

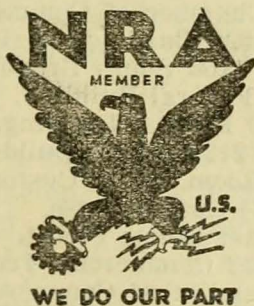
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

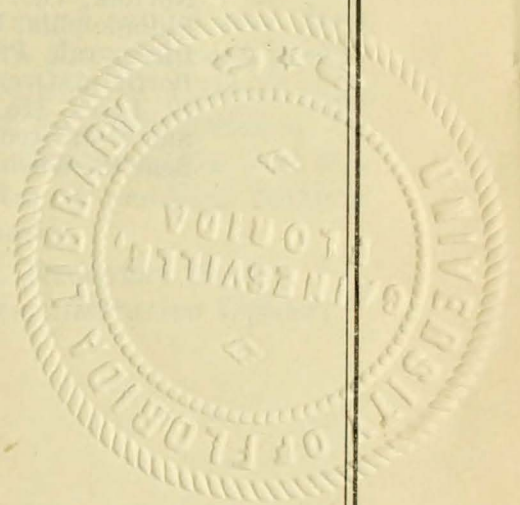
FOR THE

FLAT GLASS MANUFACTURING
INDUSTRY

AS APPROVED ON DECEMBER 22, 1934



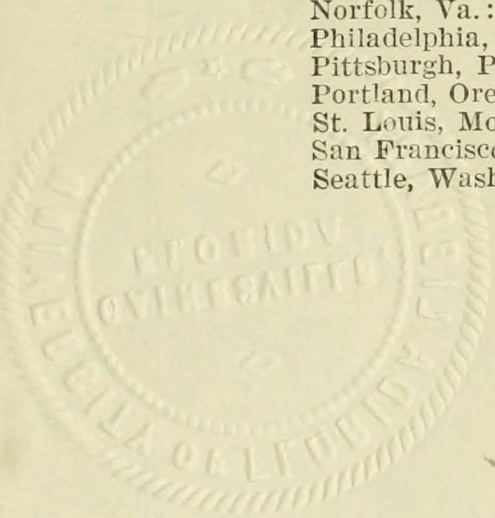
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Approved Code No. 541

CODE OF FAIR COMPETITION
FOR THE
FLAT GLASS MANUFACTURING INDUSTRY

As Approved on December 22, 1934

ORDER

**CODE OF FAIR COMPETITION FOR THE FLAT GLASS 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 Flat Glass Manufacturing Industry, and hearing 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, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise; does hereby incorporate by reference said annexed report and does 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 does hereby order that said Code of Fair Competition be and it is hereby approved, subject, however, to the condition that the provisions of Article III, Section 2 (d) be stayed pending further order of the National Industrial Recovery Board.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer*.

Approval recommended:

W. P. ELLIS,
Acting Division Administrator.

WASHINGTON, D. C.,
December 22, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Flat Glass Manufacturing Industry, as revised after a public hearing conducted in Washington, D. C., on October 30, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

THE INDUSTRY IN GENERAL

1. The Flat Glass Manufacturing Industry as defined by the Code embraces all establishments engaged in the manufacture and primary sale of flat glass, except common window glass, the latter being another flat glass product included under a separate code. The Industry at this time consists of eighteen distinct members. The Industry is sub-divided into four sub-divisions, namely: (1) Plate Glass Division, (2) Rough, Rolled and Wire Glass Division, (3) Structural Glass Division, (4) Safety Glass Division. Two of the five members of the Plate Glass Division produce and sell approximately 94% of all plate glass; one of the members of the Rough, Rolled and Wire Glass Division produces and sells approximately 48% of all Rough, Rolled and Wire Glass; one of the members of the Structural Glass Division produces and sells approximately 45% of all Structural Glass (this member being one of the two previously mentioned in the Plate Glass Division); and two of the members of the Safety Glass Division produce and sell approximately 96% of all safety glass (these two members being the same two members previously mentioned in the Plate Glass Division, and one of the two being the same member previously mentioned in the Structural Glass Division). These two concerns operating in the several Divisions produce and sell approximately 91% of the total dollar value of all products of this industry.

