ON MARCH 17, 1934



UNITED STATES
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Approved Code No. 344

CODE OF FAIR COMPETITION
FOR THE
METAL LATH MANUFACTURING INDUSTRY

As Approved on March 17, 1934

ORDER

**APPROVING CODE OF FAIR COMPETITION FOR THE METAL LATH
MANUFACTURING 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 Metal Lath Manufacturing 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:

W. A. HARRIMAN,
Division Administrator.

WASHINGTON, D.C.,
March 17, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Metal Lath Manufacturing Industry in the United States, as revised after a public hearing conducted in Washington on November 23, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

Between November 1st and March 1st employees are not permitted to work more than thirty-two hours a week and eight hours a day. During the other eight months of the year, employees are not permitted to work more than forty hours a week and eight hours a day.

To meet production peaks, employees are permitted to work forty hours a week and eight hours a day during any six weeks between November 1st and March 1st; forty-eight hours a week and eight hours a day during any twelve weeks between March 1st and November 1st; provided one and one-half times the normal rate is paid for hours worked in excess of forty a week and eight a day.

Watchmen are permitted to work fifty-six hours a week.

Engineers and certain other classes of employees, not exceeding ten per cent of an employer's total number of plant employees, are permitted a tolerance of ten per cent over their normal hours but in no event more than forty-eight a week provided one and one-half times the normal rate is paid for all hours worked in excess of forty a week and eight a day. Between November 1st and March 1st these classes of employees are permitted to work forty hours a week.

Office, service and sales employees are permitted to work forty hours a week. Though eight hours is the daily normal, these classes of employees are permitted to work nine hours a day.

Hourly limitations do not apply to managers, executives or supervisors who regularly receive more than thirty-five dollars a week; or to outside sales or sales service men.

Hourly limitations do not apply to employees engaged in emergency maintenance and repair work or in the protection of life or property provided one and one-half times the normal rate is paid for hours worked in excess of forty a week or eight a day.

Employees are not permitted to work more than six days out of any seven.

The minimum hourly rate for all employees, except office and sales employees, shall be forty cents an hour.

Regardless of whether an employee is compensated on a time rate, piece work or other basis, a minimum rate of pay is established.

Compensation of employees receiving more than the minimum shall be equitably adjusted and reported to the Code Authority but in no event shall rates of pay be reduced.

Office and sales employees shall receive either fifteen, fourteen and a half or fourteen dollars a week, depending upon the population of the place of their employment.

With the permission of the state authority, handicapped persons, not exceeding five per cent of an employer's total number of employees, may be employed on light work at wages below the minimum.

Wages shall be paid at least bi-monthly and shall be exempt from any payments other than those voluntarily made by an employee or required by law.

Female employees performing substantially the same work as male employees shall receive the same pay as male employees.

No one under sixteen years of age shall be employed in the industry nor anyone under eighteen years of age on machine operations.

ECONOMIC EFFECTS OF THIS CODE

This Code provides a forty cent hourly minimum rate of pay. The average minimum rate of pay prevailing in this industry in 1929 was thirty-five cents an hour. A decrease to twenty-nine cents occurred in 1933.

Operating under the President's Reemployment Agreement this industry's payrolls were increased about fifteen percent; this Code will effect a further increase in payrolls of more than five percent.

The fifty-five hour average work week which prevailed in 1929 has been reduced, with minor exceptions, to forty hours a week during eight months of the year and to thirty-two hours a week during the other four months of the year. This reduction in working hours should substantially increase the number of this industry's employees.

The straight forty hour week for office employees provided by this Code will effect further increase in excess of the nine percent reabsorption effected by the President's Reemployment Agreement.

This Code will eliminate many unfair trade practices and facilitate the rendition of better service to the construction industry.

At present this industry is operating at twelve percent of capacity; substantial increases in production are contingent upon new construction which will result in corresponding increases in employment.

FINDINGS

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 the 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, I have approved this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator

MARCH 17, 1934.

