Registry No. 1720—01

NATIONAL RECOVERY ADMINISTRATION

# PROPOSED CODE OF FAIR COMPETITION

FOR THE

# EXTERMINATING, FUMIGATING, AND DISINFECTING SERVICE INDUSTRY

AS SUBMITTED ON AUGUST 29, 1933

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**The Code for the Exterminating, Fumigating, and Disinfecting Service Industry in its present form merely reflects the proposal of the above-mentioned industry, and *none of the provisions contained therein are to be regarded as having received the approval of the National Recovery Administration as applying to this industry***

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SUBMITTED BY

THE DISINFECTING AND EXTERMINATING CORPORATION
THE SAMETH EXTERMINATING CO., INC.

## Letter Transmittal

General Hugh S. Johnson,
*Administrator, National Industrial Recovery Act,*
*Washington, D.C.*

Sir: Pursuant to the Provisions of Title I of the National Industrial Recovery Act, The Disinfecting and Exterminating Corporation, The Sameth Exterminating Company, Inc., hereby present a Code of fair competition for the Exterminating, Fumigating, and Disinfecting Service Industry.

The reasons that this Code is filed by these concerns are the following:

1. They do approximately 60% of the entire business.
2. They are the largest employers of labor.
3. There is no national or representative association in the industry.

It is subimtted that this Code should be approved for the following reasons:

1. It substantially increases the number of employees.
2. It improves the general working conditions of the employees.
3. It materially shortens hours of labor.
4. It tends to minimize unfair competition.
5. It will improve the industry in general.
6. It provides for fair competition among both the large and small employers of labor and persons in the industry.

Respectfully submitted that this Code should be approved.

The Disinfecting and Exterminating Corporation,

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The Sameth Exterminating Company, Inc.,

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# CODE OF FAIR COMPETITION FOR THE EXTERMINATING, FUMIGATING, AND DISINFECTING SERVICE INDUSTRY

To effectuate the policy or policies of Title I of the National Industrial Recovery Act during the period of the emergency, to induce and maintain the united action of all elements of the Exterminating, Fumigating, and Disinfecting Service Industry under adequate governmental or private sanctions and supervisions to eliminate unfair competitive practices and to advance the public interest, to reduce and relieve unemployment, to improve standards of labor and living, and otherwise to rehabilitate the Exterminating, Fumigating, and Disinfecting Service Industry.

The following provisions are established as a Code of Fair Competition for the Exterminating, Fumigating, and Disinfecting Service Industry:

1. *Definitions.*— * * * the term "Exterminating, Fumigating, and Disinfecting Service Industry" as used herein is defined to mean the service of using Insecticides and Fumigants for the purpose of exterminating or controlling of rodents, vermin, and such other insects not generally classified as vermin, as well as the use of fumigants for the destruction of germs and other similar services required for the public's welfare.

* * * the term "Exterminating, Fumigating, and Disinfecting Service Industry" is further defined to include all persons who perform such functions, including without limitations those persons commonly known and sometimes defined by Law as Exterminators, Exterminators' Helpers or Apprentices, Fumigators, Fumigators' Helpers or Apprentices, Disinfectors, Disinfectors' Helpers or Apprentices.

* * * the term "Person" as used herein is to mean a natural person, partnership, corporation, company, association, or agency.

* * * the term "Employers" shall mean all persons who employ labor in the conduct of any branch of the Exterminating, Fumigating, and Disinfecting Service Industry as defined above.

* * * the term "Employees" shall mean all persons employed in the conduct of any branch of the Exterminating, Fumigating, and Disinfecting Service Industry as defined above.

* * * the term "Insecticides" as used herein shall mean any preparation, liquid, powder, paste, or otherwise commonly known as insecticides for the purpose of exterminating or controlling of vermin, rodents, and such other insects not generally classified as vermin.

* * * the term "Fumigant" as used herein shall mean any preparation, liquid, powder, paste, or otherwise, which when used either as an individual preparation or in combination with other

products, will emit or liberate a gas fume or vapor either toxic or poisonous and used for the purpose of exterminating rodents, vermin, and such other insects not generally classified as vermin, as well as the destruction of germs. Insecticides and Fumigants shall mean for use in connection with service only in the conduct of any branch of the Exterminating, Fumigating, and Disinfecting Service Industry as defined above.

