

NATIONAL RECOVERY ADMINISTRATION

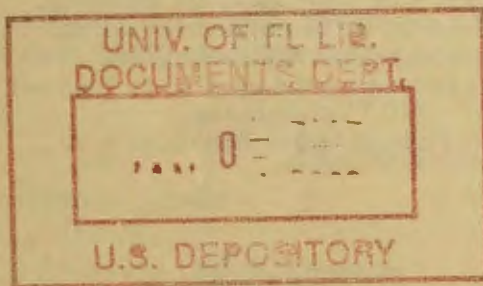
CODE OF FAIR COMPETITION

FOR THE


EARTHENWARE

MANUFACTURING INDUSTRY

AS APPROVED ON MARCH 8, 1934



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1934



This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1801 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 801 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: 408 Federal Building.
Memphis, Tenn.: 229 Federal Building.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse.
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: 422 Commercial Trust Building.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 809 Federal Office Building.

Approved Code No. 322
CODE OF FAIR COMPETITION

FOR THE
EARTHENWARE MANUFACTURING INDUSTRY

As Approved on March 8, 1934

ORDER

**APPROVING CODE OF FAIR COMPETITION FOR THE EARTHENWARE
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 Earthenware 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:

GEO. L. BERRY,
Division Administrator.

WASHINGTON, D.C.,
March 8, 1934.

(513)

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: A Public Hearing on the Code of Fair Competition for the Earthenware Manufacturing Industry, submitted by the Earthenware Manufacturers Association, located at Zanesville, Ohio, was conducted in Washington on the 13th of November, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent 90 per cent of the Industry.

The maximum hours permitted under this Code are forty (40) hours per week averaged over any one period of thirteen (13) weeks as selected by the employer, and not in excess of forty-four (44) hours in any one week nor eight (8) hours in any one day, except that in the event of an emergency involving breakdowns or protection of life or property or during periods of peak demands, when approved by the Code Authority subject to the disapproval of the Administrator, employees may be permitted to work in excess of the maximum hours herein prescribed provided that in all such cases employees shall receive time and one-third for all hours worked in excess of eight (8) hours in any one day. Excepted also from this provision are persons employed in a supervisory or executive capacity, designers and sculptors who receive thirty-five dollars (\$35.00) or more per week, and traveling salesmen.

The minimum wage is forty cents (40¢) per hour for males and thirty-two cents (32¢) per hour for females. It is provided that accounting, clerical and office employees be paid not less than at the rate of sixteen dollars (\$16.00) per week in any city having a population of one hundred thousand or over or in the immediate trade area of such city; in any city having a population of between twenty-five hundred and one hundred thousand or in the immediate trade area of such city not less than fifteen dollars (\$15.00) per week; and in any city having a population of twenty-five hundred or less not less than fourteen dollars (\$14.00) per week. Apprentices shall be employed at not less than eighty per cent (80%) of the minimum wage, provided, however, that the total number of apprentices employed by any member of the Industry shall not exceed five per cent (5%) of the total number of employees of any such member and that the period of apprenticeship shall not exceed twelve (12) weeks whether served under one or more employers. It is further provided that in cases where female employees displace men they shall receive the same rates of pay as the men they displace.

The average wage in the Earthenware Manufacturing Industry, during 1929, was \$21.08 a week. During 1933, however, average wages in this industry dropped 19.2 per cent to an average of \$17.02.

Wages in this industry represented 38 per cent of the value of products in 1929, compared with 46.8 per cent in 1933. During 1933, total wage payments fell 30.5 per cent under 1929, while average weekly wages declined 19.2 per cent.

On the basis of the 1929 hourly average, 42.2 cents, and regardless of whether a 40-hour or a 34-hour week were adopted, the total pay-

roll would increase \$468,250, or 18.9 per cent over the 1933 total, because of the fact that the spread-work feature would hold the payroll at a higher constant than prevailed in 1933.

According to information obtained from the Earthenware Manufacturing Industry, the value of products aggregated \$9,401,000, during 1929. During 1933, the value of products in the aggregate declined to \$5,298,900, or 43.6 per cent under the 1929 total.