PROVISIONS OF THE CODE AS TO HOURS, WAGES AND GENERAL LABOR PROVISIONS

1. This Code provides that no employee shall be permitted to work more than seventy-two (72) hours in any fourteen (14) day period nor more than six (6) days in any seven (7) day period; and that no employee shall be permitted to work more than eight (8) hours in any twenty-four (24) hour period (except that each employee may be permitted to work six (6) additional hours in any seven (7) day period, provided that at least one and one-half times their normal rate of pay is paid for all time worked in excess of eight (8) hours in any twenty-four (24) hour period), except as follows:

(a) Employees from the immediately preceding shift, engaged in the non-continuous processes of the industry which operate twenty-four (24) hours per day may be permitted to work not more than four (4) additional hours and not more than a total of forty-two (42) hours in any seven (7) day period without the payment of overtime if his services are required by reason of the failure of another regular employee to report or remain at work.

(b) Employees engaged in the continuous processes of the industry shall not be permitted to work more than eighty-four (84) hours in any fourteen (14) day period, nor more than six (6) hours in any one twenty-four (24) hour period except that (1) in order to provide for the rotation of shifts, each such employee may be permitted to work six (6) additional hours in any one twenty-four (24) hour period in each fourteen (14) day period without the payment of overtime, and (2) each such employee from the immediately preceding shift may be permitted to work six (6) additional hours in any seven (7) day period without the payment of overtime if his services are required by reason of the failure of another regular employee to report for or remain at work.

(c) Employees engaged in clerical, office or sales work (exclusive of those engaged as bookkeepers and accountants) may be permitted to work not more than forty (40) hours in any one seven (7) day period nor more than eight (8) hours in any one twenty-four (24) hour period nor more than six (6) days in any one seven (7) day period, except that each such employee may be permitted to work two (2) additional hours in any one twenty-four (24) hour period in each seven (7) day period, without the payment of overtime, provided that the total for such seven (7) day period is not in excess of forty (40) hours.

(d) During any one seven (7) day period in any month or four (4) weeks accounting period any employee engaged as a bookkeeper or accountant may be permitted to work nine (9) hours in any twenty-four (24) hour period and forty-five (45) hours in said seven (7) day period without payment of overtime, provided that equivalent time off is given such employee during the balance of the same month or accounting period, so that the average of such employee's hours during said month or four (4) weeks accounting period, does not exceed forty (40) hours per seven (7) day period; and further each such employee may be permitted to work not more than six (6) additional hours in any seven (7) day period, provided that at least one and one-half ($1\frac{1}{2}$) times the normal rate of pay is paid for all hours worked in excess of nine (9) hours in any twenty-four (24) hour period during such first mentioned seven (7) day period, or in excess of eight (8) hours in any twenty-four (24) hour period during the balance of the month or accounting period.

(e) Employees engaged as watchmen may be permitted to work not more than eighty-four (84) hours in any one fourteen (14) day period.

2. This Code exempts from hourly, weekly or other periodic limitations persons employed in a managerial or executive capacity who earn not less than thirty-five dollars (\$35.00) per week and employees engaged in emergency maintenance or emergency repair work provided, however, that in cases of emergency maintenance or emergency

repair work, at least one and one-half ($1\frac{1}{2}$) times their normal rate of pay is paid for all time worked in excess of the maximum provided in Article III.

3. This Code establishes minimum rates of pay of forty cents (\$.40) and thirty-five cents (\$.35) per hour for all classes of employees except those engaged in clerical and office work, in the Northern and Southern sections of the industry respectively. A minimum rate of fifteen dollars (\$15.00) per week is established for employees engaged in clerical or office work regardless of the section of the industry.

4. This Code establishes minimum rates of pay for all employees irrespective of whether the employee is actually compensated on a time rate, piece work or other basis. Handicapped persons may be employed at a wage below the minimum under conditions as provided by the Code.

5. This Code provides that, for those employees receiving compensation in excess of the minimum wage rates, an equitable adjustment shall be made in those cases where such equitable adjustments have not been made since July 1, 1933, and that reports in respect thereto shall be submitted by the Code Authority to the Administrator.

6. This Code also includes provisions respecting:

- (a) Evasion through re-employment, and
- (b) Reclassification of Employees, and
- (c) Standards for Safety and Health, and
- (d) Payment of Wages, and
- (e) Dismissals for Making a Complaint, and
- (f) Rates of Pay for Female Employees, and
- (g) Posting of the Code, and

that no person under sixteen (16) years of age shall be employed in the industry and that no person under eighteen (18) years of age shall be employed in operations or occupations which are hazardous in nature or dangerous to health, and that the Code Authority shall within thirty (30) days after the effective date of the Code submit a list of such operations and occupations in the industry.

