

## **2005 INDEPENDENT EXTERMINATORS AGREEMENT**

Agreement between the undersigned EMPLOYER, \_\_\_\_\_, hereinafter termed the "Employer" and SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 32BJ, hereinafter termed the "Union." It is mutually agreed as follows:

### **ARTICLE 1 -- Mutual Obligations**

1. The Employer obligates itself that it will in good faith comply with all of the provisions of this Agreement. The Union obligates itself and its members that they will in good faith comply with all of the provisions of this Agreement and that the workers will perform their work conscientiously, faithfully and efficiently under the terms of this Agreement.

2. The Employer recognizes the Union as the sole and exclusive bargaining representative of all Exterminators, Fumigators, Termite Workers and Apprentices in all such categories employed by the Employer and/or subsidiary company in the same or similar business of the Employer within the City of New York, Nassau, Suffolk, Westchester, Dutchess, Sullivan, Orange, Putnam and Rockland counties in New York, Connecticut and New Jersey (north of Route 195) with respect to wages and other working conditions, excluding all other employees, office employees, supervisors, guards, and watchmen, as defined in the Labor-Management Relations Act of 1947, as amended.

3. The Employer shall be bound by each of the following agreements in the event that the Employer performs work covered by those agreements:

- a. The 2005 New York City Independent Contractors Agreement.
- b. The 2005 Long Island Independent Contractors Agreement.
- c. The 2005 New Jersey Contractors Agreement.
- d. The 2005 Hudson Valley Contractors Agreement.
- e. The 2005 Hartford County Agreement.
- f. The 2005 Fairfield County Agreement

### **ARTICLE 2 -- Union Responsibility and Union Security**

It shall be a condition of employment that all employees covered by this Agreement shall become and remain members of the Union on the 31<sup>st</sup> day following employment or the execution date of this Agreement, whichever is later. The requirement of membership under this Article is satisfied by the payment of the financial obligations of the Union's initiation fee and periodic dues uniformly imposed.

Upon receipt by the Employer of a letter from the Union's Secretary-Treasurer requesting an employee's discharge because he or she has not met the requirements of this Article, unless the Employer questions the propriety of doing so, the employee shall be discharged within fifteen (15) days of the letter if prior thereto the employee does not take proper steps to meet the requirements. If the Employer questions the propriety of the discharge, the Employer shall immediately submit the matter to the Arbitrator. If the Arbitrator determines that the employee

has not complied with the requirements of this Article, the employee shall be discharged within ten (10) days after written notice of the determination has been given to the Employer.

The Employer shall be responsible for all revenue lost by the Union by reason of any failure to discharge an employee who is not a member of the Union, if the Union has so requested in writing. In cases involving removal of employees for non-payment of the requirements of this Article, the Arbitrator shall have the authority to assess liquidated damages.

The Union shall have the right to inspect the Employer's payroll records to determine the employees of the Employer who are covered by this Agreement. The Employer shall make such records available to the Union upon request thereof. The Health, Pension, Training, Legal, and Supplemental Retirement and Savings Funds shall have the same right to inspect as the Union.

### **ARTICLE 3 -- Check off**

The Employer agrees to deduct monthly dues, initiation fees, American Dream Fund or Political Action Fund contributions from the wages of an employee, when authorized by the employee in writing in accordance with applicable law. The Union will furnish to the Employer the necessary authorization forms.

If the Employer fails to deduct or remit to the Union the dues or other monies in accordance with this Article by the twentieth (20<sup>th</sup>) day of the month, the Employer shall pay interest on such dues, initiation fees, or contributions at the rate of one percent (1 %) per month beginning on the twenty-first (21<sup>st</sup>) day, unless the Employer can demonstrate the delay was for good cause due to circumstances beyond its control.

If an employee does not revoke his or her dues check-off authorization at the end of the year following the date of authorization, or at the end of the current contract, whichever is earlier, the employee shall be deemed to have renewed his or her authorization for another year, or until the expiration of the next succeeding contract, whichever is earlier.

### **ARTICLE 4 -- Wages and Classifications**

a. All employees who have completed eighteen (18) months of employment shall receive the minimum pay rates and increases set forth below.

b. Effective February 1, 2005 the minimum wage rate shall be \$18.744 per hour (\$749.76 per week per week).

Effective February 1, 2006 all members of the bargaining unit shall receive an increase of twenty-five cents (\$0.25) per hour.

Effective July 1, 2006 the minimum wage rate shall be increased by seventeen and one-half cents (\$0.175) per hour.

Effective February 1, 2007 all members of the bargaining unit shall receive an increase of twenty-five cents (\$0.25) per hour. In addition the minimum wage rate shall be increased by twenty-five cents (\$0.25) per hour.

Effective July 1, 2007 the minimum wage rate shall be increased by twenty-five (\$0.25) per hour. Effective July 1, 2007 all members of the bargaining unit shall receive an increase of twenty-five cents (\$0.25) per hour.

c. The minimum hiring rate for apprentices shall be eleven dollars and twenty-five cents (\$11.25) per hour. After six (6) months of service, the apprentice's wage rate shall be increased by fifty cents (\$0.50) per hour. After twelve (12) months of service, the apprentice's wage rate shall be increased an additional fifty cents (\$0.50) per hour. After eighteen (18) months of service, the apprentice's wage rate shall be increased to the full rate set forth in Article 4(b) or Article 6 if the individual is employed outside of New York City. In addition, the apprentice shall be entitled to receive the wage increases contained in this Agreement provided he or she is on the payroll on or before the effective date of the increase.

#### **ARTICLE 5 -- Cost of Living Adjustment & Car Expense Allowance**

a. Effective February 1, 2006, in the event that the percentage increase in the cost of living (Consumer Price Index for the City of New York-Metropolitan Area (New York-New Jersey) Urban Wage Earners and Clerical Workers) from November 2004 to November 2005, exceeds 6.5% then, in that event, an increase of \$. 10 per hour for each 1% increase in the cost of living in excess of 6.5% shall be granted effective for the first full workweek commencing after February 1, 2006. In no event shall said increase pursuant to this provision exceed \$.20 per hour. In computing increases in the cost of living above 6.5%, less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increase hereunder shall be added to the minimum.

b. Effective February 1, 2007, in the event that the percentage increase in the cost of living (Consumer Price Index for the City of New York-Metropolitan Area (New York-New Jersey) Urban Wage Earners and Clerical Workers) from November 2005 to November 2006 exceeds 6%, then in that event, an increase of \$. 10 per hour for each 1% increase in the cost of living in excess of 6% shall be granted effective for the first full work week commencing after February 1, 2007. In no event shall said increase pursuant to this provision exceed \$.20 per hour.