CODE OF FAIR COMPETITION FOR METAL LATH MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Metal Lath Manufacturing Industry and shall be the standard of fair competition for this industry, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "metal lath manufacturing industry" or "the industry" as used herein includes the manufacture and sale of metal lath, metal lath accessories, and expanded metal products except expanded metal products not used for plastering purposes.

The term "employee" as used herein includes any person engaged in the industry, in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged.

The term "member of the industry" includes any manufacturer engaged in the industry as herein defined.

The terms "President", "Act" and "Administrator" as used herein shall mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS

SECTION 1. No employee shall be permitted to work in excess of thirty-two (32) hours in any week or eight hours in any day during the period from November 1st to the following March 1st or in excess of forty (40) hours in any week or eight hours in any day during the period from March 1st to November 1st, except as hereinafter provided.

SECTION 2. To meet production peaks, an employee may be permitted to work in excess of thirty-two (32) hours but not to exceed forty (40) hours in any week or eight hours in any day during any six weeks during the said November to March period described in Section 1 hereof, and in excess of forty (40) hours but not to exceed forty-eight (48) hours per week or eight hours per day in any

twelve (12) weeks during said March to November period described in Section 1 hereof.

SECTION 3. The maximum hours for watchmen shall be fifty-six (56) hours in any one week.

SECTION 4. Electricians, repair and maintenance crews, engineers, truckmen, firemen and departmental foremen, not exceeding ten (10) percent of an employer's total number of plant and factory employees, may be permitted to work a tolerance of ten (10) percent over the daily and weekly hours provided in the foregoing sections 1 and 2, but in no event more than forty-eight (48) hours in any week; provided, however, that during the said November to March period, engineers, truckmen, firemen and departmental foremen may be permitted to work forty (40) hours in any week.

SECTION 5. No accounting, clerical, office, service or sales employee shall be permitted to work in excess of forty (40) hours per week or nine hours per day. A normal day shall not exceed eight hours.

SECTION 6. The provisions of this Article shall not apply to employees serving in a managerial, executive or supervisory capacity who regularly receive more than thirty-five (35) dollars per week; or to outside sales or outside sales service men.

SECTION 7. All employees covered by Sections 1, 2, 4, and 8 of this Article III, shall be paid at one and one-half ($1\frac{1}{2}$) times their ordinary rates for every hour worked above forty (40) hours in one week or eight (8) hours in one day.

SECTION 8. The provisions of this Article shall not apply to employees of any class when engaged in emergency maintenance and repair work or in the protection of life or property.

SECTION 9. No employee shall work more than six days out of any seven.

ARTICLE IV—WAGES

SECTION 1. No employee, excluding accounting, clerical, office and sales employees, shall be paid at less than the rate of forty (40) cents per hour.

SECTION 2. Section 1 of this Article establishes a minimum rate of pay regardless of whether the employee is compensated on a time rate or piece work or other basis.

SECTION 3. Equitable adjustment of compensation of employees receiving more than the minimum rates of pay herein prescribed shall be made by all employers who have not heretofore made such adjustments, and all employers shall within sixty (60) days after approval of this Code, report in full to the Code Authority concerning such adjustments whether made prior to or subsequent to such approval, provided, however, that in no event shall rates of pay be reduced.

SECTION 4. No accounting, clerical, office, or sales employee shall be paid at less than the rate of fifteen (15) dollars per week when employed in any city of over 500,000 population or in the immediate trade area of any such city; or at less than the rate of fourteen (14) dollars and fifty (50) cents per week when employed in any city of between 250,000 and 500,000 population, or in the immediate trade area of any such city; or at less than the rate of fourteen (14) dollars

per week when employed in any city or town of less than 250,000 population, or in the immediate trade area of any such city or town.

SECTION 5. A person whose earning capacity is limited because of age or physical or mental handicap 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 and guided by the instructions of the United States Department of Labor, a certificate authorizing his employment at such wage as shall be stated in the certificate, but such employees shall not exceed five per cent of any employer's total number of employees. Each employer shall file with the Code Authority a list of all such persons employed by him.

SECTION 6. Wages shall be exempt from any payment for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earners, or required by State or Federal laws. Wages shall be paid at least at the end of every two-week period, and salaries at least at the end of every month.

