



NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

ASPHALT SHINGLE

AND ROOFING INDUSTRY

AS APPROVED ON NOVEMBER 6, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
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EXECUTIVE ORDER

CODE OF FAIR COMPETITION

FOR THE

ASPHALT SHINGLE AND ROOFING 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 my approval of a Code of Fair Competition for the Asphalt Shingle and Roofing Manufacturing Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,

November 6, 1933.

Approval recommended:

HUGH S. JOHNSON,

Administrator.

(III)

NOVEMBER 1, 1933.

THE PRESIDENT,
The White House.

SIR: 1. This is a report on the Code of Fair Competition for the Asphalt Shingle and Roofing Manufacturing Industry in the United States as revised after the hearing conducted in Washington on September 21, 1933, in accordance with the provisions of the National Industrial Recovery Act.

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

ARTICLE III—HOURS

2. This article provides that no employee shall be permitted to work in excess of forty (40) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period or more than six (6) days in any seven (7) day period, except that such hourly and daily limitations do not apply to employees engaged in professional, executive, administrative or supervisory work who receive compensation in excess of thirty-five (\$35.00) dollars per week, or to outside salesmen. Further, such hourly and daily limitations do not apply to employees on emergency maintenance or emergency repair work involving breakdowns or the protection of life or property. Further, during periods of seasonal peaks, employees may be permitted to work in excess of forty (40) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period, provided that during any thirty (30) day period the number of hours of employment averages not more than forty (40) hours in any seven (7) day period.

Employees engaged as watchmen may be permitted to work not in excess of fifty-six (56) hours in any seven (7) day period and employees engaged solely as firemen in manufacturing operations may be permitted to work not in excess of forty-four (44) hours in any seven (7) day period nor eight (8) hours in any twenty-four (24) hour period.

Overtime payment of not less than one and one half ($1\frac{1}{2}$) times the normal rate is provided for such hours worked in excess of the maximum number of hours provided by the Code.

ARTICLE IV—WAGES

3. The minimum hourly rate of compensation of forty-five (\$0.45) cents per hour is provided for employees in the Pacific Coast Section and forty (\$0.40) cents per hour in the Northern Section and thirty-seven and one half (\$0.375) cents per hour in the Southern Section, except that accounting, clerical, or office employees may be paid at

not less than the rate of fifteen (\$15.00) dollars per week. It is also provided that office boys and office girls may be paid not less than eighty (80%) percent of the minimum weekly rate for the accounting, clerical, or office employees, but the total number of such office boys and girls paid less than the rate of fifteen (\$15.00) dollars per week is limited not to exceed three (3%) percent of the total number of accounting, clerical, or office employees employed by any one employer during a calendar month. A minimum wage of thirty-five (\$0.35) cents per hour has been provided for female employees other than female accounting, clerical, or office employees, but this provision is not to be considered as a discrimination by reason of sex, and in any case where female employees do the same work or perform substantially the same duties as male employees the minimum rate of pay applicable to male employees is likewise applied to female employees.

This article establishes a minimum rate of pay, regardless of whether the employee is compensated on a time rate, piecework, or other basis.

This article also provides for an equitable adjustment of all wage rates above the minimum.

ARTICLE V—GENERAL LABOR PROVISIONS

4. This article provides that no person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age in manufacturing operations.

This article embodies subparagraph (a) of section 7 of title I of the National Industrial Recovery Act.

This article further provides that employers shall not reclassify employees or the duties of occupations so as to defeat the purpose of the act, and that each employer shall post adequate notices that each employee may, at his request, obtain, without charge, a copy of the particular code applicable to his work.

ECONOMIC EFFECT OF THE CODE

5. The members of this industry manufacture felt base (made of organic or inorganic fibres), asphalt shingles, siding and roofings, roll roofings (including cap and base sheets and house sheathings), starting strips, tarred felt, and asphalt felt.