ECONOMIC EFFECTS OF THE CODE

1. The report of the Division of Research and Planning indicates that the production of the Plate Glass Division (which constitutes approximately 50% of this industry) declined from 150,504,000 square feet in 1929 to 86,037,000 square feet in 1933 or about 43%. While no figures are given for the production of the Structural Glass and Rough Rolled and Wire Glass Divisions, it is assumed that they suffered the same decline inasmuch as they, like the Plate Glass Division, depend largely on construction activity for their market. In the Safety Glass Division production in 1933 was greater than in 1929 due to the increasing demand for its products in the Automotive Industry. Sales for the entire industry totaled \$32,570,000 in 1933. Sales for the first six months of 1934 were 73.6% of the sales for the entire year 1933 indicating a substantial upturn in the industry.

2. While complete and accurate statistics on employment within the industry are not available, it is estimated that the total number of employees in the industry in 1929 was about 16,880, and in the first part of 1933 about 8,000. In the latter part of 1933 the number of employees was estimated to be about 11,000 due both to the operation of the President's Reemployment Agreement and the upturn in business. Based on Bureau of Labor Statistics covering "Trend of Employment" for all glass manufacturers, it would appear that in this industry from June, 1933 to June, 1934 employment increased 31.6%. Average hours worked decreased from 42.1 to 33.5 or 17% while average hourly earning increased from 44¢ to 55¢ or 19.6% with the net result that average weekly earnings decreased from \$18.97 to \$18.42 or 0.8%.

3. Increased employment due to the thirty-six (36) hour general provision and the forty-two (42) hour provision for the continuous processes, on the basis of employment for the last half of 1933 and the first half of 1934, should restore the industry to the 1929 level, and in conclusion it may be stated that, even if the operation of the Code does not greatly increase average wages, the position of the industry will be reasonably good, provided that reductions of weekly earnings do not result from the shortening of hours.

FINDINGS

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

We 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 us 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 group is an industrial group truly representative of the aforesaid industry and that said group 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, we have approved this Code.

For the National Industrial Recovery Board:

W. A. HARRIMAN,
Administrative Officer.

DECEMBER 22, 1934.

CODE OF FAIR COMPETITION FOR THE FLAT GLASS MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

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

ARTICLE II—DEFINITIONS

SECTION 1. The term "Flat Glass Manufacturing Industry" or "Industry" as used herein is defined to mean and include the manufacture and the primary sale of the products of this Industry, or any one of them.

The term "sale" shall be deemed to include, but without limitation, shipments of products of this Industry, made by a member of the Industry to a distributing agency owned or controlled directly or indirectly by such member of the Industry and/or shipments of the products of this Industry made by a member of the Industry to a consignment account. The operation of establishments (including distributing agencies) engaged in the distribution of the products, either owned or controlled directly or indirectly by a member of the Industry, shall not be subject to this Code.

SECTION 2. The term "Flat Glass" or "products of this Industry" is defined to mean and include the following types of flat glass having two (2) approximately parallel surfaces: Plate Glass, Rolled Glass, Rough Glass, Ribbed Glass, Structural Glass, Safety and/or Laminated Glass, Wire Glass, including Figured Glass, Colored and Opalescent Glass, and Ornamental Plate Glass, but excluding Common Window Glass and Optical Glass.

SECTION 3. The term "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.

SECTION 4. The term "employee" as used herein includes any and all persons engaged in the Industry, however compensated, except a member of the Industry.

SECTION 5. The term "employer" as used herein includes anyone by whom such employee is compensated or employed.

SECTION 6. The term "continuous processes of the Industry" as used herein is defined to mean and include the operations of mixing and melting the raw materials, withdrawing the molten glass from the tanks and/or furnaces, forming the same into sheets or plates, and delivering such sheets or plates to those places or sections of

the plant of the member of the Industry where they will subsequently be handled and worked or stored, and also the heat, light, power, sand grading and water producing operations necessarily incident to such continuous operations.

SECTION 7. The term "Code Authority" as used herein is defined to mean the Code Authority constituted under Article VI hereof.

SECTION 8. The term "Division of the Industry" means any Division of the Industry described in Section 2 of Article VI hereof.

SECTION 9. The term "Divisional Committee" means any Divisional Committee described in Section 3 of Article VI hereof.