In computing increases in the cost of living above 6%, less than .5% shall be ignored and increases of .5% or more shall be considered a full point. Any increase hereunder shall be added to the minimum.

c. In no event shall the wages of any non-supervisory employee be reduced during the term of this Agreement, regardless of the type of work to which he is assigned or reassigned.

d. No employee not hired with the condition that he provide his own car for use in the Employer's business shall be required to do so, except by mutual agreement of the employee

and the Employer. Should any employee, at the Employer's request, use his own car on the job, he shall be allowed a car expense allowance of not less than eighty (\$80.00) per month, plus the cost of gasoline, oil and tolls used, in the Employer's business, plus the differences in cost between the employee's car insurance and the car insurance required by the Employer in business use. Any employee enjoying a more favorable car expense allowance by his Employer shall continue to receive such more favorable allowance in the same area or route. In the event, however, as a result of a change in the employee's route, there is a substantial reduction in the need for car use, the amount of car allowance shall be subject to reasonable revision by mutual agreement of the Employer and the employee. Any employee employed with the condition that he provide his own car shall, if that car is disabled for not more than two (2) weeks, be assigned to a non-private car route, or the Employer may provide temporary transportation. If after such two (2) week period, the employee's car is not available, he may be discharged.

e. Any other arrangement between an employee and an Employer shall not be less beneficial to the employee than the terms of this Agreement.

#### **ARTICLE 6 -- Employment Out of the City of New York**

Any employees who work regularly outside the City of New York and are paid the non-New York City rate, shall be paid the New York City higher rate under the following circumstances:

1. If such employee works any part of one (1) or two (2) days in New York City, the employee shall be paid for such day or days worked at the higher New York City rate for the full day.
2. If such employee works any part of three (3) or more days in New York City, the employee shall be paid the higher New York City rate for the entire week.
3. Any higher-rated employee shall not have his wages reduced as a result of working outside of New York City.
4. Effective February 1, 2005 the rate for employees working outside New York City shall be \$14.00 an hour. This rate shall be increased on February 1, 2006 by twenty-five cents (\$0.25) per hour, on July 1, 2006 by seventeen and a half cents (\$0.175) per hour, and February 1, 2007 by twenty-five cents (\$0.25) per hour and on July 1, 2007 by twenty-five cents (\$0.25) per hour.
5. Immediately upon hire, the Employer shall inform the Union by mail of the following: the name of the new hire, home address, the area assigned, the rate of pay and the date of hire.

#### **ARTICLE 7 -- Transportation**

All public transportation required to travel from one job location to another shall be paid by the Employer.

**ARTICLE 8 -- Work Week -- Hours of Work -- Overtime -- Shifts**

a. All employees covered by this Agreement shall be deemed employed and shall receive wages for a full week. Extra employees may be hired by the day at not less than Class A rates of pay. Any extra employees employed on either Saturday or Monday shall be paid at time and one-half.

b. The regular work day of Day Workers shall be any eight consecutive hours from 6:00 a.m. to 8:00 p.m., including travel time, with one (1) hour off for lunch. An Employer may, upon two (2) week's written notice to the employee, change the regular work day of Day Workers from their current work schedule to a schedule of eight (8) consecutive hours during the hours of 6:00 a.m. to 8:00 p.m. with one (1) hour off for lunch. Any change in shift shall be done on the basis of seniority.

All employees hired after February 1, 1978 may be required to work nine (9) consecutive hours, including one (1) hour for lunch during the 6:00 a.m. to 8:00 p.m. shift. Any change in shift shall be done on the basis of seniority.

By mutual agreement between Employer and employee, the Employer may institute a second shift. The hours of a second shift shall be determined through negotiation between the Union and the Employer. Any employee agreeing to work said shift shall receive an additional Twelve Dollars (\$12.00) per week. The meal break shall be one (1) hour.

The regular work week of Day Workers shall consist of forty (40) hours in any five (5) consecutive days, Monday through Saturday, with two (2) consecutive days off.

If a Day Worker works a split week by working one (1) or more days and one (1) or more nights, he shall receive pay at time and one-half the day rate for each night's work.

c. The regular work week of Night Workers shall consist of five (5) consecutive nights totaling forty (40) hours. Any employee required to work between 5:00 p.m. and 7:00 a.m. for any given eight (8) hours consecutively shall receive an additional forty cents (\$0.40) per hour above his regular straight time hourly rate.

If a Night Worker works a split week by working one (1) or more nights and one (1) or more days, he shall receive pay at time and one-half the night rate for each day worked.

A Night Worker required to work on Saturday night shall be paid at time and one-half regardless of the number of nights he has worked during his regular work week.

d. Employees shall be assigned a designated starting time on the first day of their regular work week, and such starting time shall not be changed during such week, except as modified and provided for hereinbefore in this Article.

e. All work performed before an employee's regular starting time, as defined in paragraph (b), Article 8 or after eight (8) hours on any day, or on that employee's sixth (6th) day of his regular work week, shall be paid for at time and one-half the regular rate of pay. If required to work before his regular starting time, as defined in paragraph (b), Article 8, an employee shall nevertheless be paid for his eight (8) hour day beginning his regular starting time, as defined in paragraph (b), Article 8, in addition to his overtime pay for the work before his regular starting time.

All work performed on Sunday shall be paid for at double the rate of pay except that employees hired on or after September 15, 1993, can be assigned any five (5) consecutive day workweek without the requirement of double-time for Sunday.

Overtime shall be rotated among Exterminator employees, within that group, and among the Termite workers, within that group, wherever practicable.

No employee shall be required to work overtime for disciplinary reasons. The Employer shall use its best efforts to provide employees with a minimum of 16 hours off between shifts.