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.

This Industry has cooperated in a most satisfactory manner with the Administrator in the preparation of this Code. From evidence adduced during this hearing and from recommendations and reports of the various Advisory Boards it is believed that this Code as now proposed and revised represents an effective, practical, equitable solution for this Industry and for these reasons this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 8, 1934.

CODE OF FAIR COMPETITION FOR THE EARTHENWARE MANUFACTURING 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 Earthenware Manufacturing Industry, and its provisions shall be the standards of fair competition for such industry and binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "association" as used herein shall mean Earthenware Manufacturers Industry Association.

2. The term "Earthenware Manufacturing Industry" or "Industry" as used herein, shall mean the manufacture of clay products produced from secondary clays, either as raw clays without additions, or as mixtures of secondary clays with fluxes, glazed or unglazed, having utility value as kitchenware, decorative art pottery, heavy art pottery, stoneware, common red flower pots, excluding dinnerware, kitchenware produced from primary kaolins and mixtures of primary kaolins with fluxes, sanitary ware, chemical porcelain and chemical stoneware.

3. The term "first quality" as used herein shall mean only sound useable flower pots.

4. The term "member of the industry" as used herein, shall mean any individual, co-partnership, corporation, association, or other form of enterprise engaged in the industry either as an employer or on his or its own behalf.

5. The term "employee" as used herein, shall mean any and all persons engaged in the industry, however compensated, except a member of the industry.

6. The term "employer" as used herein, shall mean anyone by whom any such employee is compensated or employed.

7. The term "apprentice" as used herein, shall mean any employee without previous experience or employment in the industry.

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

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

ARTICLE III—HOURS

SECTION 1. *Maximum hours.*—Except as hereinafter provided, no employee shall be permitted to work in excess of forty (40) hours per week averaged over any one period of thirteen (13) weeks as selected by the employer, and not in excess of forty-four (44) hours in any one (1) week nor eight (8) hours in any one day, except that in the event

of an emergency involving breakdowns or protection of life or property or during periods of peak demand, upon recommendation of the Code Authority and subject to the approval of the Administrator, employees may be permitted to work in excess of the maximum hours herein prescribed provided that in all such cases employees shall receive time and one-third for all time worked in excess of eight (8) hours in any one day.

SECTION 2. *Exceptions as to hours.*—The provisions of Section 1 of this Article shall not apply to persons employed in a supervisory or executive capacity, designers and sculptors who receive thirty-five dollars (\$35.00) or more per week, nor to traveling salesmen.

SECTION 3. The provisions of Section 1 of this Article shall not apply to watchmen who may be employed in pairs and who shall not be permitted to work in excess of thirty-six (36) hours per week and forty-eight (48) hours per week on alternate weeks, or an average of forty-two (42) hours per week.

SECTION 4. The provisions of Section 1 of this Article shall not apply to continuous kiln firemen, who shall not be permitted to work in excess of fifty-six (56) hours per week nor more than twelve (12) hours per day and who shall receive time and one-third for all hours in excess of forty-two (42) hours per week.

SECTION 5. The provisions of Section 1 of this Article shall not apply to periodic kiln firemen and truck drivers engaged in inter-city hauling, who shall not be permitted to work more than eighty (80) hours in any two (2) weeks period, nor more than fifty-six (56) hours in any one (1) week.

SECTION 6. *Employment by several employers.*—No employee shall be permitted to work for a total number of hours in excess of the number of hours prescribed herein whether he be employed by one or more employers.

SECTION 7. *Employers performing the work of employees.*—Employers who personally perform manual work or are engaged in mechanical operators shall not exceed the maximum hours permitted by this Code.

ARTICLE IV—WAGES

SECTION 1. *Minimum wage.*—No male employee, except as hereinafter specifically provided, shall be paid less than at the rate of forty (40¢) cents per hour. No female employee, except as hereinafter specifically provided, shall be paid less than at the rate of thirty-two (32¢) cents per hour.