SECTION 10. The term "Planning Committee" as used herein, means the Planning Committee appointed by the members of the Industry and authorized to prepare and submit this Code.

SECTION 11. The terms "President", "Act", and "Administrator", as used herein, are defined to mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the National Industrial Recovery Board.

SECTION 12. The term "Southern Section of the Industry" as used herein is defined to mean and include the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Missouri, Mississippi, Tennessee, Arkansas, Oklahoma, Kansas and Texas. The term "Northern Section of the Industry" as used herein is defined to mean and include the District of Columbia and all other States, territories and possessions of the United States, in which the National Industrial Recovery Act applies.

ARTICLE III—HOURS

SECTION 1. *Maximum Hours.*—No employee, except as herein otherwise provided, shall be permitted to work more than seventy-two (72) hours in any fourteen (14) day period nor more than six (6) days in any seven (7) day period; and no employee, except as herein otherwise provided, shall be permitted to work more than eight (8) hours in any twenty-four (24) hour period except that each employee may be permitted to work six (6) additional hours in any seven (7) day period, provided that at least one and one-half ($1\frac{1}{2}$) times their normal rate of pay is paid for all time worked in excess of eight (8) hours in any twenty-four (24) hour period; and except that an employee from the immediately preceding shift, engaged in the non-continuous processes of the Industry which operate twenty-four (24) hours per day, may be permitted to work not more than four (4) additional hours, and not more than a total of forty-two (42) hours in any seven (7) day period without the payment of overtime if his services are required by reason of the failure of another regular employee to report for or remain at work.

SECTION 2. *Exceptions as to Hours.*—(a) Employees engaged in the continuous processes of the Industry shall not be permitted to work more than eighty-four (84) hours in any fourteen (14) day period, nor more than six (6) hours in any one twenty-four (24) hour period except that (1) in order to provide for the rotation of shifts, each such employee may be permitted to work six (6) additional hours in any one twenty-four (24) hour period in each fourteen (14) day period without the payment of overtime, and (2) each

such employee from the immediately preceding shift may be permitted to work six (6) additional hours in any seven (7) day period without the payment of overtime if his services are required by reason of the failure of another regular employee to report for or remain at work;

(b) Employees who engage in clerical, office or sales work (exclusive of employees covered by sub-section (c) of this Section) shall not be permitted to work more than forty (40) hours in any seven (7) day period nor more than eight (8) hours in any one twenty-four (24) hour period nor more than six (6) days in any seven (7) day period, except that each such employee may be permitted to work two (2) additional hours in any one twenty-four (24) hour period in each seven (7) day period, without the payment of overtime, provided that the total for such seven (7) day period is not in excess of forty (40) hours;

(c) During any one seven (7) day period in any month of four weeks' accounting period any employee engaged in bookkeeping or accounting work may be permitted to work nine (9) hours in any twenty-four (24) hour period and forty-five (45) hours in said seven (7) day period without payment of overtime, provided that equivalent time off is given such employee during the balance of the same month or accounting period, so that the average of such employee's hours during said month or four weeks' accounting period, does not exceed forty (40) hours per seven (7) day period; and further each such employee may be permitted to work not more than six (6) additional hours in any seven (7) day period, provided that at least one and one-half ($1\frac{1}{2}$) times their normal rate of pay is paid for all hours worked in excess of nine (9) hours in any twenty-four (24) hour period during such first mentioned seven (7) day period, or in excess of eight (8) hours in any twenty-four (24) hour period during the balance of the month or accounting period;

(d) The maximum hours established above shall not apply during the period of peak load and seasonal demand of the automotive industry to members of the Industry which manufacture plate glass and/or safety glass where restriction of hours would unavoidably reduce production. Accordingly employees of members of the Industry which members manufacture plate glass and/or safety glass for the automotive industry and which employees are directly engaged in the manufacture and/or preparation and furnishing and shipping of such glass may be permitted during any one consecutive period of not more than fourteen (14) weeks in any one year to work not more than forty-eight (48) hours in any seven (7) day period and not more than eight (8) hours in any twenty-four (24) hour period without the payment of overtime, but in no case shall such employees be permitted to work in excess of forty-eight (48) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period.¹

(e) Employees engaged as watchmen shall not be permitted to work more than eighty-four (84) hours in any one fourteen (14) day period.

¹ Stayed—See paragraph 2 of order approving this Code.