Any employee who has worked eight hours in a day and is required to work at least four hours of overtime in that day shall be given a \$15.00 meal allowance.

With the approval of the Union, at the discretion of the Employer, an employee may make up a day taken off by the employee during regular time by working at straight time on his day off- Sunday or Monday.

#### **ARTICLE 9 -- Training**

In the event that the Employer is required by law, order, or regulation to provide training to an employee, the Employer may require a training program, provided the Employer gives the employee one week's written notice and the employee is paid at the applicable rate of pay for the hours engaged in the training program. The Employer may not change the employee's regular working hours so as to offset premium payment with employee to attend such training course. If the employee is required to attend courses on a Saturday, he shall be paid a minimum of four (4) hours pay at one and one-half (1 ½) times his regular rate of pay.

Time spent on such required training programs shall be considered as time worked for the purpose of computing overtime.

#### **ARTICLE 10 -- Holidays**

1. (a) Subject to the provisions below, all employees shall have the following holidays off with pay:

<b>Holidays</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
New Year's Day		January 2 Monday	January 1 Monday	January 1 Tuesday
Washington's Birthday	February 21 Monday	February 20 Monday	February 19 Monday	
Memorial Day	May 30 Monday	May 29 Monday	May 28 Monday	
Independence Day	July 4 Monday	July 4 Tuesday	July 4 Wednesday	
Labor Day	September 5 Monday	September 4 Monday	September 3 Monday	
Columbus Day	October 10 Monday	October 9 Monday	October 8 Monday	
Thanksgiving Day	November 25 Friday	November 24 Friday	November 23 Friday	
Christmas Day	December 26 Monday	December 25 Monday	December 25 Tuesday	

**Employee's Birthday**

2. In addition to holidays specified above, there shall be two (2) additional paid holidays as Floating Holidays, to be designated by mutual agreement of the Employer and employee at the beginning of February of each year.

A newly hired apprentice shall be eligible for a Floating Holiday one hundred and eighty (180) days after his date of hire. Such newly hired Class A employee may only take one (1) Floating Holiday within six (6) months of his date of hire and his second Floating Holiday for that year anytime thereafter.

3. (a) All employees hired on or after February 1, 2001 shall not be entitled to floating holidays or a day off for their Birthday. Employees hired before February 1, 2001 shall be grandfathered.

b. There shall be an additional holiday. This holiday shall be Martin Luther King Day or Yom Kippur at the option of the employee:

	2005	2006	2007	2008
Martin Luther King		January 16 Monday	January 15 Monday	January 21 Monday
Yom Kippur	October 13 Thursday	October 2 Monday	September 22 Monday	

Washington's Birthday, Columbus Day, Election Day, and either Martin Luther King Day or Yom Kippur may be treated as personal days rather than fixed holidays under the following conditions:

1. Prior to February 1<sup>st</sup> of each year, the Employer may designate on behalf of each employee one (1) or more such days as a personal day upon written notice to the employee and the Union. Failure to so designate shall be deemed an agreement to leave such days as fixed holidays. The Employer may make different designations for each employee.

2. The Employer may cancel the designation of any such days as personal days upon thirty (30) days written notice to the Union and the employee and make such day or days a fixed holiday. Employees who have received a personal day for such holiday shall be employed on such holiday at a rate of time and one-half.

3. Employees entitled to personal days under this provision may select such days off on five (5) days notice to the Employer.

4. Employees entitled to personal days who do not use such days in the calendar year must use such days off during the last six (6) months of the following year provided, however, that the Employer inform in writing both the employee and the Union by January 31st of such succeeding year that such days are available and will be lost if not used prior to July 1st of that year.

The procedures involved in the personal days referred to in Paragraph "1," "2," "3" and "4" above, shall not be applied to the two floating holidays provided for above.

c. By mutual agreement between the employee and the Employer, an employee's birthday may be taken off within twenty (20) days of the birthday.

d. Should any holiday occur on a non-working day, the employee shall receive pay for such holiday or, at the Employer's option, some other day off within a reasonable period of time.

e. Any employee required to work on any of the above paid holidays shall receive, in addition to his holiday pay, pay at time and one-half for the day. Employees required to work

a double shift on a holiday shall receive time and one-half in addition to their regular rate of pay for the second shift.

f. In order to be eligible for holiday pay, the employee must work the full regularly scheduled day before and after the holiday.

**ARTICLE 11 -- Vacations**

a. All employees hired before February 1, 2001 shall be entitled to paid vacations as follows:

During the first 52 weeks of employment	1 week (5 days)
During the second 52 weeks' employment & thereafter	2 weeks (10 days)
After 5 years' employment	3 weeks (15 days)
After 15 years' employment	4 weeks (20 days)}
After 21 years' employment	21 working days
After 22 years' employment	22 working days
After 23 years' employment	23 working days
After 24 years' employment	24 working days
After 25 years' employment	5 weeks (25 days)

Employees will receive their vacation with pay according to seniority unless agreed upon otherwise with the approval of the Union. The third (3rd), fourth (4th) and fifth (5th) week of vacation may be scheduled by the Employer, by agreement with the employee and in seniority order, during other than the regular vacation period. The vacation list shall be posted for selection by employees in seniority order by March 1st of each year and by mutual agreement with the employee.

Vacation wages shall be paid on the day preceding the vacation period. Any Employer who fails to pay vacation pay in accordance with this provision where the vacation has been regularly scheduled shall pay an additional two (2) days for each vacation week due at that time.

Regularly employed part-time employees shall receive proportionate vacation allowances based on the average number of hours per week they are employed.

b. Employees hired on or after February 1, 2001 shall receive the following vacation benefits:

During the first 52 weeks of employment	1 week (5 days)
During second 52 weeks of employment & thereafter	2 weeks (10 days)
After ten (10) years of employment	3 weeks (15 days)

## **ARTICLE 12 -- Sick Leave**

a. Any regular employee with at least one (1) year of service with the same Employer shall receive in a calendar year from the Employer ten (10) paid sick days for bona fide illness.

Any employee entitled to sickness benefits shall be allowed four (4) single days of paid sick leave per year taken in single days. The remaining six (6) days of paid sick leave may be paid either for illnesses of more than one (1) day's duration or may be counted as unused sick leave days.