The report of the Research and Planning Division indicates that, according to the Census of Manufactures, there were eighty-three (83) establishments in 1931 manufacturing the products of this industry and in 1933 there were sixty-five (65) establishments operating to a greater or lesser extent. During this interval it is apparent that eighteen (18) establishments abandoned operations. The number of factory employees as of July 1, 1933, excluding those engaged in the tar and felt industry, was 5,702, or about seventy-one (71%) percent of the 1928 total. The capital investment in this industry has shrunk from about sixty-eight (\$68,000,000.00) million dollars, as of January 1, 1929, to about fifty-seven (\$57,000,000.00) million dollars, as of January 1, 1933, in accordance with this same report.

Article III of the code provides for a maximum of forty (40) hours in any seven (7) day work period. If the 1933 base is used as a

level of production (278,000 man-hours), a forty (40) hour work week should absorb approximately 6,950 employees, or fifteen (15%) percent more than the number employed in 1929.

In accordance with the report of the Research and Planning Division, approximately nineteen (19%) percent of the factory employees of thirty-three (33) reporting establishments (reporting about fifty (50%) percent of the total in 1933) received less than thirty-five (\$0.35) cents per hour. Article IV of the code establishes a minimum of forty-five (\$0.45) cents per hour in the Pacific coast section, forty (\$0.40) cents for the northern section and thirty-seven and one half (\$0.375) cents for the southern section.

FINDINGS

The Administrator finds that:

(a) The code as recommended complies in all respects with the mandatory provisions of title I of the act, including, without limitation, subsection (a) of section 7 and subsection (b) of section 10 thereof, and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Asphalt Shingle and Roofing Manufacturing Industry; and that

(c) The code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of title I of the National Industrial Recovery Act.

It is recommended, therefore, that this code be adopted.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE ASPHALT SHINGLE AND ROOFING MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Asphalt Shingle and Roofing Manufacturing Industry, and upon approval by the President shall be the standard of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "industry" as used herein includes the producing in the United States, and the selling by the producer of the products or any of them.

SEC. 2. The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SEC. 3. The term "employer" as used herein includes anyone in the industry by whom any such employee is compensated or employed.

SEC. 4. The term "member of the industry" as used herein includes anyone engaged in the industry as above defined, either as an employer or on his own behalf.

SEC. 5. The term "member of the Code" as used herein includes any member of the Industry who shall expressly signify assent to this Code, in the manner provided in Section 2 (b) of Article VI, hereof.

SEC. 6. The term "products" as used herein means and includes felt-base (made of organic or inorganic fibres), asphalt shingles, sidings and roofings, roll roofings (including cap and base sheets and house sheathing), starting strips, tarred felt, and asphalt felt.

SEC. 7. The term "trade" as used herein shall mean all channels of distribution of the products.

SEC. 8. The term "the Institute" as used herein means the Asphalt Shingle and Roofing Institute.

SEC. 9. The terms "President", "Act", and "Administrator" as used herein shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

SEC. 10. The term "United States" as used herein means all of the territory of the United States of America on the North American Continent and the Territory of Hawaii.

SEC. 11. The term "Northern Section" as used herein means: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island,

Maryland, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, West Virginia, Minnesota, Ohio, Kentucky, Michigan, Indiana, Nebraska, Kansas, Wisconsin, Illinois, Missouri, Iowa, North Dakota, South Dakota, the State of Montana, except the Counties west of and including Hill, Chouteau, Fergus, Petroleum, Mussel Shell, Yellowstone, Stillwater, and Park; the State of Wyoming, except the Counties West of and including Big Horn, Washakie, Hot Springs, Park, Yellowstone National Park, Teton, Sublette, and Albany; and the State of Colorado, except the Counties West of and including Rio Blanco, Garfield, Eagle, Lake, Chaffee, Gunnison, Ouray, San Miguel, Dolores, and Montezuma.

SEC. 12. The term "Southern Section" as used herein means: the State of New Mexico, except the Counties of McKinley, Cathon, Hidalgo, and Luna; the States of North Carolina, Tennessee, Arkansas, Oklahoma, Texas, and the States south thereof.