SECTION 7. Female employees performing substantially the same work as male employees shall receive the same pay as male employees.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed on machine operations.

SECTION 2. In compliance with Section 7 (a) of the Act it is provided: (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; (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. No employer shall reclassify employees or duties of occupations performed nor resort to any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

SECTION 4. Each employer shall post under such rules as the Administrator may prescribe, in conspicuous places, accessible to employees, copies of this Code.

SECTION 5. No employer shall knowingly permit any employee to work for any time which when totaled with that already performed with another employer in this or any industry exceeds the maximum permitted herein.

SECTION 6. 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 7. Each employer shall make reasonable provisions for the health and safety of his workmen at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval before June 1, 1934.

ARTICLE VI—COSTS

SECTION 1. The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the industry. After such system and methods have been formulated and approved by the Administrator, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such method.

SECTION 2. No member of the industry, after the adoption by the Code Authority and approval by the Administrator of a uniform cost formula, shall quote or sell any industry product below such member's cost as determined by such formula, except that any member of this industry may meet a competitor's established market price or published price on such industry product which has been filed in the manner provided in Article VII of this Code, or except with the consent of and under such terms as may be determined by the Code Authority acting upon application filed in writing by a member of the industry for permission to sell certain of its products at a price less than cost. Any such exception granted by the Code Authority shall be available to all members of the industry within the limitations of the exception granted. Established market price on any industry product for the purpose of this section means the price at which any competitor is selling such product.

ARTICLE VII—PUBLICATION OF PRICE

SECTION 1. Each member of the Industry shall, within five (5) days of the effective date of this Code, publish and file with the Code Authority, or such other agency as the Code Authority may designate, complete lists or schedules of prices and terms and conditions of sale of all industry products offered for sale by such member, except to another member of the Industry and shall so publish and file all subsequent changes therein or revisions thereof, and such price lists or schedules and terms and conditions of sale, and changes or revisions thereof as aforesaid so filed, shall for the purpose of this Code be treated as the published price lists or schedules and terms and conditions of sale of the member filing the same, and shall be available to each member of the industry and after the effective date thereof to all interested parties. The Code Authority shall promptly cause a copy of all such price lists and terms and conditions of sale, and all changes therein or revisions thereof to be sent to each member of the Industry.

SECTION 2. No member of the Industry shall offer for sale, quote on, or sell any of its industry products at a price or prices, or upon terms and conditions other than those stated in such member's published price list and the terms and conditions of sale then in effect; except to another member of the industry.

SECTION 3. If at any time hereafter the Administrator shall give his approval to the requirement that subsequent changes or revisions of any price lists or terms or conditions of sale as provided in Section 1 hereof shall be filed a specific period of time prior to the effective date thereof, the Code Authority may provide that all changes in such price lists or terms or conditions of sale or revisions thereof thereafter filed shall be filed five days (or such other period of time as may be approved by the Administrator) prior to the effective date of any such subsequent changes or revisions, and such price lists or schedules and terms and conditions of sale, and changes or revisions thereof as aforesaid so filed, (unless the member filing such changes or revisions shall cancel the same before the effective date thereof) shall for the purpose of this Code be treated as the published price lists or schedules and terms and conditions of sale of the member filing the same, and shall be available to each member of the Industry and after the effective date thereof to all interested parties. The Code Authority shall promptly cause a copy of all such price lists and terms and conditions of sale, and all changes therein or revisions thereof, to be sent to each member of the Industry. In the event that any Industry member shall not receive sufficient notice of the filing by any other Industry member of changes in another member's prices or terms and conditions of sale as will enable such member to meet such changes on the effective date thereof, such member may file with the appropriate agency such changes in his prices or terms and conditions of sale as may be required to meet the changes filed by another member. Changes so filed shall become effective on the same date as the effective date for the changes of such other member first filing as aforesaid, or, if those changes shall have already become effective, then the changes subsequently

ARTICLE VIII—MERCHANDISING PLAN

SECTION 1. The Code Authority may prepare and from time to time revise a merchandising plan for the sale and distribution of industry products, containing such provisions as may be necessary or proper to insure fair selling methods by the industry and to prevent unfair competitive practices, which plan, or changes therein or additions thereto, after adoption by the Code Authority and approval by the Administrator may be adopted by any member of the industry and included in the member's terms and conditions of sale as filed with the Code Authority. Upon the approval of any such merchandising plan or any changes therein or additions thereto by the Administrator, after such notice and hearing as he may prescribe, the same shall become a part of this Code and binding upon the members of the industry, and thereafter each member of the industry shall sell and distribute all industry products in accordance with such merchandising plan, or any such changes therein or additions thereto.