The employee shall receive the above sick pay whether or not such illness is covered by the New York State Disability Benefits Law or the New York State Worker's Compensation Act; however, there shall be no pyramiding or duplication of Disability Benefits and/or Worker's Compensation Benefits with sick pay.

If the employee informs the Employer he is requesting workers compensation benefits than no sick leave shall be paid to such employee unless he specifically requests in writing payment of such leave. If an employee informs the Employer he is requesting disability benefits then only five (5) days sick leave shall be paid to such employee (if he has that amount unused) unless he specifically requests in writing payment of additional available sick leave.

b. An employee absent from duty due to illness only on a scheduled workday immediately before and/or only on the scheduled workday immediately after a holiday shall not be eligible for sick pay for said absent workday or workdays.

c. Employees who have continued employment to the end of the calendar year and have not used all sickness benefits shall be paid in the succeeding January for all unused sick leave.

The Employer at the end of the calendar year (December 31) shall be responsible for paying all unused sick pay.

If any Employer fails to pay an employee the benefits provided herein by February 28, then such Employer shall pay one additional day's pay unless the employer challenges the entitlement or amount due.

d. For the purpose of this Article, one (1) year's employment shall be reached on the anniversary date of employment.

Employees who complete one (1) year of service after January 1, shall receive a pro rata share of sickness benefits for the balance of the calendar year.

A "regular" employee shall be defined as one who is regularly scheduled to work five days per week.

**ARTICLE 13 -- Pro-rated Vacation and Sick Leave Pay Upon Separation**

Upon his retirement, an employee shall receive such vacation and sick leave pay to which he is entitled prorated at one-twelfth (1/12) thereof for each full month or major fraction of a month completed since his last anniversary of employment.

Any employee with one (1) year or more of service whose employment is terminated shall receive, at the time of his termination for any reason, such vacation and sick leave pay to which he is entitled pro-rated at one-twelfth (1/12) thereof for each full month or major fraction of a month since his last anniversary of employment.

**ARTICLE 14 -- Seniority**

In the event that the Employer has insufficient work for all the Union members in its employ and if, on account of such lack of work, it is necessary that it reduce the number of such employees in its employ, then and in such event, the employee laid off shall be determined by the rule of seniority by classification; that is, the last employee hired shall be the first laid off. This rule of seniority shall not apply until the Exterminator has been in continuous employment for at least six (6) months with his Employer. An Apprentice shall not acquire any seniority status during his apprenticeship.

There shall be no loss of seniority by an employee on authorized leave of absence, including absence for illness or injury for a period of up to twenty-six (26) weeks.

Employees shall be entitled to a two-week leave of absence without pay for paternity/maternity leave. The leave must be taken immediately following the birth or adoption of a child.

Where an Employer maintains a separate shop outside of the City of New York, then the seniority for employees, by classification, employed in that shop shall be separate and not part of the seniority of those employees employed in the City of New York.

**ARTICLE 15 -- Working in Bargaining Unit**

All work customarily performed by employees covered by this Agreement shall continue to be performed by them and shall not be performed by supervisors or any other persons not within the bargaining unit, except in case of emergency.

**ARTICLE 16 -- Tools -- Uniforms -- Safety**

All tools, including flashlights, batteries and bulbs, necessary to conduct the work to be performed by the employee shall be furnished and paid for by the Employer. Any special clothing and uniforms required to be worn shall be furnished by the Employer, if the Employer requires same, and such clothes or uniforms shall be kept in repair, cleaned and pressed at the expense of the Employer. The Employer shall provide all employees with all safety devices as may from time to time be required by law. Any lettering and logos on uniforms shall be reasonable with respect to size, character and taste.

An employee required to climb a free standing or extension ladder over ten (10) feet in length shall be entitled to an assistant.

**ARTICLE 17 -- Health Fund**

1. The Employer agrees to make payments into a health trust fund, known as the "Building Service 32BJ Health Fund," to cover employees covered by this agreement who work more than two (2) days in each workweek, including such employees of other Employers in or connected with the industry for whom contributions are paid, with health benefits under such provisions, rules and regulations as may be determined by the Trustees of the Fund, as provided in the Agreement and Declaration of Trust; provided, however, that the Employer may, by making the required payments into the Fund, cover such other of his employees as the Employer may elect, and provided such coverage is in compliance with law and the Trust Agreement.

Employees who are on workers compensation or who are receiving disability benefits or disability pension shall be covered by the Health Fund until they may be covered by Medicare or thirty months from the date of disability whichever is earlier.

In no event shall any employee who was previously covered for Health Benefits lose such coverage as a result of the change in this provision and the Employer shall be obligated to make contributions for such employees.

2. The Employer shall contribute to the Fund the following amounts, payable when and how the Trustees determine, to cover employees and their dependent families, with health benefits, as agreed by the parties and under such provisions, rules, and regulations as may be determined by the trustees:

Effective February 1, 2005, Employer contribution to the Building Service 32BJ Health Fund (the "Health Fund") shall be increased to \$8,710.64 per year per employee. For the period October 1, 2004 to December 31, 2004 (the "stub period"), there shall be a one time lump sum payment of \$494.00 that shall be paid by the Employer for each covered employee at any time between October 1, 2004 and March 31, 2005 (the accrual date). Only one Employer shall be required to make the contribution for any covered employee for the stub period, which, unless the contribution is made earlier, shall be the Employer of the employee as of the accrual date.

Thereafter, the Employer shall make annual contributions into the Health Fund as follows:

Effective January 1, 2006	\$9,750.64
Effective January 1, 2007	\$10,790.64

SEIU Local 32BJ and the Realty Advisory Board have agreed that their respective Presidents may determine, in their discretion, prior to the beginning of the contract years beginning January 1, 2006 and January 1, 2007, to divert any portion of the scheduled increases

in the annual rate of Employer Health Fund contributions to the Training Fund and/or the Legal Fund.