SEC. 13. The term "Pacific Coast Section" as used herein means the territory West of the Northern and Southern sections as above defined, including the territories of Alaska and Hawaii.

ARTICLE III—HOURS

SECTION 1. No employee shall be permitted to work in excess of forty (40) hours in any seven (7) day period, or eight (8) hours in any twenty-four (24) hour period, nor more than six (6) days in any seven (7) day period, except that such hourly and daily limitations shall not apply to:

(a) Employees engaged in professional, executive, administrative or supervisory work who receive compensation exceeding thirty-five (\$35.00) dollars per week, or to outside salesmen;

(b) Employees on emergency maintenance or emergency repair work involving breakdowns or the protection of life or property, but in any such special case at least one and one third ($1\frac{1}{3}$) times the normal rate shall be paid for hours worked in excess of the maximum number of hours herein provided:

(c) Periods of seasonal requirements during which employees may be permitted to work in excess of forty (40) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period provided that during any thirty (30) day period the number of hours of employment shall average not more than the maximum number of hours for any seven (7) day period herein provided; and provided, further, that in any such cases employees shall be paid not less than one and one half ($1\frac{1}{2}$) times the normal rate for any such hours worked in excess of the maximum number of hours herein provided:

(d) Employees engaged as watchmen who may be permitted to work not in excess of fifty-six (56) hours in any seven (7) day period;

(e) Employees engaged solely as firemen in manufacturing operations who may be permitted to work not in excess of forty-four (44) hours in any seven (7) day period and not in excess of eight (8) hours in any twenty-four (24) hour period.

SEC. 2. No employer shall knowingly permit an employee to work for one or more employers for a total number of hours or days in the aggregate exceeding the foregoing limitations.

ARTICLE IV—WAGES

SECTION 1. Subject to the provisions of Section 3 of this Article IV, no employee shall be paid at less than the hourly rate provided as follows:

- (a) For employees in the Pacific Coast Section, at \$0.45 per hour;
- (b) For employees in the Northern Section, at \$0.40 per hour;
- (c) For employees in the Southern Section, at \$0.375 per hour;

except that accounting, clerical, or office employees may be paid at not less than the rate of fifteen dollars (\$15.00) per week; provided, however, that office boys and office girls may be paid not less than eighty (80) per cent of such minimum weekly rate, but the total number of such office boys and girls paid at less than the rate of fifteen dollars (\$15.00) per week by any employer in any calendar month shall not exceed three (3) per cent of the total number of such employees employed by any such employer during such calendar month.

SEC. 2. This Article establishes a minimum rate of pay regardless of whether an employee is compensated on a time rate, piecework, or other basis.

SEC. 3. The minimum wage which may be paid by employers to any female employee, other than female accounting, clerical, or office employees, shall be at the rate of thirty-five cents (\$0.35) per hour; provided, that this provision shall not in any way be considered as a discrimination by reason of sex; and provided, further, where in any case female employees do the same work or perform substantially the same duties as male employees the minimum rate of pay applicable to male employees shall likewise apply to female employees.

SEC. 4. Employers shall not reduce the rates of wages for employees whose rates are now in excess of the minimum rate of wages herein provided (notwithstanding that the number of hours worked in such employment may be hereby decreased) and where in any case an employer has not increased the rates of wages for such employees prior to the effective date of this Code by an equitable readjustment of all such wage rates such employer shall readjust all such wage rates. This provision shall be interpreted in the same manner that paragraph 7 of the President's Reemployment Agreement has been interpreted by the Administrator in Interpretations Nos. 1 and 20.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age in manufacturing operations. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate duly issued by the authority empowered to issue employment certificates showing that the employee is of the required age.

SEC. 2. 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.

SEC. 3. 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.

SEC. 4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 5. Within each State this Code shall not supercede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, safety or health, fire or general working conditions than under this Code.

SEC. 6. Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purpose of the Act.

