



## Terms and Conditions of Service - Commercial

### 1. Definitions

- 1.1. MIDS Pest Control: MIDS Pest Control Ltd, registered in England and Wales 09933823 of 38 Rundells, Letchworth Garden City, Hertfordshire, SG6 2SQ;
- 1.2. the Client: the organisation or person who purchases the Services from MIDS Pest Control as specified in the Contract Specification;
- 1.3. the Services: the professional services to provided by MIDS Pest Control to the Client and as detailed in the Contract Specification;
- 1.4. the Agreement: these Terms and Conditions together with any terms contained within any Contract Specification; and
- 1.5. the Contract Specification: means the schedule of works, quotation or other similar document giving details of the Services to be provided by MIDS Pest Control.

### 2. General and Interpretation

- 2.1. These Terms and Conditions shall apply to all and any contracts for the supply of Services by MIDS Pest Control to the Client and to the exclusion of all other terms and conditions, including any terms and conditions the Customer may purport to apply under any purchase order, confirmation of order or similar documents.
- 2.2. Any variation to these conditions (including any special terms or conditions agreed between the parties) shall be inapplicable unless agreed in writing by a Director of MIDS Pest Control.
- 2.3. In the Agreement any references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.
- 2.4. In these Conditions headings will not affect the construction of these Conditions.

### 3. Charges, invoicing and payment

- 3.1. A contract for the supply of Services will only be formed when MIDS Pest Control confirms acceptance of the Client's order. A purchase order or letter of intent will not form a binding contract until such acceptance has been communicated by MIDS Pest Control.
- 3.2. MIDS Pest Control's fees for the supply of Services will be detailed in the Contract Specification.
- 3.3. Invoiced amounts shall be payable within 7 days of the date of invoice unless specified otherwise on the invoice.
- 3.4. MIDS Pest Control is entitled to charge interest on overdue invoices from the day after the final date on which payment was due until the date on which payment was made. The rate of interest charged shall be 8.00% per annum above the official dealing rate of the Bank England currently in force.
- 3.5. MIDS Pest Control shall also be entitled to recover any reasonable charges incurred in the process of obtaining late payment owed by the Client to MIDS Pest Control, unless such costs are incorporated in a fixed cost agreed in settlement of the late payment owed by the Client to MIDS Pest Control. Such costs may include, but are not limited to, the fees paid to any third party debt collecting agency instructed to collect the late payment from the Client.
- 3.6. Where the Client fails to make payment of an invoice by the final date for payment in accordance with this clause and the Contract Specification, MIDS Pest Control, shall be entitled to, on submission of

seven days' written notice, suspend performance of the Services until payment of the outstanding amount has been made by the Client.

- 3.7. Where MIDS Pest Control suspends performance of the Services in accordance with Clause 3.5 the Client shall not instruct any other company, person(s) or organisation to perform the Services.
- 3.8. The Client agrees that it shall be liable for any costs and damages incurred by MIDS Pest Control in consequence of MIDS Pest Control's suspending performance of the Services in accordance with Clause 3.5.
- 3.9. The Client further agrees that suspension of the Services in accordance with Clause 3.5 shall not amount to a breach of this Agreement by MIDS Pest Control.

#### **4. Client Responsibilities**

- 4.1. The Client shall co-operate with MIDS Pest Control in order to enable MIDS Pest Control to perform its obligations under this Agreement and in particular shall:
  - 4.1.1. Allow MIDS Pest Control access to all areas of the premises necessary for the performance of the Services;
  - 4.1.2. Obtain all necessary permissions and consents that may be required for the performance of the Services;
  - 4.1.3. Ensure that accurate information is supplied to MIDS Pest Control and supply any further information reasonably required by MIDS Pest Control;
  - 4.1.4. Comply with such other requirements as may be set out in the Contract Specification or otherwise agreed between the parties.
- 4.2. The Client shall be liable to compensate MIDS Pest Control for any expenses incurred or losses suffered by MIDS Pest Control as a result of a failure of the Client to comply with any part of clause 4.1.