SECTION 3. *Exemptions as to Hours.*—(a) The provisions of this Article shall not apply to outside salesmen or to employees engaged in a managerial or executive capacity who earn not less than thirty-five dollars (\$35.00) per week;

(b) The provisions of this Article shall not apply to employees engaged in emergency maintenance or emergency repair work involving breakdowns or the protection of life or property, provided, however, that at least one and one-half ($1\frac{1}{2}$) times their normal rate of pay is paid for all time worked in excess of the maxima herein provided by this Article.

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 with another employer in this or any other Industry exceeds the maxima permitted herein.

ARTICLE IV—WAGES

SECTION 1. *Minimum Wage.*—No employee shall be paid less than at the rate of thirty-five cents (\$0.35) per hour in the southern section of the Industry or less than at the rate of forty cents (\$0.40) per hour in the northern section of the Industry, except as herein otherwise provided.

SECTION 2. *Minimum Wage for Clerical and Office Employees.*—No person employed in clerical or office work shall be paid less than at the rate of \$15.00 per week.

SECTION 3. *Female Employees.*—Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SECTION 4. *Piecework Compensation—Minimum Wages.*—This Code establishes minimum rates of pay which shall apply irrespective of whether an employee is actually compensated on a time rate, piecework or other basis.

SECTION 5. *Evasion through Reemployment.*—No employee now employed at a rate in excess of the minimum shall be discharged and re-employed or replaced by another employee at a lower rate for the purpose of defeating or evading the provisions of this Code.

SECTION 6. *Wages above the Minimum.*—For those employees receiving compensation in excess of the minimum wage rates, equitable adjustment shall be made in those cases where such equitable adjustments have not been made since July 1, 1933. Within thirty (30) days after the effective date of this Code each member of the Industry shall submit to the Code Authority a detailed report showing the number of employees, hours of work, and hourly rates of wages and weekly compensation for each labor classification for a representative pay period prior to July 1, 1933, and for the representative pay period ending next before the date of the report. Such reports shall be promptly forwarded by the Code Authority to the Administrator.

SECTION 7. *Handicapped Persons.*—A person whose earning capacity is limited because of age or physical or mental handicap or other infirmities 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. The State Authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each member of the Industry shall file monthly with the Code Authority a list of all such persons employed by it, showing the wages paid to, and the maximum hours of work for such employee.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor Provisions.*—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 in operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within thirty (30) days after the effective date of this Code 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.*—As provided by Section 7 (a) of the Act:

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

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

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

SECTION 3. *Reclassification of Employees.*—No employer shall reclassify employees or duties or occupations performed or engage in any subterfuge for the purpose of defeating or evading the provisions of the Act or of this Code.

SECTION 4. *Standards for Safety and Health.*—Every employer shall make reasonable provision for the safety and health of his employees 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 within three (3) months after the effective date of this Code.

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

SECTION 6. *Payment of Wages.*—All wages shall be paid weekly, semi-monthly or monthly in lawful currency or by negotiable check therefor, payable on demand. These wages shall be exempt from

any deductions other than those expressly authorized by the employee or required by law. Employers or their agents shall not accept, directly or indirectly, rebates on such wages, or give anything of value nor extend any favors to any person for the purpose of influencing rates of wages or working conditions of their employees.

SECTION 7. *Dismissals*.—No employee shall be discharged, demoted or otherwise discriminated against by reason of making a complaint or giving evidence with respect to an alleged violation of this Code.

SECTION 8. *Posting*.—Each member of the Industry shall post and keep posted copies of this Code and all amendments thereto which may hereafter be made, in conspicuous places accessible to all employees. Each 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 issued by the Administrator.

ARTICLE VI—ORGANIZATION POWERS AND DUTIES OF THE CODE AUTHORITY AND DIVISIONAL COMMITTEES—CODE ADMINISTRATION

SECTION 1. *Code Authority*.—A Code Authority for the Flat Glass Manufacturing Industry is hereby constituted to cooperate with the Administrator in the administration of this Code.

SECTION 2. *Divisions of the Industry*.—For the purpose of the administration of this Code, the Flat Glass Manufacturing Industry shall be divided into four divisions, as follows:

Safety Glass Division—This Division shall include the manufacture of safety or laminated glass.

Plate Glass Division—This Division shall include the manufacture of plate glass.

Rough, Rolled and Wire Glass Division—This Division shall include the manufacture of rough, rolled and wire glass, including figured glass, colored and opalescent glass, and ornamental plate glass.

