

**NATIONAL RECOVERY ADMINISTRATION**

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**CODE OF FAIR COMPETITION**

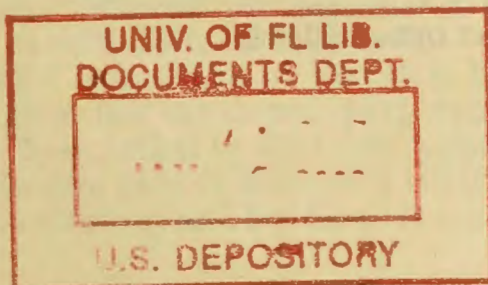
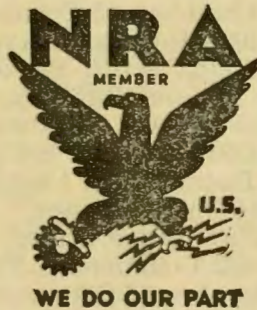
**FOR THE**

**ELECTRIC HOIST AND**

**MONORAIL MANUFACTURING**

**INDUSTRY**

**AS APPROVED ON JULY 13, 1934**



**UNITED STATES**

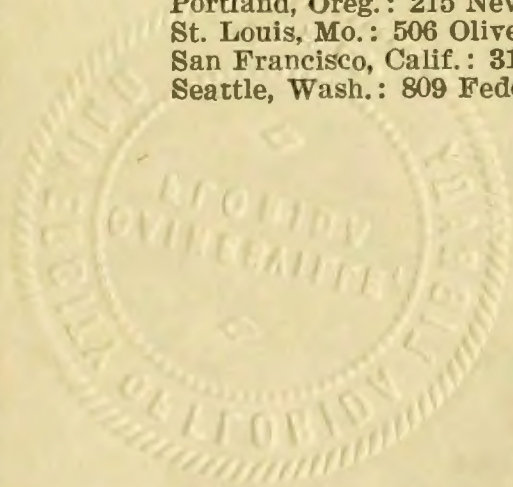
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Approved Code No. 483

**CODE OF FAIR COMPETITION**  
**FOR THE**  
**ELECTRIC HOIST AND MONORAIL MANUFACTURING INDUSTRY**

**As Approved on July 13, 1934**

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**ORDER**

**APPROVING CODE OF FAIR COMPETITION FOR THE ELECTRIC HOIST AND  
MONORAIL 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 Electric Hoist and Monorail 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; provided, however, that the continued participation of the Monorail Manufacturers Association in the Code Authority after thirty (30) days from the effective date of this Code shall be contingent upon its amending its Constitution and By-Laws to the satisfaction of the Administrator.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended:

BARTON W. MURRAY,  
*Division Administrator.*

WASHINGTON, D.C.,  
*July 13, 1934.*



## REPORT TO THE PRESIDENT

The PRESIDENT,  
*The White House.*

SIR: This is a report on the Code of Fair Competition for the Electric Hoist and Monorail Manufacturing Industry. Public Hearing having been conducted thereon in Washington, D.C., April 2, 1934, in accordance with the provisions of Title I of the National Industrial Recovery Act.

### GENERAL STATEMENT

The Electric Hoist and Monorail Manufacturing Industry is a capital goods industry engaged in the manufacture for sale of electric hoists designed for use in connection with any service built into double rail trolleys, and appurtenances thereof; the manufacture for sale of industrial overhead materials handling equipment with the exception of such equipment designed for use in the agricultural and dairy industries and excepting "flat rail track" of the type used chiefly in the meat packing industry. Materials handling equipment in the industry consists of overhead monorail track with its accompanying switches, carriers, transfer bridges, cranes and other accessories necessary for a complete installation; and/or parts thereof.

### ECONOMIC EFFECT

This Industry suffered noticeably from the Depression.

Employment in 1929 was 988 persons which number showed a loss of 62.1 per cent by June, 1933. Office employment showed a decline of 57 per cent in the same period. Estimated factory payrolls decreased from \$1,056,000 in 1929 to \$270,000 in 1933, or a decline of 76.7 per cent.