ARTICLE IX—TRADE PRACTICES

SECTION 1. A trade practice code for the industry is attached hereto as Exhibit A and made a part hereof.

Any deviation from the standards of fair dealing set forth in such trade practice code (adopted for this industry) or any amendments thereof shall be considered an unfair method of competition.

ARTICLE X—ADMINISTRATION *

To further effectuate the policies of the Act, a Code Authority is hereby set up to administer the Code in cooperation with the Administrator.

SECTION 1. The Code Authority shall consist of one representative from each member of the industry who shall subscribe to the Code and pay a pro rata share of the expenses as provided in Section 8 of Article X. In addition there may be not to exceed three members without vote and without cost to the industry, appointed by the Administrator to serve for such periods as the Administrator may designate.

SECTION 2. The Code Authority shall be the general planning and fair practice agency for the industry and shall in addition to the other powers and duties elsewhere in the Code conferred upon it, have full power and authority from time to time to require such reports from members of the industry with respect to capacity, production and orders for shipment, persons employed, wage rates, earning and hours of labor, prices, costs and other items as may be necessary to advise it adequately in the administration and enforcement of the provisions of this Code or as the Administrator may require; and to make recommendation for the standardization of products by the members of the industry. It shall also have power and authority to propose amendments, to make rules and regulations as may be required for the effective exercise of the powers herein conferred upon it for the administration of this Code and to cooperate with the Administrator and other proper Government officials in the enforcement of this Code.

SECTION 3. In order to assure confidential treatment of individual figures, all reports, data and information which the said Code Authority is empowered to collect or receive shall be collected or received by an agency appointed by the Code Authority, not a member or connected with a member of the industry, or, in the absence of such appointment, the Secretary of the Metal Lath Manufacturers Association is hereby appointed the agent to collect or receive the same. The agency so collecting or receiving any such reports, data and information shall keep the same confidential as to individual reports except when required by the Administrator. All such reports, data and information shall be fully available at all times to the proper Government officials.

SECTION 4. Collusion between any industry member and any such confidential agency for the purpose of examining any report or data or obtaining any information collected or received by such confidential agency shall constitute unfair competition and shall be a violation of the Code.

SECTION 5. The Code Authority may appoint a committee of not more than five of members of the industry and delegate to any such

* See paragraph 2 of order approving this Code.

committee any of the authority herein granted to the Code Authority, including the carrying on of all communications and conferences with the President or his agents concerning the approval or amendment of this Code or any of its provisions or any other matters relating thereto. Any committee so appointed shall exercise only the authority specifically delegated to it by the Code Authority in the resolution appointing the same and the Code Authority shall be responsible for all authorized acts of any such committee.

SECTION 6. At any duly called meeting of the Code Authority, a three-fourths affirmative vote of the industry members present at the meeting either in person or by the member's alternate, shall be required to make effective any action of the Code Authority. Any member of the Code Authority, in his absence, may be represented by an alternate, appointed in writing by him, who shall be a person actively connected with the same company with which the member making the appointment is connected. A majority of the voting members of the Code Authority at any duly called meeting shall constitute a quorum.

SECTION 7. Any interested party shall have the right of complaint to the Code Authority and a prompt hearing and decision thereon under such rules and regulations as may be approved by the Administrator, in respect to any act of the Code Authority or any agency designated by the Code Authority to act on its behalf. If the Administrator shall determine that any action of a 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 8. All expenses involved in administering the Code shall be determined by the Code Authority and prorated equitably, subject to disapproval by the Administrator, among members of the industry who assent to the Code or accept any of the benefits thereof. The proration of all such expenses shall be on the basis either of volume of output or dollar value of domestic sales (excluding sales to other industry members signing the Code) during a specified period of time as the Code Authority shall determine.