#### **5. Health and Safety**

- 5.1. MIDS Pest Control treats the health and safety of its employees, contractors and agents with the utmost importance. MIDS Pest Control will carry out site specific risk assessments and produce method statements for any Services carried out on a site operated by or on behalf of the Client.
- 5.2. The Client acknowledges its statutory and common law duties in relation to the health and safety of visitors to its site, including in particular pursuant to section 4 of the Health and Safety at Work etc. Act 1974.
- 5.3. The Client shall ensure that all sites where MIDS Pest Control shall carry on the Services are safe for conduct of those Services. MIDS Pest Control shall notify the Client of any risks to health and safety which require remedial action, which must be taken by the Client within a reasonable time scale.
- 5.4. The Client will advise MIDS Pest Control of any changes made to its premises which will affect or impact the delivery of the Services.
- 5.5. MIDS Pest Control reserves the right to suspend the provision of all or part of the Services where an unacceptable risk to health and safety exists until the Client has removed, or reduced to an acceptable level, that risk. The Client shall remain liable for any charges due for the Services during any such period of suspension.

#### **6. Variations to the Services**

- 6.1. Variations to the Services to be provided by MIDS Pest Control under this Agreement must be agreed by an authorised representative of MIDS Pest Control as specified in the Contract Specification. Any other variation will not be binding upon MIDS Pest Control.
- 6.2. All variations to the Services must be confirmed in writing and signed by an authorised representative of MIDS Pest Control and the Client no later than seven days after the date on which the variation became effective.

## **7. Warranty**

- 7.1. Any warranties and conditions provided in this Agreement shall be exclusive.
- 7.2. All other warranties and conditions, whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the performance of the Services by MIDS Pest Control.
- 7.3. MIDS Pest Control offer a 30 day guarantee on workmanship subject to the Client notifying MIDS Pest Control promptly of any issue and no later than one working day of having become aware of the issue.
- 7.4. Under the terms of the guarantee MIDS Pest Control will return to the premises and carry out remedial works.
- 7.5. The guarantee shall not apply where:
  - 7.5.1. The Client did not allow MIDS Pest Control access to all necessary areas of the premises;
  - 7.5.2. The Client has failed to follow any reasonable instruction or maintenance guidance in relation to the Services; or
  - 7.5.3. The Client or any other third party has tampered with or removed any device or installation related to the Services at the premises.

## **8. Indemnity**

- 8.1. The Client shall indemnify MIDS Pest Control in respect of any direct loss incurred by MIDS Pest Control in the performance of the Services in consequence of any negligent act or omission committed by any person or organisation acting on behalf of the Client.
- 8.2. MIDS Pest Control shall indemnify the Client in respect of any direct loss incurred by the Client in consequence of any negligent act or omission committed by any person or organisation acting on behalf of MIDS Pest Control in the normal course of the performance of the Services.

## **9. Limitation of Liability**

- 9.1. Nothing in these terms and conditions shall exclude or limit MIDS Pest Control's liability for personal injury, death or fraudulent misrepresentation.
- 9.2. The liability of MIDS Pest Control to the Client under this Agreement shall be limited to any direct loss suffered by the Client as result of the negligent performance of the Services and only where the Client notifies MIDS Pest Control of the negligent act or omission in question within seven days of the date when the Client became, or should reasonably have been, aware of that act or omission.
- 9.3. MIDS Pest Control shall not be liable for any loss caused by any act or omission of an operative of MIDS Pest Control where that operative was not acting in the normal course of performance of the Services.
- 9.4. MIDS Pest Control shall not be liable for any loss or damage arising from the performance of services that amount to a variation of the Services to be performed under this Agreement unless such variation has been agreed in compliance with clause 6 of this Agreement.
- 9.5. MIDS Pest Control shall not be liable for any indirect or consequential loss suffered by the Client due to a breach of this Agreement.
- 9.6. Time shall not be of the essence in relation to performance of the Services unless expressly provided otherwise in the Contract Specification, and MIDS Pest Control shall not be liable for any losses incurred by the Client as a result of a failure to perform the Services within the indicated time frames specified in the Contract Specification.