Capital investment amounted to \$4,208,000 in 1929 and \$2,962,000 in 1933, a decrease of 30 per cent.

Value of production (based on sales) was \$6,351,000 in 1929 and in 1933 it was estimated at \$1,006,000, a decline of 84.2 per cent. The dollar value of production is approximately equal for the Electric Hoist and Monorail Divisions of this Industry.

A comparison of representative payroll weeks in June, 1929 and June, 1933 showed a decline in 1933 in total man hours for factory workers of 81.8 per cent; average hours per man per week were 50.6 in June, 1929, and 29.7 hours in June, 1933, a decrease of 41.3 per cent. The average rate per hour for factory workers was 63 cents in June, 1929 and 54.5 cents in June 1933, a decrease of 13.5 per cent; average weekly earnings declined from \$31.89 in June, 1929 to \$16.20 in June, 1933, or 49.6 per cent.

The President's Reemployment Agreement effected increases in employment and payrolls. It is concluded that the maximum hours



provision will not increase employment and that the minimum rates proposed will not effect any increase in factory payrolls.

#### FINDINGS

The Assistant 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 Associations are industrial associations representative of the aforesaid Industry; and that said Associations impose 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.*

JULY 13, 1934.



# CODE OF FAIR COMPETITION FOR THE ELECTRIC HOIST AND MONORAIL MANUFACTURING INDUSTRY

## ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Electric Hoist and Monorail Manufacturing Industry, and shall be the standards of fair competition for this Industry, and shall be binding upon each member thereof.

## ARTICLE II—DEFINITIONS

The term "Electric Hoist and Monorail Manufacturing Industry" or "the Industry" as used herein, is defined to mean the manufacture and sale of Electric Hoists with plain, geared or motor driven trolleys; lug or hook suspension Electric Hoists; Cage Controlled Monorail Electric Hoists, and Electric Hoist units for any service, such as built into double rail trolleys, and/or appurtenances thereof, provided the same unit is used as with single I-beam or other monorail trolleys; and the manufacture and sale of overhead materials handling equipment as used in industry, with the exception of the Agricultural and Dairy Industries, and with the further exception of that type of overhead track commonly known as "flat-rail track", and mainly used in the meat packing industry. Materials handling equipment in the Industry consists of overhead Monorail Track with its accompanying switches, carriers, transfer bridges, cranes and other accessories necessary for the complete installation of an overhead materials handling system; and/or parts specially designed therefor. The term shall also mean such related branches or subdivisions as may, from time to time, be included under the provisions of this code.

"Person" means a natural person, a partnership, a corporation, an association, a trust, a trustee, a trustee in bankruptcy and/or a receiver, or other form of enterprise.

"Member of the Industry" as used herein 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.

"Employer" means any person actively engaged in the Industry either on his own behalf or as an employer of labor.

"Employee" means any person engaged in the Industry, however compensated, except an employer.

"Apprentice" means an employee without previous experience under any employer who is regularly engaged in learning a trade under a course of training designed to advance him systematically in the various operations of such trade to become a competently skilled mechanic.



"The Act" means Title I of the National Industrial Recovery Act.

"The President" means the President of the United States.

"Publish" means to make available to all interested parties.

"Administrator" means the Administrator for Industrial Recovery.

"Applicant" is Electric Hoist Manufacturers Association and Monorail Manufacturers Association.

### ARTICLE III—HOURS

SECTION 1. *Maximum Hours*.—No employee shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period or six (6) days in any seven (7) day period, except as otherwise expressly provided in this Article III.

SECTION 2. *Exceptions as to Hours*.—(a) The provisions of this Article III shall not apply to executives, those employed in a supervisory or administrative capacity or their immediate assistants, and salaried technical men and field service engineers, being paid at the rate of Thirty-Five Dollars (\$35.00) or more per week, and traveling salesmen.

(b) *Watchmen*.—Watchmen shall be permitted to work not in excess of fifty-six (56) hours in any one week.

(c) *Power Plant Engineers and Firemen*.—Power plant engineers and firemen shall be permitted to work not in excess of forty-five (45) hours or six (6) days in any seven (7) day period.