2. *Provisions Incorporated from National Industrial Recovery 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 or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

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

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

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

3. *Minimum wages.*—Employers in the Exterminating, Fumigating, and Disinfecting Service Industry shall pay wages:

(a) Not less than the minimum rate of wages for skilled labor, hereby and as such established, which shall not be less than—

Twenty-four ($24.00) per week for an Exterminator
Eighteen ($18.00) per week for an Exterminator's Helper or Apprentice
Thirty ($30.00) per week for a Fumigator or Disinfector
Twenty-four ($24.00) per week for a Fumigators' Helper or Disinfector or Apprentice.

in any area within a radius of fifty (50) miles of any City of over 500,000 population.

Twenty-two ($22.00) per week for an Exterminator
Seventeen ($17.00) per week for an Exterminators' Helper or Apprentice
Twenty-eight ($28.00) per week for a Fumigator or Disinfector
Twenty-two ($22.00) per week for a Fumigators' or Disinfectors' Helper or Apprentice

in any city of between 250,000 and 500,000 population or in the immediate area of such a city:

Twenty ($20.00) per week for an Exterminator
Sixteen ($16.00) per week for an Exterminators' Helper or Apprentice
Twenty-six ($26.00) per week for a Fumigator or Disinfector
Twenty ($20.00) per week for a Fumigators' or Disinfectors' Helper or Apprentice

in any city of between 2,500 and 250,000 population or in the immediate trade area of such city.

Eighteen ($18.00) per week for an Exterminator
Fifteen ($15.00) per week for an Exterminator's Helper or Apprentice
Twenty-four ($24.00) per week for a Fumigator or Disinfector
Twenty ($20.00) per week for a Fumigators' or Disinfectors' Helper

in towns of less than 2,500 population. Population shall be determined by the 1930 Federal Census.

(b) In defining the terms of Exterminator, Fumigator, and Disinfector, it shall be distinctly understood that a fumigator or disinfector may perform exterminating service but no exterminator may perform fumigating or disinfecting service and that, by virtue of the fact that the use of fumigants is conceded to be a distinctly hazardous undertaking, a fumigator or disinfector shall be compensated in proportion to the inherent risks which he assumes when performing this branch of service, whether occupied as a fumigator or disinfector one day or three hundred and sixty-five days in the year, and no split salary will be permitted.

(c) Not less than the minimum rate of wages for accounting, clerical, or office employees hereby established, as follows:

$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city
$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city
$14.00 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city
$12.00 per week in towns of less than 2,500 population. Population shall be determined by the 1930 Federal census.

(d) Not less than the minimum rate of Twenty-five ($25.00) dollars per week, exclusive of expenses for any salesman or solicitor.

(e) Nothing herein contained shall be construed to apply to employees whose rates of wages are established for specific projects by competent governmental authority in accordance with law or with rates of wages established by contracts now in force.

(f) Temporary Employees in any classification as covered in Section Three (3), Paragraph (a), shall receive a minimum wage equivalent to one and one half times the prevailing scale, per day.

(g) Emergency Service operations shall be compensated for in the amount of one and one third times the prevailing scale as covered in Section Three (3), Paragraph (a).

(h) No "Person" as defined in "Definitions" shall be under the age of Twenty-one (21). Employees covered in Section Three (3), Paragraph (b), shall not be under the age of sixteen (16).

4. *Maximum hours.*—(a) Employers in the Exterminating, Fumigating, and Disinfecting Service Industry shall not employ any service employee in excess of forty (40) hours per week including traveling time from job to job or place of employment to job or from employee's home to job.

(b) Nor shall any one engaged in the exterminating, fumigating, and disinfecting service industry render service in a similar capacity as employee in excess of forty (40) hours per week including traveling time from job to job or place of establishment to job.

(c) Services required after the hours of 5 P.M. which are a part of contractural relations, taking care of specific services which can-

not be performed between the hours of 8 A.M. and 5 P.M. shall not be construed as an emergency or overtime service and the time required for this service shall be included in the maximum of forty (40) hours per week.

(d) Emergency service which may arise and which is not part of a regular, defined schedule of operation or contractural relations of any branch of the exterminating, fumigating, and disinfecting service industry, shall be permitted; the resultant total of such emergency service time must not exceed one hundred and four (104) hours in any one year.

(e) Executive, Administrative or Supervisory employees of service earning in excess of Thirty-five ($35.00) per week, shall be exempt from the provision of maximum hours and those in establishments employing not more than two persons, in towns of less than 2,500 population, which towns are not part of a larger trade area. Population shall be determined by the 1930 Federal census.