Structural Glass Division—This Division shall include the manufacture of glass colored prior to solidification, either fire polished or ground and polished, and not less than 3/16" in thickness.

SECTION 3. *Divisional Committees*.—Within twenty (20) days after the effective date of this Code there shall be constituted a Divisional Committee for each Division of this Industry. Each Divisional Committee shall consist of one (1) representative appointed by and selected from each member of the Industry within such Division.

SECTION 4. *Code Authority*.—Within thirty (30) days after the effective date of this Code there shall be constituted a Code Authority. The Code Authority shall consist of two (2) representatives from each Division of the Industry (who may or may not be members of the Divisional Committee) and selected by a vote of the Divisional Committee in each Division in accordance with the methods of voting hereinafter set forth in Section 7 of this Article. No member of the Industry (including subsidiaries of affiliates) shall have more than one (1) representative on the Code Authority.

SECTION 5. (a) The Planning Committee is hereby designated as an agency to organize the several Divisional Committees and to conduct the first elections of the members of the Code Authority.

(b) Within ten (10) days after the effective date of this Code, the Planning Committee shall forward by registered mail to all known and ascertainable members of the Industry and to the Administrator all pertinent information relating to the appointment by each member of the Industry of its representative on the Divisional Committee and the selection of the Industry members of the Code Authority.

SECTION 6. *Members appointed by the Administrator.*—In addition to membership as hereinbefore provided, there may be not more than three (3) members, without vote, to be appointed by the Administrator to serve for such terms as he may prescribe. The representatives who may be appointed by the Administrator, together with the Administrator, shall be given due notice of and may sit at all meetings of the Code Authority and/or of any Divisional Committee.

SECTION 7. *Decisions of the Divisional Committees.*—All decisions of each Divisional Committee to be binding on its Division of the Industry (including its selection of members of the Code Authority) must receive the affirmative vote of a majority of the members of the Divisional Committee and also the affirmative vote of not less than two (2) members of the Divisional Committee appointed by members of the Industry representing in the aggregate not less than fifty-one per cent (51%) of the total net dollar value or footage of shipments of the products of that Division of the Industry during the two (2) calendar years preceding the year in which any such vote is taken. A majority of the Divisional Committee in each Division shall have the power to determine whether the net dollar value or footage basis is adopted in its division.

SECTION 8. *Decisions of the Code Authority.*—No action, determination, or other rule or regulation of the Code Authority shall be binding on the members of the Industry unless and until it shall have received an affirmative vote of a majority in number of the members of the Code Authority. Each member of the Code Authority shall have equal voting power. If at any time the Code Authority cannot reach a decision, the matter at issue shall be referred within five (5) days to the Administrator for consideration and determination and his decision shall be final and binding on all members of the Industry.

SECTION 9. *Reference to Code Authority and Administrator.*—If at any time any Divisional Committee cannot reach a decision as hereinbefore provided, the matter at issue shall be referred within five (5) days to the Code Authority for consideration and determination and its decision shall be final and binding, subject only to the rights of the Administrator with respect to decisions of the Code Authority as set forth in Section 19 of this Article VI or contained in the Act. Should any Divisional Committee be unable to reach a decision with respect to the selection of the members of the Code Authority, that particular question shall be referred to the Administrator for consideration and decision and his decision shall be final and binding on all members of the Industry.

SECTION 10. *Terms of Office.*—Each Industry member of the Code Authority shall be selected for a term not to exceed one (1) year. Elections to the Code Authority, subsequent to the first, shall be held at the annual meetings of the Divisional Committees. In the event

of any vacancy in the membership of the Code Authority, a special meeting of the members of the appropriate Divisional Committee shall be called and an election held to fill the incomplete term of such membership within thirty (30) days after such vacancy shall have occurred.

SECTION 11. *Participating Trade Associations*.—Each trade or industrial association, directed or indirectly participating in the selection or activities of the Code Authority or of any Divisional Committee, 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 12. *Representative Character of Code Authority*.—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, he may require an appropriate modification of the Code Authority.

SECTION 13. *Non-Liability of Members of the Code Authority or of any Divisional Committee for Official Acts*.—Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose or the members of any Divisional Committee partners for any purpose. Nor shall any member of the Code Authority or of any Divisional Committee be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority or of any Divisional Committee. Nor shall any member of the Code Authority or of any Divisional Committee exercising reasonable diligence in the conduct of his duties herein, be liable to anyone for any action or omission to act under the Code except for his own wilful malfeasance or nonfeasance.