SECTION 3. *Overtime Provisions*.—(a) *Emergency Overtime*.—The maximum hours fixed in Section 1 hereof shall not apply to any employee on emergency maintenance or emergency repair work involving break-downs or protection of life or property, or to any specially skilled employee in emergencies occasioned by the necessity for the services of such employee which cannot be cared for by the employment of additional men. When specially skilled employees are employed overtime as permitted in this article, the employer shall file with the Code Authority a statement of the number of hours of overtime worked and a statement of the facts which will substantiate the lack of other skilled employees capable of performing this particular type of work. In any such case at least one and one-half times the regular rate shall be paid to employees for time worked in excess of the maximum provided in Section 1 hereof.

(b) *Ordinary Overtime*.—The maximum hours fixed in Section 1 hereof shall not apply for six (6) weeks in any twenty-six (26) weeks' period, during which overtime shall not exceed eight (8) hours in any one week. In any such case at least one and one-half ( $1\frac{1}{2}$ ) times the regular rate shall be paid to each employee for time worked in excess of eight (8) hours in any twenty-four (24) hour period or in excess of forty (40) hours in any seven (7) day period.

(c) *Sunday and Legal Holiday Work*.—At least one and one-half ( $1\frac{1}{2}$ ) times the regular rate shall be paid for all work performed on Sundays or legal holidays, except by watchmen, power plant engineers, and firemen.



(d) *Reporting Overtime.*—All overtime allowances shall be reported to the Code Authority and made available to the Administrator in such detail as may be required.

SECTION 4. *Employment by Several Employers.*—No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed for another employer or employers, exceeds the maximum permitted herein.

#### ARTICLE IV—WAGES

SECTION 1. (a) Except as hereinafter provided, no employee engaged in plant operations shall be paid in any pay period less than at the following hourly rates, viz:

Where employed in cities of more than 50,000 population and immediate vicinity, forty cents (40¢) per hour.

Where employed in cities of more than 10,000 but not more than 50,000 population and immediate vicinity, which cities are not in the immediate vicinity of a city of more than 50,000 population, thirty-eight cents (38¢) per hour.

Where employed in cities of 10,000 population or less and immediate vicinity, which cities are not in the immediate vicinity of a city of more than 10,000 population, thirty-six cents (36¢) per hour.

Population figures shall be taken as reported by the Government census of 1930.

(b) Female employees engaged at any plant in substantially the same work as male employees at such plant shall receive the same rate of pay as such male employees, and where they displace such male employees they shall receive the same rate of pay as the male employees they replace.

SECTION 2. (a) The minimum wage that shall be paid in any pay period by any employer to any employee other than those engaged in plant operations and traveling salesmen shall be not less than at the rate of \$15.00 per week, except as herein provided.

(b) Office boys and girls may be paid not less than at the rate of eighty (80) per cent of such minimum wage, but the total number of such office boys and girls employed by any one employer at such reduced rate shall not exceed five (5) per cent of the total number of office employees of such employer covered by the provisions of this Section 2, provided, however, that each employer may have at least one such office boy or girl.

SECTION 3. Apprentices shall be paid a starting rate of not less than thirty (30) per cent of the rate paid to a competently skilled mechanic in the trade in which the apprentice is being trained and prevailing in the shop where the apprentice is employed; provided, however, that the starting rate paid to any apprentice shall not be less than twenty-four cents (24¢) per hour.

Wages paid to apprentices shall be advanced at intervals in measured amounts so that the rate for the last period of apprenticeship shall not be less than eighty (80) per cent of the rate paid to a competently skilled mechanic in the particular trade in the shop where the apprentice is employed.

At no time shall a new apprentice be admitted to apprenticeship by any employer when such action will bring the total number of



such apprentices so employed to a ratio of more than one apprentice to five competently skilled mechanics employed by such employer in the particular trade in question.

All apprentice indentures or written contracts shall be filed with the Code Authority and shall be made available to the Administrator.

SECTION 4. This Article IV establishes minimum rates of pay which are applicable regardless of whether an employee is compensated on a time rate, piece work, or other basis.

SECTION 5. 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 a 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. Each employer shall file monthly 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 employees.