SECTION 9. 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 the Code except for his own wilful misfeasance or non-feasance.

SECTION 10. In addition to information required to be submitted to the Code Authority, all or any of the persons subject to this code, shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of said act

to such Federal and State agencies as the Administrator may designate; nor shall anything in any code relieve any person of any existing obligation to furnish reports to Government agencies.

ARTICLE XI—GENERAL

SECTION 1. 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, 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 2. No provisions of this Code shall be interpreted or applied in such manner as to promote or permit monopolies or monopolistic practices; permit or encourage unfair competition; eliminate or oppress small enterprises or discriminate against them.

SECTION 3. Articles VI, VII, VIII and IX of this Code, and any Trade Practice Code or Merchandising Plan incorporated herein or adopted pursuant hereto shall not apply to industry products sold for export.

SECTION 4. As required by Section 10 (b) of Title I of the Act the following provision is contained in this Code: The President may from time to time cancel or modify any order, approval, license, rule or regulation issued under said Act.

SECTION 5. Such of the provisions of this Code as are not required to be included herein by the Act may upon submission to the industry and approval by the Administrator, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code or additional codes may be proposed to prevent unfair competition in prices and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the Act and any such supplementary provisions or additional codes, after submission to the industry and approval by the Administrator after such notice and hearing as he may prescribe, shall become a part of this Code and effective as such. The Code Authority may make any such proposals for modification, supplementary provisions or additional codes in the manner above provided.

SECTION 6. Violation by any member of this industry of any of the provisions of this Code or of any approved amendment hereof shall constitute an unfair method of competition.

SECTION 7. This Code and all of the provisions thereof shall cease to be in effect on June 16, 1935, or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by Section 1 of the National Industrial Recovery Act has ended.

SECTION 8. This Code shall be in effect beginning the second Monday after its approval by the President.

EXHIBIT A

TRADE PRACTICE CODE

SECTION 1. Any deviation from any of the provisions of this Code shall be deemed an unfair method of competition in the Metal Lath Industry.

SECTION 2. *Standard Forms of Quotation and Contract.*—The Code Authority may adopt standard forms of quotations and contracts for the industry, subject to approval thereof by the Administrator, and all quotations and contracts shall be made substantially in accordance with the terms and conditions set forth in such standard forms of quotations and contracts so adopted and approved. Any departure from said standard terms and conditions in the making of any quotation or contract in any transaction shall be deemed an unfair method of competition.

SECTION 3. *Commercial Bribery.*—No member of the Industry shall give, permit to be given, or directly offer 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. Commercial bribery provisions 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.

SECTION 4. *Rebates.*—The secret payment or allowance of rebates, refunds, credits, unearned discounts, or other allowances, whether in the form of money or gifts, or otherwise, or the extending to certain purchasers special privileges, including discriminatory allowances for advertising, damage claims, services or other considerations not customarily extended to all purchasers under like terms and conditions, shall be deemed an unfair method of competition.

SECTION 5. *Defamation of Competitors.*—The defamation of a competitor by words or acts which untruthfully call in question its business integrity, its ability to perform its contracts, its credit standing or the grade, quality or quantity of its goods shall be deemed an unfair method of competition.

SECTION 6. *Inducing Breach of Contract.*—The wilful interference with any existing contracts between any other manufacturer and a dealer or consumer, or any other party, involving or relating to the sale of industry products for the purpose or with the effect of dissipating, destroying or appropriating, in whole or in part, the business represented by such contracts, shall be deemed an unfair method of competition.

SECTION 7. *False Branding.*—The marking, branding or labeling of industry products or the shipment of these products without label or identification tags, or the misrepresentation in connection with the sale of such products, for the purpose or with the effect of misleading or deceiving purchasers with respect to the quantity, quality, price, weight, gauge, metal or finish thereof, shall be deemed an unfair method of competition.