SEC. 7. Each employer shall post adequate notices that each employee may, at his request, obtain without charge a copy of the particular Code applicable to his work.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

SECTION 1. Organization and constitution of the Code Authority:

(a) The Code Authority shall consist of five (5) individuals, or such other number as may be approved from time to time by the President, to be selected as hereinafter set forth. The President, in his discretion, may appoint not more than three (3) additional members, without vote and without expense to the industry to represent the President or such groups or interests as he may designate.

(b) All voting members of the Code Authority shall be selected from members of the Code and shall be elected by a two-thirds vote of all members of the Code. Three (3) of said members shall be selected from members of the Institute and two (2) of said members shall be selected from nonmembers of the Institute at the time of the approval of the Code by the President.

(c) Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall: (1) Impose no inequitable restrictions on membership and (2) submit to the Administrator true copies of its articles of association, 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 purpose of the Act.

(d) 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 provide such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate

modification in the method of selection of the Code Authority; provided, that no such modification shall permit anyone not a member of the industry to become a voting member of the Code Authority.

(e) The Code Authority may adopt its own rules of procedure and may delegate its authority, or some part thereof, to such agencies or committees as it may select, but all contacts with the Administrator shall be by the Code Authority. A committee of three (3) members of the Code selected by a majority vote of the members of the Code located in the Pacific Coast Section shall be appointed by the Code Authority to administer the provisions of the Code in the Pacific Coast Section.

SEC. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Code Authority:

(a) With a view to keeping the President and the members of the industry informed as to the observance or nonobservance of the Code, and as to whether the members of the industry are taking appropriate steps to effectuate the declared policy of the Act, the Code Authority shall report to the Administrator at such times and concerning such conditions in the industry as he may from time to time require and each member of the Industry shall file with the Code Authority, such certified reports with respect to wages, hours of labor, conditions of employment, number of employees, and other matters as may be deemed pertinent by the Code Authority, or by the Administrator, to the proper administration of the Code.

(b) Members 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 signing and delivering to the President of the Institute a letter in the form as set forth in Schedule "A" annexed hereto and by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The reasonable share of the expenses of administration shall be determined by the Code Authority on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

(c) All confidential information of any nature which may be requested by the Code Authority shall be collected through an agency or agencies selected by the said Code Authority and such information shall be kept confidential by the agency, 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 fully available to the Administrator at all times.

(d) The Code Authority shall designate an agent or agents, not members of the industry, to investigate complaints of violations of the Code. The members of the Code shall facilitate such investigations by producing all pertinent data including correspondence books and accounts relating to alleged violations for examination by such authorized agent and by furnishing relevant information. All such pertinent information shall be kept confidential by the agent or agents except that, in the event of any such violation being substantiated, the Code Authority shall be informed and may present evi-

dence thereof to the Administrator, or to such department, agency, or judicial branch of the Government, as he may designate. If, upon such investigation, any complaint of a violation of the Code shall be substantiated in any material respect, the member of the Code guilty of such violation shall pay the cost of the investigation, otherwise the cost shall be borne by the complainant member of the Code.

(e) The Code Authority shall make a study of conditions in the Industry and may thereafter, from time to time, make such recommendations to the Administrator as it deems desirable to further the policies of the Act with respect to, but without limitation:

- (i) Uniform cost accounting;
- (ii) Limitation of production;
- (iii) Limitation of new equipment;
- (iv) Industry merchandising plans;
- (v) Simplification and standardization;
- (vi) System of exchange of credit information;
- (vii) Inequalities affecting the stability of the Industry;

which recommendations, after such notice and hearing as the Administrator may specify, shall become effective on approval by the Administrator or the President, with the same force and effect as if originally made a part hereof; provided, however, that no such recommendations shall be made by the Code Authority unless and until the members of the Code in the Section to which such recommendations are applicable, have assented thereto. Such assent shall be by a two thirds vote in either the Northern or Southern Section, and by a majority vote in the Pacific Section.

(f) Any interested party shall have the right of complaint to the Code Authority and a prompt hearing and decision thereon, under such rules and regulations as it shall prescribe, in respect to any act of any agent or agency designated by the Code Authority to act in its behalf.