SECTION 6. With a view that there shall be equitable adjustment of rates above the minimum, not later than thirty (30) days after the effective date, each employer in the Industry shall report to the Administrator through the Code Authority, the action taken by such employer since June 16, 1933, in adjusting the wage rates of all hourly employees covered by Section 1 and of the employees covered by Section 2 hereof receiving more than the minimum rate as therein provided but less than at the rate of Thirty-five (\$35.00) Dollars per week.

In no event shall hourly rates of pay be reduced, irrespective of whether compensation is actually paid on an hourly, weekly or other basis, nor shall any wages be at less than the minimum rates herein provided.

#### ARTICLE V—GENERAL LABOR PROVISIONS

(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; 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; 3, employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(b) 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 at other than office work. In any State any employer shall be deemed to have complied with the provision as to age if he shall have on file a certificate or permit, duly signed by the Authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.



(c) No provision in this Code shall supersede any State or Federal law which imposes more stringent requirements on employers 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.

(d) All employers shall post and keep posted copies of this Code in conspicuous places accessible to all employees. Every member of the Industry shall comply with all rules and regulations relative to the posting of provisions of Codes of Fair Competition which may from time to time be prescribed by the Administrator.

(e) No employer shall reclassify employees or duties of employees, or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

(f) 1. Every employer shall provide for the safety and health of employees during the hours and at the places of their employment.

2. Standards for safety and health shall be submitted by the Code Authority to the Administrator within six months after the effective date of the Code.

(g) No employee shall be dismissed by reason of making a complaint or giving evidence with respect to a violation of this Code.

## ARTICLE VI—ADMINISTRATION <sup>1</sup>

SECTION 1. A Code Authority is hereby constituted to administer and supervise and to facilitate compliance with this Code.

(a) During the period not to exceed sixty days following the effective date of this code, the Code Committee of the Electric Hoist Manufacturers Association and the Monorail Manufacturers Association shall constitute a temporary Code Authority consisting of six members, and one to three additional members, without vote, to be appointed by the Administrator, if he should so desire. Such temporary Code Authority shall, within sixty days of the effective date, set up a permanent Code Authority to succeed such temporary Code Authority in effectuating the policies of the Act and to cooperate with the Administrator in the administration of the Code.

The permanent Code Authority shall consist of six members of the Industry (three of whom shall be principally engaged in the manufacture of Electric Hoists, and three of whom shall be principally engaged in the manufacture of Monorail Equipment) to be elected as follows:

The Code Authority shall be elected at a meeting of employers called by Electric Hoist Manufacturers Association and the Monorail Manufacturers Association any time within sixty days after the approval of this Code. Notice of such meeting shall be sent by telegraph and/or registered mail to all ascertainable employers in the Industry and it shall specifically state that voting at the meeting may be in person, by letter ballot, or by proxy, and each employer shall be entitled to one vote. To permit representation of employers who are not members of the Electric Hoist Manufacturers or Monorail Manufacturers Associations, one individual member of the Code Authority shall be elected in any fair manner, with the approval of

<sup>1</sup> See paragraph 2 of order approving this Code.



the Administrator, by the members of the Industry, if any, who are not members of either of these Associations.

SECTION 2. In addition to membership as above provided, there may be from one to three members, without vote, to be known as administration members, to be 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 of 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 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 the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification of the 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 malfeasance or non-feasance.

SECTION 6. If the Administrator shall at any time 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 7. *Powers and Duties.*—Subject to such rules and regulations as may be issued by the Administrator, the Code Authority shall have the following powers and duties, in addition to those authorized by other provisions of this Code.

(a) 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.

(b) To adopt by-laws and rules and regulations for its procedure.

(c) To obtain from members of the Industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the Industry subject to this Code shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and State agencies as he 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 report shall be disclosed to any other member of the Industry or any other party except to such other Governmental agencies as may be directed by the Administrator.

(d) 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.

(e) 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 or affect members of the Industry.

(f) 1. It being found necessary in order to support the administration of this code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Code Authority is authorized:

(a) 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 the Code;

(b) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the industry;

(c) After such budget and basis of contribution have been approved by the Administrator, to determine and obtain equitable contribution as above set forth by all members of the industry, and to that end, if necessary, to institute legal proceedings there for in its own name.