SECTION 8. *Imitation of Trade-Mark.*—The imitation or simulation of 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 shall be deemed an unfair method of competition.

SECTION 9. *Discrimination in Price.*—Discrimination in price, either directly or indirectly between different purchasers of commodities, except (1) on account of difference in quantity, quality or grade of product sold, (2) the making of a reasonable differential in price charged to different classes of trade, (3) the making of different prices in different markets, according to usual distribution of such products prevailing in the trade or industry, shall be deemed an unfair method of competition, provided, however, that nothing herein contained shall prevent persons engaged in selling the products of this industry from selecting their own customers. This section shall not apply to sales to another member of the industry.

SECTION 10. *Consignments.*—No member of the industry shall ship goods on consignment except under circumstances to be defined by the Code Authority where peculiar circumstances of the industry require the practice.

SECTION 11. *Shipment Without Order.*—The making of shipments, other than those involving mere transfer of industry products to manufacturers'



warehouses or plants, without in each case having an order from a customer for shipment at the time of making shipment, shall be deemed an unfair method of competition.

SECTION 12. *Expiration of Quotation.*—The quoting of prices without the specific provision that such quotations are subject to change without notice, within such limitations as are imposed by this Code, except for quotations on specific job contracts, or where necessary, for Federal Government, State, County or Municipal bids, shall be deemed an unfair method of competition.

SECTION 13. *Failure to State Unit Price.*—The submission of bids for two or more commodities, one or more of which are industry products, in which the unit price of each commodity is not clearly stated, shall be deemed an unfair method of competition.

SECTION 14. *Specific Job Contracts.*—Making any contract or accepting any order for industry products for future delivery to cover any specific job without first having received a true copy of a bona fide contract, or definite supporting information evidencing a bona fide contract, between the dealer and contractor who has been awarded the contract, covering any such material required for that job and stating definitely the quantity of such material required, the location of the job and the name of the contractor, shall be deemed an unfair method of competition; provided, however, that nothing herein shall prevent a member of the industry from protecting any quotation covering a specific job for a period not exceeding 30 days, except Federal Government job quotations which may be protected for 60 days, but when no specific job contract is made with the dealer or contractor within 30 days, or within 60 days in the case of the Federal Government jobs, then any contract subsequently executed for the sale of products for such job shall be made at the price then in effect.

SECTION 15. *Lump Sum Contracts.*—The submission of bids and/or acceptance of orders for industry products by a member on a lump sum basis shall be deemed an unfair method of competition, except where lump sum bids are made for floor lath with steel joists and/or ceiling lath for permanent form construction, then such bids shall specify the quantity, type of lath and unit price.

SECTION 16. *Combination Sales.*—The selling or offering for sale of commodities not within the Industry at prices below the current list-price therefor, in order to influence the sale of industry products shall be deemed an unfair method of competition.

SECTION 17. *Substitution.*—The marking and selling of any industry products having superior qualities and higher prices, as inferior and lower priced products, and so marketing at a lower price than that established by the member for such superior products shall be deemed an unfair method of competition.

SECTION 18. *Contingent Sales.*—The purchase of material from a buyer of industry products made contingent on the sale of industry products by a member of the industry shall be deemed an unfair method of competition.

SECTION 19. *Splitting of Compensation.*—Splitting of compensation received by an employee or agent of a member with the buyer of industry products for the purpose or with the effect of influencing a sale shall be deemed an unfair method of competition.

SECTION 20. *Shipping on Specific Job Contracts.*—The shipping of industry products on specific job contracts in excess of the materials required for the job shall be deemed an unfair method of competition.

SECTION 21. *Outstanding Contracts.*—All bona fide contracts for sale of industry products taken before the effective date of this code and filed (except sales to other members) with the Code Authority and all bona fide contracts and orders for shipment taken after the effective date of this Code may be shipped at the price at which the contract or order was taken; and material sold under such contracts shall be applied only on the contract or order under which shipment is so made.

SECTION 22. *Orders for Material and Labor.*—The acceptance by a member of an order for industry products together with the labor required for the erection of same and/or the guaranteeing by a member of the cost of erection of same, shall be deemed an unfair method of competition.