PCS PEST CONTROL LIMITED

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Standard terms and conditions

These terms apply to all Services PCS provides to the Customer.

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PO Box 28-429, Remuera, Auckland 1541

1 DEFINITIONS

Amount Owing means the price of the Services plus all costs, expenses and penalties for which the Customer is liable.

CGA means the Consumer Guarantees Act 1993.

Customer means the Customer specified in the Services Agreement.

Customer's Service Address means the address specified in the Services Agreement.

FTA means the Fair Trading Act 1986.

Multi-Treatment means Services provided by PCS to the Customer on a repeat basis, bi-monthly, monthly, or as otherwise specified in the Services Agreement.

PCS means PCS Pest Control Limited and any associated company, employee or agent.

Price means the amount in the Services Agreement to be charged by PCS to the Customer for Services.

Services means the pest control services provided by PCS to the Customer as specified in the Services Agreement.

Services Agreement means the agreement entered into between the Customer and PCS for the provision of Services.

Service Date means the date PCS will provide a Single-Treatment or Multi-Treatment.

Service Visit means the visit by PCS to the Customer's Service Address to provide Services.

Single-Treatment means Services that are provided by PCS to the Customer as a one-off event as specified in the Services Agreement.

Specified Target means the pest(s) specified by the Customer in the Services Agreement that are to be controlled or monitored by PCS.

Term means the term specified in the Services Agreement, if any.

2 SUPPLY OF SERVICES

PCS will provide the Services to the Customer on the terms of the Services Agreement and these standard terms and conditions. In the event of any inconsistency between these standard terms and conditions and the Services Agreement, the Services Agreement will prevail.

3 SINGLE-TREATMENT

3.1 **Single-Treatment:** A Single-Treatment will involve a one-off provision of Services by PCS.

3.2 **Pest-Activity:** The Customer accepts that some pest-activity may still continue for a period following a Single-Treatment due to PCS's obligations to provide Services in accordance with the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1971.

4 MULTI-TREATMENT

4.1 **Multi-Treatment Date:** PCS will contact the Customer before or during the Term to schedule a Service Date. The Multi-Treatment will be performed at agreed intervals during the Term unless agreed otherwise in writing by the Customer and PCS.

4.2 **Annual Renewal:** The agreement to provide Multi-Treatment by PCS to the Customer will renew annually unless notice is given in accordance with clause 7.1.

4.3 **Price Review:** After an initial period of 12 months, and no more than once per year, PCS may review and increase the Price charged under the Services Agreement by notice to the Customer.

4.4 **Retention of Title:** Title to bait stations, traps, and service folders (including any of their contents) (together, Goods) provided by PCS to a Customer in connection with a Multi-Treatment will remain with PCS at all times. Upon termination of the Customer's Multi-Treatment Services Agreement, PCS will be entitled to retake possession of any Goods at any time. The Customer grants PCS an irrevocable right and authority to enter onto any place where such Goods are situated, or thought to be situated, at any time and to take the Goods.

5 ACCEPTANCE

The provision by the Customer of a signed Services Agreement or any verbal or written instructions to PCS to carry out Services constitutes acceptance by the Customer of these terms and conditions. These terms and conditions shall apply to all Services that PCS provides to the Customer at any time.

6 PAYMENT

6.1 **Method of Payment:** The Customer agrees to pay PCS the Price for all Services by way of electronic bank transfer to the bank account detailed in the Services Agreement.

6.2 **Payment Date:** If the Services are Single-Treatment then the Customer agrees to pay the Price to PCS within 5 days of the date of supply of the Single-Treatment Services. If the Services are Multi-Treatment then the Customer agrees to pay the Price to PCS no later than the 20th day of the month following the supply of the Services.

6.3 **No deductions or set-off:** The Customer agrees that it is not entitled to withhold payment or to make any deduction from the Price or claim any set-off without prior written consent from PCS.

6.4 **Interest on Amount Owing:** Without prejudice to any other legal or equitable rights or remedies available to PCS, the Customer agrees to pay on demand, default interest on any Amount Owing at the rate of 18% per annum, calculated on a daily basis from the date payment was due until the date payment is made in full.

6.5 **Collection Charges:** The Customer will be liable to pay, and will indemnify, PCS for all expenses (including legal costs and debt collection agency fees) incurred in relation to the recovery by PCS of any Amount Owing by the Customer. This indemnity is a continuing obligation separate and independent from the other obligations of the Customer and survives termination or expiry of the Services Agreement.

6.6 **Non-Delivery if Payment in Arrears:** PCS may refuse to provide the Services to the Customer if payment of any monies owing to PCS by the Customer is in arrears.

7 CUSTOMER CANCELLATION

7.1 **Notice of Cancellation:** If the Customer wishes to cancel a Multi-Treatment Services Agreement, they must give PCS 90 days' written notice prior to cancellation.

7.2 **Services during Notice Period:** The Customer agrees that, unless agreed otherwise by PCS, all scheduled treatments under the Multi-Treatment Services Agreement will continue to be performed, and the Customer must pay the Price for such treatments and comply with the terms of the Services Agreement and these standard terms and conditions, during the 90 day notice period pursuant to clause 7.1. If the Customer fails to comply with this clause, the Customer will pay to PCS an amount equal to the Price for the scheduled treatments under the Multi-Treatment Services Agreement that would have been completed during the 90 day notice period.

7.3 **Cancellation Call-out Fee:** If the Customer cancels the Services Agreement or any scheduled Service Visit, or postpones a Service Visit, within 24 hours of the date agreed for the scheduled Service Visit, PCS may charge the Customer a call-out fee of:

(a) For residential customers, $100 plus GST; or

(b) For commercial customers, $160 plus GST per hour, plus cost of disposal of product at $160 + GST per litre of mixed product.