2. 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, 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.

3. The Code Authority shall neither incur nor pay any obligation in excess of the amount thereof as estimated in its 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.

(g) To recommend to the Administrator any action or measures deemed advisable, including further fair trade practice provisions to govern members of the Industry in their relations with each other or with other industries; measures for industrial planning, and sta-



bilization of employment; and including modifications of this Code which shall become effective as part hereof upon approval by the Administrator after such notice and hearing as he may specify.

(h) To appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other codes as may be related to the Industry for the purpose of formulating fair trade practices to govern the relationships between employers under this Code and under such other codes to the end that such fair trade practices may be proposed to the Administrator as amendments to this code and such other codes.

(i) To appoint a committee to formulate a procedure for handling problems which may arise between employers and employees, which shall be submitted to the Administrator.

SECTION 8. If formal complaint is made to Code Authority that provisions of this Code have been violated by any employer, Code Authority may cause such investigation or audit to be made by an impartial agent or agency agreed upon by the Code Authority and the member of the industry in question or, failing such agreement, by the Administrator, to the extent permitted by the Act, as may be deemed necessary. No detailed information so obtained, shall be disclosed to any employer.

#### ARTICLE VII—COST FINDING AND ACCOUNTING

The Code Authority shall cause to be formulated methods of cost finding and accounting capable of use by all members of the industry, and shall submit such methods to the Administrator for review. If approved by the Administrator, full information concerning such methods shall be made available to all members of the industry. Thereafter, each member of the industry shall utilize such methods to the extent found practicable. Nothing herein contained shall be construed to permit the Code Authority, any agent thereof, or any member of the industry to suggest uniform additions, percentages or differentials or other uniform items of cost which are designed to bring about arbitrary uniformity of costs or prices.

#### ARTICLE VIII—COSTS AND PRICE CUTTING

SECTION 1. The standards of fair competition for the industry with reference to pricing practices are declared to be as follows:

(a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the industry or of any other industry or the customers of either may at any time complain to the Code Authority that any filed price constitutes unfair competition as destructive price cutting, imperiling enterprises or tending toward monopoly or the impairment of code wages and working conditions. The Code Authority shall within five days afford an opportunity to the member filing the price to answer such complaint and shall within fourteen days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of the National Recovery Administration which shall render a report and recommendation thereon to the Administrator.



(b) When no declared emergency exists as to any given product there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

(c) When an emergency exists as to any given product, sale below the stated minimum price of such product, in violation of Section 2 hereof, is forbidden.

SECTION 2. *Emergency Provisions.*—(a) If the Administrator, after investigation shall at any time find both (1) that an emergency has arisen within the Industry adversely affecting enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the Administrator a determination of the stated minimum price of the product affected by the emergency and thereupon the Administrator may proceed to determine such stated minimum price.

(b) When the Administrator shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, he shall publish such price. Thereafter, during such stated period, no member of the Industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend review or reconsideration or the Administrator may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

## ARTICLE IX—OPEN PRICE

The following provisions apply only to Manufacturers of Electric Hoists:

SECTION 1. Each member of the Industry shall file with a confidential and disinterested agent of the Code Authority or, if none, then with such an agent designated by the Administrator, identified lists of all of his prices, discounts, rebates, allowances, and all other terms or conditions of sale, hereinafter in this article referred to as "price terms", which lists shall completely and accurately conform to and represent the individual pricing practices of said member. Such lists shall contain the price terms for all such standard products of the industry as are sold or offered for sale by said member and for such non-standard products of said member as shall be designated by the Code Authority. Said price terms shall in the first instance be filed within twenty (20) days after the date of approval of this provision. Price terms and revised price terms shall become effective immediately upon receipt thereof by said agent. Immediately upon receipt thereof, said agent shall by telegraph or other equally prompt means notify said member of the time of such receipt. Such lists and revisions, together with the



effective time thereof, shall upon receipt be immediately and simultaneously distributed to all members of the industry and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the Code Authority in the preparation and distribution thereof and be available for inspection by any of their customers at the office of such agent. Said lists or revisions or any part thereof shall not be made available to any person until released to all members of the Industry and their customers, as aforesaid; provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid twenty (20) day period after the approval of this code. The Code Authority shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the Administrator. Upon request the Code Authority shall furnish to the Administrator or any duly designated agent of the Administrator copies of any such lists or revisions of price terms.