SECTION 2. No accounting, clerical, or office employee shall be paid less than at the rate of sixteen dollars (\$16.00) per week in any city having a population of one hundred thousand or over or in the immediate trade area of such city; nor less than at the rate of fifteen dollars (\$15.00) per week in any city, town or village having a population between twenty-five hundred and one hundred thousand or in the immediate trade area of such city, town or village; nor less than at the rate of fourteen dollars (\$14.00) per week in any city, town or village having a population of twenty-five hundred or less.

SECTION 3. The minimum wages in the Southern Districts, as defined in Article 6, Section 3, (a & c) shall be not less than eighty (80%) percent of the minimum wages provided in Sections 1 and 2

of this article but in no event shall the minimum wage be less than thirty (30¢) cents per hour.

SECTION 4. Apprentices may be employed at not less than eighty (80%) percent of the minimum wage prescribed in Sections 1, 2, 3 and 6 of this Article, provided, however, that the total number of apprentices employed by any member of the industry shall not exceed five (5%) percent of the total number of employees of any such member and their period of apprenticeship shall not exceed twelve (12) weeks whether served under one or more employers.

SECTION 5. *Piecework Compensation—Minimum Wages.*—This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework performance, or other basis.

SECTION 6. *Wages Above Minimum.*—The hourly rates for all occupations, excepting those receiving thirty-five dollars (\$35.00) or more per week, shall maintain the difference in hourly earnings between such occupations which existed on June 16, 1933, provided, however, that if the foregoing provision raises the hourly rate higher than the hourly rate for the same occupations which existed on July 15, 1929, the hourly rate in effect on that date shall apply, but in no event shall this rate be less than specified in Section 1 of this Article. The average hourly rates of the Industry rather than the hourly rate of any individual member of the industry shall be used to determine the July 15, 1929, rate and the June 16, 1933, rate. Within thirty days after the approval of this Code, the Code Authority, with the approval of the Administrator, shall determine and promulgate to members of the industry the average hourly rates of pay existing on July 15, 1929 and June 16, 1933 for all occupations in the industry.

SECTION 7. *Female Employees.*—Female employees performing substantially the same work as male employees and employed during the same work period, shall receive the same rates of pay as male employees and where they displace men, they shall receive the same rate of earning as the men they displace. The Code Authority shall within ninety (90) days after the effective date of this Code file with the Administrator a description of all occupations in the industry in which both men and women are employed.

SECTION 8. *Handicapped Persons.*—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 by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him. The number of persons thus employed by any one member of the industry shall not exceed five (5%) percent of his total number of employees.

SECTION 9. *Payment.*—Employers shall pay employees only in cash or negotiable checks drawn at par on date of issue and employers and employees shall not enter into any agreement, the purpose or effect of which is to frustrate the purpose of this Section. Wages shall be payable at least twice a month and shall be exempt from any charges, fines and/or deductions by the employer, other than those agreed to by the employee or sanctioned by law.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor*.—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 operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within sixty (60) days a list of such operations or occupations. 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 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.

SECTION 2. *Provisions from the Act*.—In compliance with Section 7 (a) of the Act it is provided that:

(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. *Reclassification of Employees*.—No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge 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 make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

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, or general working conditions, than are imposed by this Code.

SECTION 6. *Posting*.—All employers shall post and keep posted complete copies of the hour, labor and wage provisions, including wage differentials and classifications of this Code in conspicuous places accessible to employees.

ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

ORGANIZATION AND CONSTITUTION

SECTION 1. A Code Authority is hereby established to cooperate with the Administrator in the administration of this Code and shall consist of nine (9) members; three (3) members to be chosen from each division of the Industry through a fair method of selection, approved by the Administrator, to serve for a period of one year from

the date of their selection. There shall also be not more than three (3) additional members without vote and without compensation from the Industry to be appointed by the Administrator in his discretion and to serve for such period of time and to represent the Administrator or such group or groups as he may designate.

SECTION 2. Vacancies in the personnel of the Code Authority selected by the Industry, shall be filled, pending a selection as provided for the original members, upon nomination by the Code Authority and approval by the Administrator.

SECTION 3. The Divisions of the Industry shall be as follows: Stoneware Division, Earthenware Division and Clay Flower Pot Division.

a. The Stoneware Division shall be divided into geographical regions, as follows:

(1) *Eastern District*.—Including therein the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, District of Columbia, Maryland, Virginia, West Virginia, Ohio, Indiana and Michigan.