8 DELAYS AND ADDITIONAL WORK

8.1 If any Services are delayed due to actions or inactions of the Customer, additional costs may be incurred. PCS reserves the right to charge for additional time incurred by PCS due to Customer caused delay to services at the rate of $160 plus GST per hour, plus any applicable treatment costs.

8.2 If additional Services are required, in addition to the Services agreed and set out in a Services Agreement, additional costs will be incurred. PCS will charge additional costs at the rate of $160 plus GST per hour, plus any applicable treatment costs.

9 SUSPENSION AND TERMINATION

9.1 PCS may suspend the Services or terminate the Services Agreement with immediate effect on notice to the Customer if the Customer:

(a) fails to pay any amount due to PCS on the due date and has not remedied such failure within 7 days of notice by PCS to remedy; or

(b) breaches the Services Agreement or these terms and conditions and has not remedied such failure within 7 days of notice by PCS to remedy.

9.2 PCS may suspend the Services by notice to the Customer in the event that PCS is not able to carry out the Services on the agreed Service Date due to poor weather conditions or as otherwise advised by PCS. If PCS suspends Services under this clause it will agree on an alternative treatment date with the Customer.

9.3 PCS may terminate any Multi-Treatment Services Agreement for any reason, by providing not less than 30 days written notice to the Customer.

10 LIMITATION OF LIABILITY

10.1 **Exclusion of Liability:** Subject to clause 9.4, to the maximum extent permitted by law, PCS shall not be liable to the Customer or any third parties for any loss, damage, expenses, injury or consequential, indirect or special loss, loss of profits or loss of opportunity (Loss) arising directly or indirectly from:

(a) The supply of the Services to the Customer;

(b) Any breach of PCS's obligations under the Services Agreement or these terms and conditions;

(c) Any late or non-delivery; or

(d) Negligence on the part of PCS, its agents or contractors.

10.2 **Exclusion of Warranties:** Subject to clause 9.4, to the extent permitted by law, PCS expressly excludes all warranties, guarantees, representations and conditions except as made in writing to the Customer by PCS.

10.3 **Statutory Exclusions:** If the Customer is in trade, the parties acknowledge and agree for the purposes of section 43(2) of the CGA and section 5D of the FTA that:

(a) the Services are being supplied and acquired in trade;

(b) all parties to the Services Agreement are in trade;

(c) the CGA and sections 9, 12A and 13 of the FTA do not apply to the Services Agreement or to any matters, information, representations or circumstances covered by the Services Agreement; and

(d) it is fair and reasonable for the parties to be bound by this clause.

10.4 **Liability under Consumer Laws:** If the Customer is a consumer such that the CGA and FTA cannot be excluded in accordance with clause 9.3, and a claim relates to a warranty or guarantee under the CGA, the liability of PCS is limited, at PCS's option, to:

(a) a re-treatment at no cost to the Customer; or

(b) the cost of a re-treatment.

10.5 **Treatment Failure:** In any event, PCS does not accept liability for any Loss related to Treatment failure beyond the costs specified in clause 9.4.

10.6 **Acknowledgment:** The Customer acknowledges that:

(a) Some pest-activity may continue for a period following Treatment due to PCS's obligations to provide Services in accordance with the Hazardous Substances and New Organisms Act 1996 and the Agricultural Compounds and Veterinary Medicines Act 1971.

(b) Where a Specified Target has been present for an extended period of time, a number of Treatments may be required to control the Specified Target to the satisfaction of both parties.

10.7 **Force Majeure:** PCS shall not be liable for failure to meet any obligation if the failure results directly or indirectly from a cause beyond its control.

11 PRIVACY

The Customer acknowledges that all information provided to PCS will be held by PCS subject to the Customer's right to access such information in accordance with the Privacy Act 2020.

12 ACCESS AND SAFETY

The Customer must ensure that PCS's staff and other authorised personnel (Personnel) have full and safe access (free of any health and safety hazards and risks, unless the Customer has notified PCS of such risks prior to accessing the Customer's Service Address) to the Customer's Service Address and all facilities such as water and electricity that PCS may reasonably require to provide the Services during business hours or at times agreed with the Customer. The Customer must advice the PCS technician before the commencement of any Services of any health and safety risks including the presence of asbestos, or any outbreaks in diseases or viruses at the Customer's Service Address. The Customer must also provide PCS with all necessary information, instructions, documentation and co-operation required by PCS. PCS will comply with all reasonable security and safety instructions of the Customer while present at the Customer's Service Address.

13 CUSTOMER CO-OPERATION

The Customer must comply with all advice and instructions provided by PCS to the Customer including any relating to pesticides and equipment usage and the health and safety of persons at the Customer's Service Address during and following the completion of any Services.

14 AMENDMENTS

PCS reserves the right to amend any of these terms and conditions at any time. Any amendment will take effect from the date on which PCS notifies the Customer of such change.

15 GENERAL

15.1 If any provision of the Services Agreement is illegal, invalid, or unenforceable then that provision may be severed without affecting the enforceability of other provisions.

15.2 This agreement, and any Services Agreement, supersedes and replaces all previous agreements between the parties relating to pest control services and contains the entire agreement of the parties.

15.3 The Customer may not assign its rights under the Services Agreement without the prior written approval of PCS.

15.4 These terms and conditions and the Services Agreement are governed by the laws of New Zealand and the parties submit to the exclusive jurisdiction of the New Zealand Courts.