(g) Any interested party shall have the right to appeal to the Administrator, under such rules and regulations as he shall prescribe, with respect to any decision, rule, regulation, order, or finding made by the Code Authority.

(h) In addition to the information required to be submitted to the Code Authority, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

(i) Nothing contained in the Code shall be deemed to constitute any of the members thereof partners for any purpose. No member of the Code shall be liable in any manner to anyone for the act of any member or agent of the Code Authority performed pursuant to the provisions of this Code. No member of the Code and no member or agency of the Code Authority shall be liable to anyone or in any manner other than as provided in the Act, or in the Code, for any act performed in accordance with, or for any failure to act required by, the provisions of the Code.

ARTICLE VII—PUBLICITY OF PRICES, TERMS, AND CONDITIONS OF SALE

SECTION 1. Within ten (10) days after the effective date of this Code each member of the Industry shall publish his prices, terms,

and conditions of sale on all his products to his trade, each class of trade being furnished with the prices, terms, and conditions of sale affecting each such class of trade in the territory to which such prices, terms, and conditions of sale apply. Coincident with such publication, each member of the Industry shall file with the Code Authority and the Code Authority shall immediately distribute to all members of the Industry, a complete schedule of such prices, terms, and conditions of sale.

SEC. 2. In the event of any change by any member of the Industry in any price, term, or condition of sale, he shall file full and complete copies of every such change with the Code Authority within such periods as may have been designated by the Code Authority but not exceeding five (5) days in advance of the effective date of any such change. Copies thereof shall be immediately distributed by the Code Authority to the members of the Industry. On the effective date of any such change, the Industry member shall publish the same to the trade concerned and coincidentally file such information in the office designated by the Code Authority for immediate distribution by the Code Authority to the members of the Industry.

SEC. 3. No member of the Industry shall sell, pay a rebate, or allow a deduction at any time to any person except in accordance with his prices, terms, and conditions of sale then in effect and published in the manner described herein. Each member of the Industry shall have the right, individually, to publish new prices, terms, and conditions of sale, from time to time, as herein provided.

ARTICLE VIII—PUBLICITY OF TRADE QUALIFICATIONS

SECTION 1. Within ten (10) days after the effective date of this Code, each member of the Industry shall publish to his trade and file with the Code Authority all qualifications which have been established by him to determine the prices, terms, or conditions of sale made applicable by him to the different classes of his trade, for products covered by this Code. He shall publish to the trade and file promptly with the Code Authority any changes made by him in such qualifications and any additional qualifications.

Each member shall file at such times, in such manner and at such places as may be designated by the Code Authority, the names and locations of his trade, grouped according to his own stated qualifications then in effect. The names and locations so filed shall be available to the trade and to the members of the Industry, provided, that the name of the manufacturer submitting any such names and locations shall not be disclosed without consent except to the extent necessary to prevent violations of this Article.

ARTICLE IX—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the Industry and are prohibited:

SECTION 1. *False Marking or Branding.*—The false marking or branding of any product of the Industry which has the tendency to mislead or deceive customers or prospective customers, whether as to grade, quality, quantity, substance, character, nature, origin,

size, finish, or preparation of any product of the Industry, or otherwise.

SEC. 2. *Misrepresentation or False or Misleading Advertising.*—The making or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the trade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry, or the credit terms, values, policies, or services of any member of the Industry, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

SEC. 3. *Commercial Bribery.*—Directly or indirectly to give or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

SEC. 4. *Interferences with Contractual Relations.*—Maliciously inducing or attempting to induce the breach of an existing contract between a competitor and his customer or source of supply, involving the purchase of specific quantities of the products and/or their component parts or materials, or interfering with or obstructing the performance of any such contract.

SEC. 5. *Secret Rebates.*—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

SEC. 6. *Giving of Prizes, Premiums, or Gifts.*—The offering or giving of prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto, by any scheme which involves lottery, misrepresentation, or fraud.

SEC. 7. *Defamation.*—The defamation of 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 goods.