## **10. Termination**

- 10.1. This Agreement shall terminate automatically once MIDS Pest Control has completed performance of the Services and the Client has made payment of all monies owed to MIDS Pest Control under this Agreement.

- 10.2. Otherwise this Agreement may not be terminated except in accordance with the provisions of this clause.
- 10.3. This Agreement may be terminated by either party immediately in writing where:
- 10.3.1. The other Party becomes bankrupt or insolvent or enters a deed or arrangement with its creditors or goes into liquidation or has a receiver appointed of all or part of its undertaking, (except for the purposes of amalgamation or restructuring); or
- 10.3.2. Acts in fundamental or repeated breach of a term or terms of this Agreement to an extent which permits the other party to consider this Agreement repudiated, unless such breach is in consequence of force majeure.

## **11. Force Majeure**

- 11.1. Neither party shall be entitled to damages from the other party, or to terminate this Agreement where the other party acts in default or material breach of this Agreement where that default or breach was caused by conditions or events beyond its control including, but not limited to:
- 11.1.1. Strike, lockout or other labour dispute affecting the employees of MIDS Pest Control or the Client where in the latter case the effect is to prevent or hinder MIDS Pest Control's operatives from performing its duties;
- 11.1.2. Acts of God;
- 11.1.3. Natural disasters;
- 11.1.4. Acts of war or terrorism;
- 11.1.5. Act or omission of government, highway authorities or telecommunications carrier, operator or administrator;
- 11.1.6. Delay in manufacture, production or supply by third parties of equipment or services required for the performance of the Services;
- 11.1.7. Any event preventing MIDS Pest Control's operatives from attending the Client's premises to perform the Services including but not limited to adverse weather conditions, road closure or congestion and mechanical breakdown;
- 11.1.8. Any hazard at the Client's premises including but not limited to impeded access or exit routes, structural defects, presence of noxious, combustible, radioactive or toxic substance which, in the reasonable opinion of MIDS Pest Control, comprises an unacceptable risk to the health and safety of its operatives;
- 11.2. The Party in breach of default shall be entitled to a reasonable extension of time to perform its obligations under this Agreement after notifying the other party

## **12. Independent Contractors**

- 12.1. MIDS Pest Control and Client are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless expressly agreed to in writing by both parties.

## **13. Assignment**

- 13.1. MIDS Pest Control may assign its obligations under this Agreement to a third party without the Client's consent.
- 13.2. Nothing in the preceding sub-clause shall however prevent the Client from enforcing its rights under this Agreement against MIDS Pest Control.
- 13.3. The Client may not assign any of its rights or obligations under this Agreement without the written consent of a Director of MIDS Pest Control.

#### **14. Severability**

- 14.1. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

#### **15. Waiver**

- 15.1. The failure of any party at any time to require performance of any provision or to resort to any remedy provided under this Agreement shall in no way affect the right of that party to require performance or to resort to a remedy at any time thereafter, nor shall the waiver by any party of a breach be deemed to be a waiver of any subsequent breach. A waiver shall not be effective unless it is in writing and signed by the party against whom the waiver is being enforced.

#### **16. Notices**

- 16.1. All notices and other communications provided for in this Agreement and any associated document shall be in writing and shall be delivered by post, fax, email or hand to an authorised representative, to the address, fax or email specified in the Contracts Specification.
- 16.2. Any notices served shall be deemed to be effective on actual receipt by the receiving Party, who shall acknowledge receipt within two working days of the date of receipt.

#### **17. Entire Agreement**

- 17.1. This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

#### **18. Third party rights**

- 18.1. Nothing in this Agreement is intended to, nor shall, confer any rights on a third party unless expressly provided otherwise

#### **19. Jurisdiction**

- 19.1. This Agreement shall be construed in accordance with English Law and the Courts of England and Wales shall have exclusive jurisdiction in so far as any matter arising from this Agreement is required to be referred to a court of law.