SECTION 14. *Powers and Duties of the Code Authority*.—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 provided elsewhere in this Code):

(a) To execute the provisions of this Code and 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 subject to the approval of the Administrator.

(c) To be the general coordinating body of the Industry, advising with each Divisional Committee with respect to the activities of such Divisional Committee to the end that the policies and activities of such Divisional Committee may be unified and coordinated between the Divisions.

(d) To cooperate with the Administrator in making investigations as to the functioning and observance of any of the provisions of this Code at its own instance, or upon request of the Administrator, or on complaint of any person affected, and report the same to the Administrator.

(e) To cooperate with the Administrator in regulating the use of any N. R. A. insignia according to such rules and regulations as the National Recovery Administration may prescribe.

(f) To use such trade associations and other agencies as it deems proper to carry out any of the activities provided for herein, provided, however, 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.

(g) To investigate and inform the Administrator on behalf of the Industry as to importation of competitive articles into the United States in substantial quantities or increasing ratio to domestic production on such terms or under such conditions as to render ineffective or seriously endanger the maintenance of this Code, and to make complaint to the President on behalf of the Industry under the provisions of the Act with respect thereto.

(h) To make recommendations to the Administrator for the amendment or modification of this Code on the basis of experience and changes in circumstances including (but without limitation) recommendations to:

(aa) further effectuate the policy of the National Industrial Recovery Act and the operation of this Code in respect thereto, and

(bb) to prevent the elimination or oppression of and discrimination against small enterprises, and

(cc) stabilize employment, and

(dd) prevent unsound, unfair or destructive practices, and

(ee) rehabilitate the Industry and promote industrial planning. which recommendations, upon approval by the Administrator after such notice and hearing as he may prescribe shall become part of this Code and have full force and effect as provisions hereof.

(i) To obtain from members of the Industry such information and reports as are required for the administration of this Code. In addition to information required to be submitted to the Code Authority, members of the Industry 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 the Administrator may designate. No provision of this Code shall relieve any member of the Industry of any existing obligation to furnish reports to Government agencies. No individual reports submitted to the Code Authority shall be disclosed to any other member of the Industry, but may be revealed to such impartial agencies as may be necessary to facilitate the administration of this Code.

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

(aa) 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;

(bb) 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 including estimated expenses of the Divisional Committees 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;

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

(dd) 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 (unless duly exempted from making such contribution), 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.

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

(k) To appoint a trade practice committee which shall meet with the trade practice committees appointed under such other codes as may be related to this industry for the purpose of formulating fair trade practices to govern the relationships between production and distribution employers under this Code and under such others to the end that such fair trade practices may be proposed to the Administrator as amendments to this Code and such other codes.

(l) To provide appropriate facilities for arbitration, and subject to the approval of the Administrator, to prescribe rules of procedure and rules to effect compliance with awards and determinations.

SECTION 15. Powers and Duties of the Divisional Committees.—

(a) Each Divisional Committee shall administer this Code in its respective division in accordance with such powers and duties as may be delegated to it by the Code Authority and subject to the right of the Code Authority to suspend, investigate, approve, disapprove, or modify the decisions of any Divisional Committee and subject to the right of appeal hereinafter in this Article provided for from any such decision.

(b) To make a study of all matters affecting the Industry and the conduct of the business of the Industry within its particular Division to the end that each Divisional Committee may submit to the Code Authority recommendations with respect to the adoption of trade practices, systems of cost finding and/or rules respecting filing of price schedules applicable to the Industry as a whole or to its particular Division of the Industry and recommendations with respect to any other amendments or additions to this Code affecting a particular Division of the Industry or the Industry generally,

which recommendations upon approval by the Code Authority and approval by the Administrator, after such notice or hearing as he in his discretion may determine upon, shall constitute amendments to this Code.

SECTION 16. *Appeals*.—(a) Any interested party shall have the right to appeal to the Code Authority and to obtain a prompt hearing and decision, under such rules of procedure as it may prescribe, in respect to any decision, rule, regulation, order or finding made, act or omission to act by the Divisional Committee of any Division, whether or not so provided in any other part of this Code.

(b) Any interested party shall have the right to appeal to the Administrator, under such rules and regulations as he may prescribe, in respect to any decision, rule, regulation, order, or finding made, act or omission to act by the Code Authority, whether or not so provided in any other part of this Code.