3. Any Employer who has a plan in effect prior to the effective date of this agreement which provides health benefits, the equivalent or better than, the benefits provided for herein, and the cost of which to the Employer is at least as great, may cover his employees under its existing plan or under this Fund. If the Trustees decide the existing plan does not provide health benefits superior to one or more types of health benefits under this Fund, the Employer may participate in the Fund wholly, or partially for hospitalization and/or surgical coverage, and, make its payments to the Fund in the amount determined by the Trustees uniformly for all similarly participating Employers.

If any future applicable legislation is enacted, there shall be no duplication or cumulation of coverage and the parties will negotiate such changes as may be required by law.

4. If during the term of this agreement, the Trustees find the payment provided herein is insufficient to maintain benefits, and adequate reserves for such benefits, they shall require the parties to increase the amounts needed to maintain such benefits and reserves. In the event the Trustees are unable to reach agreement on the amount required to maintain benefits and reserves, the matter shall be referred to arbitration.

#### **ARTICLE 18 -- Pension Fund**

1. The Building Service 32BJ Pension Fund shall continue in force and effect in accordance with its provisions, which include the power of its Trustees to revise the amounts of the pension benefits and the conditions under which benefits will be paid, and to continue to cover such employees of other Employers in or connected with the industry for whom contributions are paid, provided such coverage is in compliance with law and the Trust Agreement.

Employees unable to work and who are on disability benefits or workers' compensation shall continue to accrue pension benefits during the periods of disability up to six (6) months or the period of the disability whichever is sooner.

2. The Employer shall continue to pay into the Fund the sum of \$43.75 per week for every regular employee. Effective January 1, 2006, the Employer shall pay \$49.75 per week for every regular employee, and effective January 1, 2007, the Employer shall pay \$58.75 per week for every regular employee.

3. If the Employer has in effect a pension and retirement plan which has been determined to provide benefits equivalent or superior to those provided under the Building Service 32BJ Pension Plan, it may continue such plan provided it continues to provide retirement benefits equivalent or superior to the benefits that are provided under the Building Service 32BJ Pension

Plan during the term of this agreement, and it shall be relieved of any obligation to make payments into the Fund.

4. If the Employer has an existing plan as referred to above, it shall not discontinue or reduce benefits without prior Trustee approval and shall remain obligated to the employee(s) for whatever benefits they may be entitled.

5. In no event shall the trustees or any of them, the Union or the Employer, directly or indirectly, by reason of this agreement, be understood to consent to the extinguishment, change or diminution of any legal rights, vested or otherwise, that anyone may have in the continuation in existing form of any such Employer pension plan, and the Trustees or any of them, the Union and the Employer shall be held harmless by an Employer against any action brought by anyone covered under such Employer's plan asserting a claim based upon anything done pursuant to Section 4 of this Article. Notice of the pendency of any such action shall be given the Employer who may defend the action on behalf of the indemnitee.

**ARTICLE 19 -- Building Service 32BJ  
Supplemental Retirement and Savings Fund**

The Fund weekly contribution to the SRSF shall be \$13.00 weekly per employee.

**ARTICLE 20 -- Educational and Training Plan**

The Employer agrees to contribute to the Thomas Shortman Training, Scholarship and Safety Fund. The rate of contribution to the Thomas Shortman Training Fund shall be \$145.60 per year for each employee.

The Thomas Shortman Fund may establish a program to insure on-the-job safety and to assist employees in other adjunct functions relating to their employment, provided that such programs shall meet the requirements of law.

**ARTICLE 21 -- Group Prepaid Legal Fund**

The Employer shall contribute \$223.60 per year to the Prepaid Legal Fund payable as the Trustees determine.

**ARTICLE 22 -- Provisions Applicable to All Funds**

Employees hired on or after January 1, 1997, shall have a waiting period of three (3) months before becoming eligible to be participants in the Funds, and no contributions shall be made on behalf of the employees over the three-month period.

**ARTICLE 23 -- Limitation on Employer's Liability**

Nothing herein contained shall be construed as imposing any liability on any Employer for any payment due from any other Employer, subject to the provisions of any applicable statute.

## **ARTICLE 24 -- Grievances and Arbitration**

1. There shall at all times be a Contract Arbitrator to decide all differences arising between the parties as to interpretation, application or performance of any part of this Agreement, and such other issues as the parties are expressly required to arbitrate before him under the terms of this Agreement.

2. The parties agree to hold a step one meeting before any grievance is submitted for arbitration.

3. The fee of the Contract Arbitrator and all reasonable expenses involved in his functions shall be borne fifty percent (50%) by the Employer and fifty percent (50%) by the Union, except that in the event the Employer is in violation of any obligation under the provisions relating to the Health, Pension, Training, Legal and/or Annuity Funds, wages, dues and initiation fees, or any other violations involving damages, then the Employer shall pay the full fee of the Contract Arbitrator and all expenses in connection with the arbitration of the dispute, including but not limited to counsel fees, auditor's fees, arbitration costs and fees and court costs, plus a minimum of 15% per annum on all monies awarded by the Contract Arbitrator.

4. The Arbitrator shall initially schedule a hearing as soon as practicable after either party has served written notice upon the other that the grievance procedure has not resulted in an adjustment. The oath-taking and the period under the requirements for service of notice in the form prescribed by statute are hereby waived. The Arbitrator's award shall be made within ten (10) days after the hearing closes. If the Arbitrator shall fail to render his written award within said ten-day period, either party may serve a written demand upon him that the award must be made within ten (10) days after said demand. The decision shall be rendered within such additional ten (10) day period unless the parties consent to an extension in writing or an illness of the Arbitrator delays such decision. By mutual consent, the time of both the hearing and decision may be extended in a particular case. In the event of a willful default by either party in appearing before the Arbitrator, after due written notice shall have been given to him, the Arbitrator is authorized to render his award upon the testimony of the adversary party. "Due written notice" means mailing, telegraphing, faxing or hand delivery to the address specified in this Agreement.

5. The procedure herein outlined in respect to matters over which the Contract Arbitrator has jurisdiction, shall be the sole and exclusive method for the determination of all such issues, and said Arbitrator shall have the power to grant any remedy required to correct a violation of this Agreement including but not limited to damages and mandatory orders, and said Arbitrator shall have the further power in cases of willful violations (violations reflective of a deliberate intent to violate this Agreement) to award appropriate remedies including but not limited to damages, all costs and expenses incurred by the Union in the processing of the grievance and arbitration proceedings and to issue mandatory orders, the award of the Arbitrator being final and binding upon the parties and the employee(s) involved; provided, however, that nothing herein shall be construed to forbid either of the parties from resorting to court for relief from, or to enforce rights under any arbitration award.