(2) *Middle Western District*.—Including therein the States of Illinois, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Montana and Colorado.

(3) *Pacific District*.—Including therein the States of Idaho, Wyoming, Utah, New Mexico, Arizona, Nevada, California, Oregon and Washington.

(4) *Southern District*.—Including therein the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Kentucky, Tennessee, Arkansas, Louisiana and Texas.

(5) Other districts may be established upon application of any group desiring a separate regional district, subject to the approval of the Divisional Executive Committee.

(6) Each geographical region, and any others which may subsequently be formed, shall set up a district divisional committee consisting of five (5) members, for the purpose of administering in such district the provisions of the Code insofar as authority may be delegated to such committee by the Code Authority. Each member of each district divisional committee shall be an officer or director of a member of the industry or an individual engaged in the industry. Any district division may select one (1) member of another district to serve on its district divisional committee.

(7) The Stoneware Division shall be governed, as hereinbefore provided, by a Divisional Executive Committee of five (5) members, and they shall be chosen from each district divisional committee as follows:

- (a) Eastern District, two members
- (b) Middle Western District, one member
- (c) Pacific District, one member
- (d) Southern District, one member

This Divisional Executive Committee shall elect three (3) of its members to serve as the representatives of the Stoneware Division on the Code Authority.

b. The Earthenware Division shall be considered as a national unit without districts.

c. The Clay Flower Pot Division shall be divided into geographical regions, as follows:

(1) *Eastern District*.—Including therein the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York east of but not including Buffalo, Pennsylvania east of and including Altoona, New Jersey, Delaware, District of Columbia, Maryland and Virginia.

(2) *Central District*.—Including therein the States of New York west of and including Buffalo, Pennsylvania west of but not including Altoona, West Virginia, Ohio, Michigan, and Indiana.

(3) *Southern District*.—Including therein the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Kentucky, Tennessee, Arkansas, Louisiana and Texas.

(4) *Western District*.—Including therein the States of Illinois, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, Nebraska, Kansas, Oklahoma, Montana and Colorado.

(5) *Pacific District*.—Including therein the States of Idaho, Wyoming, Utah, New Mexico, Nevada, California, Oregon and Washington.

(6) Other districts may be established upon application of any group desiring a separate regional district, subject to the approval of the Divisional Executive Committee.

(7) The Flower Pot Division shall be represented by a Divisional Executive Committee. This Committee shall be composed of one representative from each of the regional districts and shall elect three (3) of its members to serve as the representatives of the Flower Pot Division on the Code Authority.

(8) Each member of the Divisional Executive Committee shall be entitled to one vote and a majority vote of all the members thereof is required to be a binding decision of the Committee. Any member may designate a proxy to act in his behalf at any meeting, providing such proxy is a member.

SECTION 4. Each Division, subject to rules and regulations of the Code Authority and the Administrator, shall have exclusive jurisdiction with respect to problems relating exclusively to said Division and each Division shall, through a fair method of selection, establish an executive committee who shall work with and under the direction of the Code Authority in administering the provisions of this Code in that Division.

SECTION 5. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall impose no inequitable restrictions on membership, and shall submit to the Administrator true copies of its articles of association, bylaws, 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 6. 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 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, he may take such action as he may deem necessary under the circumstances.

SECTION 7. Any member of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority

and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining his reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

SECTION 8. 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 on the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful misfeasance or nonfeasance.

POWERS AND DUTIES

SECTION 9. The Code Authority shall have the following further powers and duties:

a. To administer the provisions of this Code, provide for the compliance of the Industry with the provisions of the Act, and to propose and submit amendments and/or modifications of this Code which on approval of the Administrator after such notice and hearing as he shall specify, shall become a part hereof.

b. To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

c. To obtain from members of the Industry such information and reports as are required for the administration of the Code and to provide for submission by members of such 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 administrative and/or government 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; but no individual report shall be disclosed to any other member of the Industry or any other party except to such 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 the Industry.

f. To secure from members of the Industry who assent to this Code and/or participate in the activities of the Code Authority such proportionate payment of the reasonable expenses of maintaining the Code Authority as may be determined by the Code Authority subject to the disapproval of the Administrator.

g. To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the industry who have assented to, and are complying with, this Code.

h. To recommend to the Administrator further fair trade practice provisions to govern members of the industry in their relations with each other or with other industries and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

SECTION 9. 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.