SECTION 17. *Confidential Information*.—All confidential information of any nature which may be requested by the Code Authority shall be collected through a confidential and disinterested agent or agents selected by said Code Authority and such information shall be kept confidential by such agent or agents except when required by the Code Authority for the proper administration of the Code and with the further exception that all such information shall be freely available to the Administrator at all times.

SECTION 18. *Compliance with the Code*.—The Code Authority shall designate an impartial agent or agents, not members of the Industry, to investigate complaints of violations of the Code. Each member of the Industry shall keep accurate and complete records of its transactions in the Industry whenever such records may be required under any of the provisions of this Code, and shall furnish accurate reports based upon such records concerning any of such activities when required by the Code Authority or the Administrator. If the Code Authority or the Administrator shall determine that substantial doubt exists as to the accuracy of any such report, so much of the pertinent books, records and papers of such member as may be required for the verification of such report may be examined by an impartial agency, agreed upon between the Code Authority and any such member, or, in the absence of agreement, appointed by the Administrator. In no case shall the facts disclosed by such examination be made available in identifiable form to any competitor, whether on the Code Authority or otherwise, or be given any other publication, except such as may be required for the proper Administration or enforcement of the provisions of this Code.

SECTION 19. To the extent permitted by the Act, if the Administrator shall determine that any action of the Code Authority or any agency thereof is 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 the 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—TRADE PRACTICE RULES

General Definition.—For all purposes of this Code the acts described in this Article shall constitute unfair trade practices. Any member of the Industry which shall directly or indirectly, through any officer, employee, agent, or representative, knowingly use, employ, or permit to be employed, any of such unfair practices shall be guilty of a violation of the Code.

RULE 1. *Misrepresentation and Misbranding.*—No member of the Industry shall publish advertising (whether printed, radio, display or of any other nature), which is misleading or inaccurate in any material particular, nor shall any member in any way misrepresent any goods (including but without limitation its use, trade mark, grade, quality, quantity, size, substance, character, nature, finish, or strength) or credit terms, values, policies, services, or the nature or form of the business conducted.

RULE 2. *Rebates.*—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.

RULE 3. *Contingent Sales.*—No member of the Industry shall sell or offer to sell or enter into any agreement to furnish the products of this Industry contingent upon the sale or purchase of any other product, the performance of any other service or any other contingency not appearing in the contract of sale, or require that the purchase or lease of any product be a requisite or a prerequisite to the purchase or lease of any other product.

RULE 4. *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. 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.

RULE 5. *Defamation of Competitors.*—No member of the Industry shall defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their product.

RULE 6. *Inducing Breach of Contract.*—No member of the Industry shall knowingly attempt to induce or permit its agents to induce or attempt to induce the breach of an existing contract between a competitor and his customers or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or service.

RULE 7. *Post-Dating.*—No member of the Industry shall post-date or pre-date any contract, invoice, quotation, or receipt, withhold from or insert in any contract, invoice, quotation, or receipt any

statement which makes such contract, invoice, quotation, or receipt an inaccurate statement either in whole or in part or accept or offer to accept any such contract.

RULE 8. *Combination Sales of Industry and Non-Industry Products.*—No member of the Industry shall directly or indirectly combine quotations for any product of this Industry with any quotation for any other material, labor, or service, for the purpose and with the intent or effect of concealing the true selling price of the product of this Industry or with the intent or effect of injuring a competitor or violating any of the provisions of this Code.

RULE 9. *Coercion.*—No member of the Industry shall require that the purchase or lease of any service or product of this Industry or any service or product of another Industry be a requisite or prerequisite to the purchase or lease of any other service or product of this Industry or any other service or product.

ARTICLE VIII—MODIFICATIONS

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 and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

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

ARTICLE IX—MONOPOLIES

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 X—REGISTRATION OF MEMBERS OF THE INDUSTRY

Every member of the Industry shall comply with the rules and regulations of the Administrator as to registration with the Code Authority, or such other agency as the Administrator may direct and including, but without limitation, the number of shops, establishments, or separate units thereof and their location, as well as each additional shop, establishment, or separate unit opened after registration.

ARTICLE XI—EFFECTIVE DATE

This Code shall become effective on the second Monday after approval by the President.

Approved Code No. 541.
Registry No. 1021-1-06.

UNIVERSITY OF FLORIDA



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