6. In any proceeding to confirm an award, service may be made by registered or certified mail within or without the State of New York as the case may be.

7. Should either party fail to abide by an arbitration award within two weeks after such award is sent by registered or certified mail to the parties, either party may, in its sole and absolute discretion, take any action necessary to secure such award including but not limited to suits at law. Should either party bring such suit it shall be entitled, if it succeeds, to receive from the other party all expenses for counsel fees and court costs.

8. Grievants attending grievances and arbitrations during their regularly scheduled hours shall be paid during such attendance. If a grievant requires any employee to be a witness at the hearing and the Employer adjourns the hearing, the employee witness shall be paid by the Employer for his regular scheduled hours during attendance at such hearing. This provision shall be limited to one employee witness.

No more than one adjournment shall be granted by the Arbitrator without the consent of the opposing party.

All Union claims are brought by the Union alone and no individual shall have the right to compromise or settle any claim without the written permission of the Union.

In the event that the Union appears at an arbitration without the grievant, the Arbitrator shall conduct the hearing provided it is not adjourned. The Arbitrator shall decide the case based upon the evidence adduced at the hearing.

There is presently an Office of the Contract Arbitrator-Building Service Industry as contract arbitrator for all disputes. It is agreed by the parties hereto that the arbitrators serving in such office shall also serve as contract arbitrators under this Agreement. The arbitrators currently are:

John Anner, Nicholas Cooney, Robert J. Herzog, Theodore H. Lang, Marilyn M. Levine, Noel Berman, Stuart Bauchner, John Dorsey, Earl Pfeffer, Randi Lowitt, and Bernard Young.

Any additional arbitrators designated to serve in the Office of the Contract Arbitrator by the Union and the Realty Advisory Board (RAB) shall be deemed added to the list of contract arbitrators for this agreement.

In the event that one or more of the contract arbitrators is terminated by the Union, such arbitrator(s) shall be automatically deleted as contract arbitrator under this Agreement.

In the event that one or more of the contract arbitrators is terminated from the Contract Arbitrator's office by the RAB pursuant to the respective agreements between the Union and the

RAB (if any), the Employer may, upon thirty (30) days' written notice to the Union terminate the service of any such arbitrator(s).

#### **ARTICLE 25 -- Payroll Records**

Any Employer deemed by the Trustees of the Health and Pension Funds to be delinquent in the payment of contributions to either said Fund, or who refuses to furnish the Trustees with records and information required by the Trustees, may be assessed by the Trustees for such delinquency or refusal, such amount of money as the Trustees may determine, represents the cost of collecting contributions from auditing or investigating such delinquent Employer.

Should the Union request the Trustees to take steps to enforce this provision and the Trustees either refuse or fail to take such steps within two (2) weeks, then the Union shall have the right to institute an arbitration proceeding to obtain an award or decision directing the Trustees to take such action as the arbitrator may determine to enforce compliance with this provision. The parties hereby confer upon the arbitrator designated in accordance with Article 24 hereof full power to implement the provisions of this Article. Any fee of the arbitrator shall be paid by the party against whom the award is made.

#### **ARTICLE 26 -- Access by Union Representative**

The Union's Representative shall have free access to the Employer's respective shops or factories at any time during working hours. Upon prior written notice to the Employer, and not more often than three (3) times in any year, the Union may conduct a shop meeting in the Employer's shops or factories after business hours, such meeting not to exceed one (1) hour after shop hours.

#### **ARTICLE 27 -- Bulletin Board**

A bulletin board shall be furnished by the Employer exclusively for Union announcements and notices of meetings.

#### **ARTICLE 28 -- No Strikes or Lockouts**

1. There shall be no work stoppage, strike, lockout, or picketing, except as otherwise provided. If this provision is violated, the matter may be submitted immediately to the Arbitrator.

2. If an Arbitrator's award or a judgment against any Employer is not complied with within ten (10) days after such award is sent by registered or certified mail to the Employer, at his last known address, or notice if such judgment is given pursuant to law, the Union may order a stoppage of work, strike or picketing to enforce such award or judgment and it may also compel payment of lost wages to any employee for the period he engaged in such activity. Upon compliance with the award or judgment and payment of lost wages, such activity shall cease.

3. The Union may order a work stoppage, strike or picketing where work previously performed by members of the Union or within its jurisdiction is being performed by persons outside of the bargaining unit, provided that 72 hours written or telegraphic notice is given to the Employer of the Union's intention to do so.

4. The Union shall not be held liable for any violation of this Article where it appears that it has taken all reasonable steps to avoid and end the violation.

5. No employee covered by this Agreement shall be required by the Employer to pass picket lines established by any local of the Service Employees International Union in an authorized strike.

6. The Employer will not do the work of the striking employees if the Union is conducting an authorized strike.

#### **ARTICLE 29-- Picket Lines**

It shall not be a violation of this Agreement, and it shall not be a cause for discharge or disciplinary action, in the event an employee refuses to enter upon any property involved in a lawful, primary labor dispute or refuses to go through or work behind any lawful, primary picket line.

#### **ARTICLE 30 -- American Dream Fund or Political Action Fund Checkoff**

The Employer agrees to deduct from the employee, when it receives written authorization, and will continue to make such deduction while the authorization remains in effect, American Dream Fund or Political Action Fund contributions.

#### **ARTICLE 31 -- Separability**

In the event any section or portion of this Agreement is held to be invalid by any Court or tribunal of competent jurisdiction, or the compliance with or enforcement of any section or portion is restrained by a Court or tribunal, the remainder of this Agreement and any rider thereto shall not be affected thereby. The parties shall thereupon enter into immediate negotiations upon the request of either party for the purpose of arriving at any agreement to replace any such section or portion held to be invalid or which is restrained.

#### **ARTICLE 32 -- Successors and Assigns**

This Agreement shall be binding upon the parties hereto, their heirs, successors or assigns, by operation of law or contract.