SECTION 2. When any member of the Industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

SECTION 3. No member of the Industry shall sell or offer to sell any products of the industry, for which price terms have been filed pursuant to the provisions of this article, except in accordance with such price terms.

SECTION 4. No member of the Industry shall enter into any agreement, understanding, combination or conspiracy to fix or maintain price terms, nor cause or attempt to cause any member of the industry to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Article to create.

#### ARTICLE X—UNFAIR TRADE PRACTICES

Each of the following acts and practices is deemed to be inimical to the best interests of the Industry and of the public, and each is, therefore, declared to be and to constitute an unfair method of competition:

SECTION (A). No member of the Industry shall secretly offer or make any payment or allowance of a rebate, refund, commission credit, unearned discount or excess allowance, whether in the form of money or otherwise, nor shall a member of the Industry secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

SECTION (B). No member of the Industry shall give, permit to be given, or 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. This 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.



SECTION (c). No member of the Industry shall brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content or preparation of such goods.

SECTION (d). No member of the Industry shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers.

SECTION (e). No member of the Industry shall wilfully induce or attempt to induce the breach of existing contracts between competitors and their customers by any false or deceptive means, or interfere with or obstruct the performance of any such contractual duties or services by any such means, with the purpose and effect of hampering, injuring or embarrassing competitors in their business.

SECTION (f). No member of the Industry shall defame a competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representation, or by falsely disparaging the grade or quality of his goods.

SECTION (g). No employer shall accept trade-ins of used equipment, material, property or supplies, to apply on the purchase of new equipment.

SECTION (h). No employer shall sell products of the Industry by a contract calling for extended terms of payment not covered by the employers' filed price lists, unless the contract calls for interest at the rate of six (6%) per cent per annum to begin thirty (30) days after shipment, unless a lower rate is specified by the state law governing the contract.

SECTION (i). *The following trade practice applies solely to manufacturers of monorail equipment:*

No employer shall submit a proposal including erection which does not include a quotation covering a bill of materials on equipment, and a separate quotation covering erection and any superstructure, if same is to be furnished. In quoting on erection and superstructure, prime consideration shall be given to the cost of such items plus freight and/or cartage charges plus the cost of handling. Proposals submitted by any employer shall not be revised, except when a change in the bill of materials or specifications is to be made, in which case the revised proposal must equal only the change in bill of materials or specifications, and except to meet the competition of lower bids, provided however, that after lowering a quotation to meet competition, an employer shall file with the Code Authority a complete statement of the transaction, setting forth the competition which existed and his original and final bids, and except upon the general reopening of bids. Proposals including the services of a superintendent of erection shall consist of a quotation covering a bill of materials on equipment, and a separate quotation covering the cost of furnishing a superintendent of erection on a per diem basis. No job shall be quoted short of the necessary equipment needed to complete the installation, but a three per cent variation of quoted price to allow for engineering discrepancies is permissible.



## ARTICLE XI—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. "Export Trade" shall be as defined in the Export Trade Act adopted April 10, 1918.

## ARTICLE XII—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 Title I of said Act.

SECTION 2. Such of the provisions of this Code as are not required to be included herein by the Act may, with the approval of the Administrator, be modified or eliminated in such manner as may be indicated by the needs of the public, by changes in circumstances, or by experience. All the provisions of this Code, unless so modified or eliminated, shall remain in effect until June 16, 1935.

## ARTICLE XIII—MONOPOLIES, ETC.

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

## ARTICLE XIV—EFFECTIVE DATE

This Code shall become effective on the eleventh day after its approval.

Approved Code No. 483.  
Registry No. 1306-03.





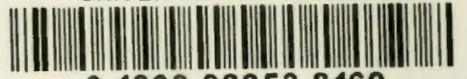








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