ARTICLE VII

SECTION 1. The Code Authority, with the approval of the Administrator, shall prescribe an adequate cost finding method and thirty (30) days after approval thereof by the Administrator, each member of the industry shall use a cost finding method which shall conform to the principles of, and be at least as detailed and complete as that prescribed by the Code Authority.

SECTION 2. The Code Authority with the approval of the Administrator shall prescribe for each division, standard provisions governing maximum cash discounts, terms of payment, provisions governing delinquency, cancellation and/or return of industry products, which terms shall be adhered to and incorporated in all order, invoice and/or acknowledgement forms and used by all members of the industry.

SECTION 3. a. When such cost finding method shall have become effective as provided in Section 1 of this Article, each member of the industry shall publish and file with the Code Authority his own price lists and/or price lists and discount sheets, individually prepared by him, based on such cost finding method and covering each kind and size of each standard product offered for sale or sold by him, and such price lists and/or discount sheets shall become effective immediately upon the date of filing, or sixty (60) days after the effective date of this Code they shall become effective after such period of time as shall hereafter be established by the Code Authority with the approval of the Administrator. All such price lists and/or price lists and discount sheets shall state all discounts, (trade and cash) if any, and all other terms and conditions of sale provided in Section 2 of this Article, and shall be available upon request to any member of the industry or to any other interested party.

b. Revised price lists and/or price lists and discount sheets may be filed from time to time by any member of the industry which shall become effective immediately upon the date filed, or sixty (60) days after the effective date of this Code they shall become effective after such period of time as shall hereafter be established by the Code Authority with the approval of the Administrator, and shall be avail-

able upon request to any member of the industry or to any other interested party.

c. Price lists of non-standard specialty products need not be filed unless specifically requested by the Code Authority.

d. After the filing of such price lists and/or price lists and discount sheets, no member of the industry shall sell or offer for sale any of the products of this industry on a basis at variance from those filed in accordance with the provisions of this Section 3.

SECTION 4. No member of the industry shall sell or offer for sale any products of the industry below his own individual cost as determined by the use of a cost finding method, as provided in Section 1, except that such member may, in order to meet bona fide competition, file and thereafter offer to sell and sell at a price not less than the lowest filed price of a competing member on a comparable article, provided, however, that in the event of necessity requiring immediate disposition of inventories or with respect to sale or offer of sale of dropped lines or seconds, a member desiring to make such disposition or sale shall at least two weeks prior to any offer for sale or sale of same, furnish to the Code Authority such information concerning same as it shall prescribe. The Code Authority shall within ten days after receipt of such information render its decision of whether such facts thus disclosed warrant an exception hereunder. In the event that the Code Authority shall determine that such circumstances do not warrant such sale, the member may immediately appeal to the Administrator.

ARTICLE VIII—STANDARD SIZES

SECTION 1. All clay flower pots shall be sold in one grade only which shall be called "first quality" and on a basis of uniform standard sizes measured in inches of inside diameter at the top of the flower pot; however, a tolerance of variation at the rate of $\frac{1}{32}$ of an inch for each inch of diameter shall be permitted, but flower pots of greater size than the allowed tolerance shall be sold as the next larger standard size; all flower pots and saucers up to and including 16 inches inside diameter shall be sold as one of the following sizes which shall be the standard of the industry subject to the right of the Code Authority with the approval of the Administrator to change such standards and tolerances from time to time as conditions warrant:

a. Standard, azalea ($\frac{3}{4}$ height) and bulb ($\frac{1}{2}$ height) pots.