When an Employer purchases another Company which is under contract with the Union, or purchases the assets or routes of such Company or otherwise takes over a job being performed by such Company, the Employer shall have no obligation to hire or otherwise employ the employees of such company. However, if the Employer does hire some or all of such employees, they shall be hired in the order of their seniority with the previous Company. During the first six (6) months, any layoffs of such employees may be done according to those employees' seniority with the previous Company. After such six (6) months, those employees' seniority with the previous Company will be dovetailed with the employees of the Employer for all purposes under this Agreement. If additional employees are hired as a result of an acquisition under this clause, the employees of the previous Company shall have preference for hire in the order of their

seniority with the previous Company. Those employees of the previous Company not hired shall be subject to the recall provision of this agreement.

### **ARTICLE 33 -- Service Center Visit**

Every regular full-time employee who has been employed for one (1) year or more shall be entitled, upon one (1) week's notice to his Employer, to take one (1) day off in each calendar year at straight-time pay to visit the office of any one of the benefit funds for the purpose of conducting business at the benefit fund office.

Such employee shall receive an additional one (1) day off with pay to visit the benefit fund office if the office requires such a visit.

To receive payment for such days, the employee shall exhibit a signed statement from the benefit fund office.

In the event that an employee chooses to visit any one of the benefit fund offices after having used up his entitlement pursuant to the above three paragraphs, he may use any of his sick days for that purpose.

### **ARTICLE 34 -- Jury Duty**

Employees who are required to qualify or serve on juries shall receive the difference between their regular rate of pay and the amount they receive for qualifying or serving on said jury with a maximum of three (3) weeks in any calendar year.

Pending receipt of the jury duty pay, the Employer shall pay the employee his regular pay on his scheduled pay day. As soon as the employee receives the jury duty pay, he shall reimburse his Employer by signing the jury pay check over to the Employer.

Employees who serve on a jury shall not be required to work any shift during such day. If an employee is a weekend employee and assigned to jury duty, he shall not be required to work the weekend.

In order to receive jury duty pay, the employee must notify the Employer at least two (2) weeks before he is scheduled to serve. If less notice is given by the employee, the notice provision regarding change in shift shall not apply.

### **ARTICLE 35 -- Method of Payment of Wages**

All wages, including overtime, shall be paid weekly in cash or by check with an itemized statement of payroll deductions. If a regular pay day falls on a holiday, employees shall be paid on the preceding day.

All of the payroll books kept by the Employer must show the number of hours of straight time per day, the number of hours of overtime per day, and the hourly rate of pay.

Pay envelopes shall contain entries showing the number of straight time hours, the number of overtime hours, all deductions, and net pay.

Employees paid by check who work during regular banking hours shall be given reasonable time to cash their checks exclusive of their break and lunch period. The Employer shall make suitable arrangements at a convenient bank for such check cashing.

#### **ARTICLE 36 -- Differentials and No Lowering of Standards**

All employees enjoying higher wages, higher benefits or better working conditions than those provided for herein either pursuant to a prior collective bargaining agreement or otherwise, shall continue to enjoy at least the same.

#### **ARTICLE 37 -- Recall**

Any employee who has been employed for one (1) year or more with the same Employer and who is laid off, shall have the right of recall provided that the period of lay-off of such employee does not exceed six (6) months.

#### **ARTICLE 38 -- Voting Time**

Any employee who is required to work on Election Day and gives legal notice shall be allowed two (2) hours off, such hours to be designated by the Employer, while the polls are open. Said two (2) hours, shall be included in the eight (8) hour day for which such employee receives his regular straight-time idle pay, but shall not be considered as hours actually worked for the purpose of premium pay.

#### **ARTICLE 39 -- Military Service**

All statutes and valid regulations about reinstatement and employment of veterans shall be observed.

#### **ARTICLE 40 -- Relief or Part-time Employees**

Relief or part-time employees shall be paid the same hourly rate as provided for full-time employees and shall receive pro-rata benefits with the exception of the Pension, Health, Training, Legal and/or Annuity Fund, where the terms of the respective plans shall apply.

#### **ARTICLE 41 -- No Discrimination**

There shall be no discrimination against any present or future employee by reason of race, creed, color, age, disability of an individual in accordance with applicable law, national origin, sex, sexual orientation, union membership or any characteristic protected by law.

All references to the male gender shall be deemed to include the female gender.

#### **ARTICLE 42 -- Placement -- Employment Agency Fee**

No employee shall be employed through a fee charging agency unless the Employer pays the full fee.

In the event the Union shall establish a Hiring Hall upon sixty (60) days' written notice to the Employer, the foregoing paragraphs shall be replaced with the following paragraph:

The Employer agrees that in the event he shall require employees in the classifications of employment covered by the Agreement, he shall first contact the Hiring Hall and give careful consideration to each applicant referred. The Hiring Hall shall refer only qualified applicants on the basis of their total industry-wide seniority. The facilities of the Hiring Hall operated by the Union shall be made available to both members and non-members of the Union. The Union warrants that in the operation of said Hiring Hall and in referrals to the Employer, it will not discriminate against any individual applicant for employment.

#### **ARTICLE 43 -- Garnishments**

No employee shall be discharged or laid off because of the service of an income execution, unless in accordance with the applicable law.

#### **ARTICLE 44 -- Discharges**

Employees shall not be discharged by the Employer except for justifiable cause. Any employee who is discharged shall be furnished with a written statement of the reason(s) for such discharge no later than five (5) working days after the date of discharge.

#### **ARTICLE 45 -- Disability Benefits Law --Unemployment Insurance Law**

1. The Employer shall cover its employees so that they shall receive maximum weekly cash benefits provided under the New York State Disability Benefits Law on a non-contributory basis, and also under the New York State Unemployment Insurance Law, whether or not such coverages are mandatory.

2. Failure to so cover employees makes the Employer liable for all loss of benefits and insurance.

3. The Employer will cooperate with employees in processing their claims and shall supply all necessary forms, properly addressed, and shall post adequate notice of places for filing.