(f) Employers shall not employ accounting, clerical, office employees, salesmen in any office or in any place or manner for more than forty (40) hours in any week, excluding employees in managerial, executive, or sales capacities earning in excess of Thirty-five ($35.00) Dollars per week, and those in establishments employing not more than two persons in towns of less than 2,500 population, which towns are not part of a large trade area. Population shall be determined by the 1930 Federal census.

(g) Nothing herein contained shall be construed to apply to employees whose hours of labor are established for specific projects by competent governmental authority acting in accordance with law or with hours of work established by contracts now in force.

(h) On and after the effective date, no employer shall reduce the compensation for employment now in excess of the minimum wages stated in this Code (notwithstanding that the hours worked in such employment may be hereby reduced), and each employer shall make an equitable readjustment of all pay schedules.

(i) No employer shall use any subterfuge to frustrate the spirit and intent of this Code which is, among other things, to cooperate with the President in increasing employment by a universal covenant, removing obstructions to commerce, shortening hours, and raising wages.

(j) No employer shall deduct from the wages of employees, carfares, insurance premiums, or any other expenses incidental to his employment.

5. *Area Agreement for Hours and Wages.*—Minimum rates of wages and maximum hours of labor may be established nationally or for a region or locality by mutual agreements reached through bona fide collective bargaining between truly representative national, regional, or local groups of employers and employees.

In no event shall such minimum rates of wages be less than those established in Section 3 hereof, nor in any event shall such maximum hours of labor be more than those established in Section 4 hereof, excepting such minimum rates of wages and such maximum hours of labor as are established for specific projects by competent governmental authority acting in accordance with the law.

6. *Trade Practices.*—On and after the effective date of this Code, Exterminators, Fumigators, and Disinfectors shall abide by the following standards of practices in selling exterminating, fumigating, and disinfecting services.

*Free or Preliminary Service.*—(a) No Exterminator, Fumigator, or Disinfector shall offer or give free service. The term "Free Service" as used in this paragraph means the rendering of any exterminating, fumigating, or disinfecting service for anyone, either as an inducement to obtain a contract or to pre-date a contract for service to be performed, nor shall free service be rendered as an accommodation.

*No Sales Below Cost.*—(b) No Exterminator, Fumigator, or Disinfector shall sell or offer for sale, any service below the reasonable cost of rendering such service of a minimum standard.

(c) The reasonable cost as used herein is defined to include the current market cost of raw materials and supplies, fair wages for employees as provided in this Code, and a reasonable standard of allowance for each branch of the industry for the following: power, light, heat, water, and other miscellaneous operating expenses; repairs and maintenance of buildings and equipment; executive, supervisory, engineering, experimental and development, sales and office salaries and expenses; advertising and promotional expense; distribution and delivery expense; rent; professional and collection expenses; bad debt losses, adequate depreciation and obsolecence of all buildings and equipment at prevailing standards; and incidental to the cost of rendering exterminating, fumigating, and disinfecting service.

*Ethics.*—(d) No Exterminator, Fumigator, or Disinfector shall utter false or disparaging statements about his competitor or his business or shall unfairly interfere with his business either by espionage upon him or the unfair enticing of his employees.

(e) No Exterminator, Fumigator, or Disinfector shall be a party to inducing a breach of contract if such contract has been complied with and all provisions lived up to.

(f) No Exterminator, Fumigator, or Disinfector shall give any gift or gratuity to any buyer or his agent, representative or employee, nor shall he give any allowance or discount for advertising in any newspaper or publication on behalf of any buyer to be used in the promotion of the sale of service to the consumer. Nothing herein contained shall prevent the employer from advertising his own service in legitimate publications or by means of cuts, window cards, circulars, or other similar articles.

(g) No Exterminator, Fumigator, or Disinfector shall make or use any false or misleading advertisement of any kind or through any medium deceive the public.

(h) No Exterminator, Fumigator, or Disinfector shall perform any exterminating, fumigating, or disinfecting service in any City, Village, or Town governed by any laws, ordinances, or rules and regulations of a Board of Health or Sanitary Board requiring licenses for exterminator, fumigator, or disinfector unless such exterminator, fumigator, or disinfector is duly licensed.

7. *Standard Prices.*—(a) Each Exterminator, Fumigator, and Disinfector shall sell his service on the basis of a "minimum price" (1) which shall be uniform to all buyers of the same service located in the same competitive market (2) and which shall be strictly adhered to, while such prices are effective.