SEC. 8. *Threats of Litigation.*—The publishing or circularizing of threats or suits for infringement of patents or trade marks or of any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

SEC. 9. *Espionage of Competitors.*—Securing confidential information concerning the business of a competitor by false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

SEC. 10. To sell for export unless the buyer has agreed not to resell the products within the United States.

SEC. 11. *Other Unfair Practices.*—Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by the Federal Trade Commission on complaint, finding, and order, that any

practice or method is unfair, providing that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

ARTICLE X—GENERAL

SECTION 1. 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.

SEC. 2. Corporations shall be considered to be affiliated to any corporate member of the Industry (hereinafter described as "the parent corporation") which owns a majority of the outstanding voting capital stock of the other. Any such parent corporation shall be responsible for the observance by any affiliated corporation of all the provisions of Articles III, IV, V, VII, VIII, IX, X, and XII of this Code with respect to the production and/or sale of the products covered by this Code, provided, that in the event of the provisions of Articles VII and VIII being observed by any such affiliated corporation of such parent corporation, then the parent corporation need not comply with the Publicity requirements of Article VII with respect to prices, terms, and conditions of sale made to such affiliated corporation.

SEC. 3. Nothing contained in this Code shall be construed as prohibiting any member of the Industry from exercising all its and/or their existing lawful patent rights, or as requiring any member of the Industry to do any act in conflict with the terms of any existing valid patent licensing agreement.

SEC. 4. Articles VII, VIII, and Article XII shall not apply to products exported from the United States.

ARTICLE XI—MODIFICATION

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

SEC. 2. By presenting this Code the members of the Industry assenting thereto do not thereby consent to any modification thereof and they reserve the right to object individually or jointly to any such modification.

SEC. 3. The provisions of the Code shall remain in effect unless and until so modified or eliminated, or until the expiration of the Act; namely, June 16, 1935, or sooner, if the President shall, by proclamation, or Congress shall, by joint resolution, declare the emergency recognized by Section 1, Title I, of the Act ended.

ARTICLE XII—SELLING BELOW COST

SECTION 1. It shall constitute a violation of this Code for any member of the Industry to sell any product at a net price which shall be below the said member's "direct cost." Such "direct cost" shall include the sum of the following items chargeable to the operation of

such member's business in conformity with sound accounting practice, during the preceding calendar month:

(A) Direct raw material cost (inclusive of transportation and shrinkage), plus

(B) Direct labor cost, plus

(C) Manufacturing burden (inclusive of power and steam, factory overhead, maintenance expense, technical control, factory warehouse, and factory shipping charges), plus

(D) Fifteen (15) percent of the "Total Manufactured Cost" (i.e., the sum of the items "A" plus "B" plus "C"); provided that depreciation, taxes, insurance, reserves of any character, interest on investment, selling and administrative expenses, and prior operating losses, likewise interest charges on funded or other debt shall not be included in "Manufacturing Burden"; and provided, further, that any member of the Industry may sell below his own "direct cost" under the following circumstances:

(a) to meet competition on prices established on products of competing grade and quality filed by another member of the Industry pursuant to Article VII hereof, and not directly or indirectly investigated by the party desiring to meet such competition, or

(b) to meet competition in violation of this rule concerning which he has made complaint to the Code Authority, or any authorized agency thereof, but only pending action thereon.

ARTICLE XIII—EFFECTIVE DATE

SECTION 1. This Code shall become effective on the second Monday after its approval by the President.

SCHEDULE A

The PRESIDENT,

*Asphalt Shingle and Roofing Institute,
2 West 45th Street, New York, New York.*

DEAR SIR: The undersigned, desiring to become a member of the Code of Fair Competition of the Asphalt Shingle and Roofing Manufacturing Industry, a copy of which is annexed hereto marked "A", hereby assents to all of the provisions of said Code.

In consideration of the benefits conferred by such membership the undersigned agrees to become a member of the Code and agrees to be bound by all of the provisions thereof, effective as of the date on which the Code shall have been approved by the President of the United States, or as of the date on which this letter shall have been delivered, if delivery thereof shall have been made subsequent to the date on which the Code shall have been approved by the President.

Very truly yours,

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