1"	2 $\frac{1}{4}$ "	4 $\frac{1}{2}$ "	9"
1 $\frac{1}{8}$ "	2 $\frac{1}{2}$ "	5"	10"
1 $\frac{1}{4}$ "	3"	5 $\frac{1}{2}$ "	11"
1 $\frac{1}{2}$ "	3 $\frac{1}{2}$ "	6"	12"
1 $\frac{3}{4}$ "	3 $\frac{3}{4}$ "	7"	14"
2"	4"	8"	16"

b. Rose pots.

1 $\frac{1}{2}$ " x 2"	2 $\frac{1}{2}$ " x 3"
1 $\frac{3}{4}$ " x 2 $\frac{1}{4}$ "	2 $\frac{1}{2}$ " x 3 $\frac{1}{2}$ "
2" x 2 $\frac{1}{2}$ "	3" x 4"
2 $\frac{1}{4}$ " x 2 $\frac{3}{4}$ "	

c. Saucers.

1"	5"	8"	12"
2"	6"	9"	14"
3"	7"	10"	16"
4"			

ARTICLE IX—TRADE PRACTICE RULES

The following practices constitute unfair methods of competition and are hereby prohibited:

RULE 1. To give to any purchaser any special or discriminatory prices, terms, privileges, rebates, allowances, refunds, unearned credits or discounts, in any manner whatsoever not extended to all purchasers of the same class under like terms and conditions.

RULE 2. To evade or disguise actual prices of any transaction in any manner whatsoever; or to sell or deliver a greater quantity or a superior quality of material than is charged for.

RULE 3. To quote, make, allow, or sell at a price or discount conditioned on the basis of combined sales or shipments of products of two or more divisions of the industry, except to allow for actual freight saved to the purchaser through carload shipment.

RULE 4. To assist in the establishment of fair competition, the Code Authority, with the approval of the Administrator, shall establish standard qualifications of types of buyers and thereafter no member of the industry shall sell or offer to sell any industry products at variance with the standards thus established.

RULE 5. To 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.

RULE 6. To attempt to induce the breach of an existing contract between a competitor and his customer or source of supply; or to interfere with or obstruct the performance of such contractual duties or services.

RULE 7. To publish advertising, or make or cause to be made any statement, which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services.

RULE 8. To ship goods on consignment except under conditions to be defined and applied uniformly, by the Code Authority, where peculiar circumstances of the industry require the same.

RULE 9. To withhold from or insert in an invoice, statements or entries which make such invoice a false record, wholly or in part, of the transaction represented on the face thereof.

RULE 10. To describe any industry products, or the materials that go into such, in any manner tending to deceive the customer; or to substitute, without the knowledge of the purchaser, inferior materials.

RULE 11. To guarantee against price decline or price advance.

RULE 12. To give discounts in excess of five per cent (5%) on the sale of clay flower pots in consideration of the buyer calling at the factory or warehouse for the merchandise instead of requiring delivery by the seller.

RULE 13. To split or divide commissions, brokers' fees, or brokers' discounts, or otherwise in any manner through sham or indirection



to use or endeavor to use a brokerage commission, or jobber's arrangement or sales agency to make discounts, allowances, rebates, or prices to customers other than as provided in this Code.

RULE 14. To sell to or through any broker, jobber, commission account, or sales agency which is in fact an agency for retailers whereby such retailers endeavor to thus secure a discount, allowance, or price other than the price published for retailers, except to buying syndicates, which purchase and pay for the products.

RULE 15. To publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers. Failure to prosecute in due course shall be evidence that any such threat is unwarranted or unjustified.

RULE 16. To imitate a competitor's trade mark, trade name, or exclusively established design of product, or package, intended to identify the maker or vendor of said product, when the effect of such imitation may be to cause confusion in the minds of purchasers with reference to the identity of the maker thereof.

RULE 17. To sell or offer to sell common red flower pots as "seconds" or as any other class except "first quality."

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 or amended on the basis of experience or changes in circumstances, such modifications or amendments to be based upon application to the Administrator and such notice and hearings as he shall specify, and to become effective on approval of the Administrator, unless otherwise provided.

ARTICLE XI—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 XII—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

ARTICLE XIII—EFFECTIVE DATE

This Code shall become effective on the fifteenth day after its approval by the Administrator.