(b) The term "Minimum Prices" as used in this article, means a price list (1) which is published or available for the equal information of all trade buyers alike located in the same competitive market and (2) which states all the sellers prevailing terms of sale.

(c) This minimum price prohibits any price concession through a rebate or allowance or commission or refund or payment or deal or by any other means whatsoever.

(e) No Exterminator, Fumigator, or Disinfector shall quote a a quantity price.

(e) No Exterminator, Fumigator, or Disinfector shall quote a false price which is intended to mislead or deceive the purchaser and through it unfairly injure a competitor.

(f) No Exterminator, Fumigator, or Disinfector shall issue any bill or invoice which shall not contain the true and exact terms of sale and service involved.

(g) No Exterminator, Fumigator, or Disinfector shall be a party to the unfair practice commonly known throughout the industry as "Bid Peddling."

8. *Price List.*—(a) There shall be submitted as a rider to this Code, a minimum price list to govern some branches of the exterminating, fumigating, and disinfecting service inasmuch as the practice of selling service below the actual cost of production, has been the major cause of low wages and general loss to the entire disinfecting, exterminating and fumigating service industry.

(b) The price of service in the price list is based upon the reasonable cost as defined in Section 6, Paragraph C, plus an added profit of not less than 15%. Other prices not covered in the list shall be based upon the same formula.

9. *Administration.*—(a) Inasmuch as there is no Association of National character truly representative of the best interests in the Exterminating, Fumigating, and Disinfecting industry and expressing a national opinion regarding practices of this industry, the Administrator shall appoint a Code Committee of six members drafted from the representative "persons" within the industry and three nonvoting members not within the industry.

(b) This committee shall have authority to establish such subcommittees and state, regional, or local committees, subcommittees or agencies with such delegated powers, as it may deem necessary, and this committee may at any time and from time to time require of any employer, trade association, or professional body in the Exterminating, Fumigating, and Disinfecting Service Industry any information relating to wages of employees, hours of labor, or other conditions of or in the Exterminating, Fumigating, & Disinfecting Service Industry pertaining to the provisions or the operation of this Code, and may, and at the request of the Administrator shall, from time to time present to him such information or reports as he may require; and this committee may, and at the request of the Administrator shall, present to him such recommendations as to conditions in the Exterminating, Fumigating, and Disinfecting Service Industry as they may develop, as he may specify, together with such other recommendations as in the opinion of the committee may tend to effectuate the operation of the provisions of this Code or any supplemental code proposed or made a part of this Code or the policy of the National Industrial Recovery Act.

10. *Administrative expense.*—All employers and persons as defined in this Code shall bear their equitable share of the expense incident to the administration of this Code of Fair Competition under such rules and regulations as may be approved by the President under Section 10 (a) of Title 1 of the National Industrial Recovery Act.

*11. General Provisions.*—(a) No provisions of this Code shall be interpreted, applied, or practiced in such manner as to promote or permit monopoly or monopolistic practices, or to eliminate or oppress small enterprises, or to discriminate against them.

(b) The violation of any of the provisions of this Code or of any rule or regulation issued thereunder approved by the President of the United States shall be deemed to be unfair method of competition.

(c) None of the provisions of this Code shall become effective or practiced by anyone in the Industry until the Code is approved by the President of the United States.

(d) If any provisions of the Code be declared invalid or unenforceable, the remaining provisions shall nevertheless continue in full force and effect, the same as if they had been separately presented for approval and approved by the President of the United States.

(e) This Code shall be in effect beginning ten (10) days after its approval by the President of the United States and shall remain in effect unless and until modified or revoked, and until the expiration of the National Industrial Recovery Act.

12. *Amendments.*—(a) This Code and all the provisions thereof are expressly made subject to the power of the President, in accordance with the provision of Clause 10 (b) of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title 1 of said Act and specifically to the power of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval hereof.

(b) Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated, as changes in circumstances or experiences may indicate, by methods to be prescribed by the Code Committee of the Exterminating, Fumigating & Disinfecting Industry. It is contemplated that from time to time supplementary provisions to this Code or additional Codes will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title 1 of the National Industrial Recovery Act consistent with the provisions hereof.

Respectifully submitted.

THE DISINFECTING AND EXTERMINATING CORPORATION,

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THE SAMETH EXTERMINATING COMPANY, INC.,

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