4. If the employee informs the Employer he is requesting workers compensation benefits, then no sick leave shall be paid to such employee unless he specifically requests in writing payment for such leave. If an employee informs the Employer he is requesting disability benefits, then only five (5) days sick leave shall be paid to such employee (if he has that amount unused) unless he specifically requests in writing payment of additional available sick leave.

5. Any employee required to attend his Workers Compensation hearing shall be paid for his regularly scheduled hours during such attendance.

6. Any cost incurred by the Union to enforce the provisions of this Article shall be borne by the Employer.

#### **ARTICLE 46 -- Lie Detector**

The Employer shall not require, request or suggest that an employee or applicant for employment take a polygraph or any other form of lie detector test.

#### **ARTICLE 47 -- Related Companies under Jurisdiction of this Agreement**

All contracts must be signed in all trade names as well as all corporate and partnership names, it being the intention of the parties that if various businesses are operated out of the same office, or if any person is a part owner or full owner of a number of concerns either through a corporation, partnership or otherwise, then this contract shall be deemed to cover all of such concerns. Should there be a violation of this provision, then the Arbitrator named herein shall have the power to award as damages the difference between the amount that would have been due to the employees and the Union under this contract and the amounts actually paid, all to be made effective retroactively to the beginning of such employment.

#### **ARTICLE 48 -- Auditing**

When an Employer after receiving written notice from the Union that he is delinquent with respect to either wage payments, health payments, pension payments or dues or initiation fees, that Employer is to be given 30 days within which to correct any deficiency on his books. After the 30-day period, the Union may audit the books of the Employer. If the audit shows that the Employer has corrected any and all violations (not in existence prior to February 1, 1984) then it shall not be regarded as "willful," and the audit shall be paid for by the Union. If, on the other hand, the audit shows that said Employer has not corrected all violations, then it shall be regarded as "willful" and he shall be made to pay the costs of the audit and also pay the other items agreed upon as "damages" plus 15% interest.

#### **ARTICLE 49 -- Sickness and Accident Absence**

Employees with at least two (2) years of service who meet with accidents or become ill shall be re-employed by the Employer by whom he or she was employed at the time of such accident or illness on the same job, or if the same job no longer exists, on a comparable job if and when such employee is in physical condition to resume his or her work, and his or her ability to work shall be determined by the certificate of a duly licensed physician. The Employer shall not be required to hold a job for an employee pursuant to this provision for more than one (1) year. However, no employee shall be required to produce a physician's certificate unless absent for more than seven (7) working days.

Any Employer who is required by law to comply with the provisions of the Family and Medical Leave Act (FMLA) shall comply with the requirements of said act.

### **ARTICLE 50 -- Eye Glasses and Union Insignia**

Employees may wear eyeglasses and the Union insignia while on duty.

### **ARTICLE 51 -- Death in the Family**

A regular, full-time employee with at least one (1) year of employment on the job or with the Employer shall not be required to work for a maximum of three (3) days immediately following the death of his parent, brother, sister, spouse or child, and shall be paid his regular, straight-time wages for any of such three days on which he was regularly scheduled to work or entitled to holiday pay.

With respect to grandparents, the Employer shall grant a paid day off on the day of the funeral if such day is a regularly scheduled workday.

### **ARTICLE 52 -- Common Disaster**

There shall be no loss of pay as a result of any Act of God or common disaster causing the shut down of all or virtually all public transportation in the City of New York, making it impossible for employees to report for work, or where the Mayor of the City of New York or the Governor of the State of New York directs the citizens of the City not to report to work. The Employer shall not be liable for loss of pay of more than the first full day affected by such Act of God or common disaster. Employees necessary to maintain the safety or security of the building shall be paid only if they have no reasonable way to report to work and employees refusing the Employer's offer of alternate transportation shall not qualify for such pay. The term "public transportation" as used herein shall include subways and buses.

### **ARTICLE 53 -- Seasonal Employees**

Seasonal employees hired on or after September 15, 1993, shall not be covered by the Pension, Health, Legal, Training & SRSP Funds, or the vacation and sick leave provisions of the agreement. They shall receive holiday pay for all those holidays which falls within the period that they are working.

A seasonal employee shall be deemed as an employee who works for a period of less than six months out of any calendar year. Such months may not include January, November or December. Any employee assigned to work six months or more in a calendar year and/or assigned to work in January, November and December shall automatically become regular employees and be entitled to full benefits as provided by the collective bargaining agreement.

### **ARTICLE 54 -- Complete Agreement**

This agreement constitutes the full understanding between the parties and, except as they may otherwise agree, there shall be no demand by either party, for the negotiation or renegotiation of any matter covered or not covered by the provisions hereof.

**ARTICLE 55 -- Most Favored Nations**

In the event that the Union enters into a contract, or contracts, or enters into renewals or modifications of a contract, or contracts with any Employer(s) within the exterminator industry in the New York Metropolitan area which contain new or revised terms with respect to wages, wage increases and/or benefit fund contributions which are effective on or after July 1, 2004, which economic terms or conditions are more favorable to such Employer(s) than the terms contained in this Agreement, the Employer shall be entitled to and may have the full benefit of any and all of such more favorable terms, upon notification to the Union. This provision may be waived in writing for good cause shown by the Employer and the President of the Union or his designee.

This provision shall not apply to:

- a) Newly organized Employers during their fist contract period;
- b) Employers in bankruptcy; and
- c) Employers in receivership.

**ARTICLE 56 -- Duration**

Unless otherwise specifically stated, this Agreement shall be effective February 1, 2005 and terminate January 31, 2008. Sixty (60) days before said expiration date, the parties shall enter into direct negotiations looking towards a renewal agreement. If fifteen (15) days before this Agreement expires, the parties shall not have been able to agree upon the terms of a new agreement, both parties will thereupon confer with the New York State Employment Relations Board for the purpose of conciliating their differences.

Dated: New York, New York  
\_\_\_\_\_, 2005

SERVICE EMPLOYEES INTERNATIONAL  
UNION, LOCAL 32BJ  
101 Avenue of the Americas  
New York, N.Y. 10013-1906  
(212) 388-3800

EMPLOYER: \_\_\_\_\_

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

By: \_\_\_\_\_

Michael P. Fishman, President

Telephone: \_\_\_\_\_