## COMMERCIAL PEST AND HYGIENE IMPORTANT CUSTOMER INFORMATION

The **SERVICES PROGRAM** and the **TERMS AND CONDITIONS** stated below contain the entire agreement and understanding between us, THE COMPANY and you, THE CUSTOMER on everything connected with the provision of the Equipment and Services (the "**agreement**").

**Acknowledgement:** By entering into this agreement or by obtaining or receiving the Equipment and/or Services from THE COMPANY, you THE CUSTOMER represent and warrant that you have read, understood and agree to all of the TERMS AND CONDITIONS and the terms of the SERVICES PROGRAM and that the person signing this agreement for and on behalf of you, THE CUSTOMER has the authority to sign this agreement.

## COMMERCIAL PEST AND HYGIENE TERMS AND CONDITIONS

### 1 TERM OF AGREEMENT

1.1 This agreement commences on the Commencement Date and continues for the Term period stated on the SERVICES PROGRAM (**Initial Term**). At the end of the Initial Term, this agreement will automatically renew for the same subsequent Term period (**Renewal Term**).

1.2 Either party (us, THE COMPANY or you, THE CUSTOMER) can terminate this agreement by giving the other party:

(a) at least one (1) month's written notice of termination prior to the end date of the Initial Term; or

(b) one (1) month's written notice of termination at any time during the Renewal Term.

1.3 In the event that the SERVICES PROGRAM does not specify an Initial Term period, then this agreement will commence on the Commencement Date and continues until terminated by either party on one (1) month's prior written notice, or as otherwise agreed in writing between the parties.

### 2 ENTIRE AGREEMENT AND VARIATION OF THESE TERMS AND CONDITIONS

2.1 These TERMS AND CONDITIONS and the SERVICES PROGRAM (including any warranties or other terms and conditions included in the suite of documents under the SERVICES PROGRAM relating to all of the services to be provided to THE CUSTOMER) contain the entire agreement and understanding between THE COMPANY and THE CUSTOMER on everything connected with provision of the Services and/or the Equipment by THE COMPANY to you. To the extent permitted by law, we THE COMPANY, expressly exclude all warranties, guarantees, representations and conditions except as may be made by us to you in writing. These terms supersede any previously issued terms and conditions relating to the Services or the SERVICES PROGRAM.

2.2 THE COMPANY may from time to time amend, delete or supplement these TERMS AND CONDITIONS. Any change take effect from the earlier of:

(a) 14 days after written notice is given to THE CUSTOMER; and

(b) the Customer agreeing to any such change (including selecting the "I accept" option if notification of a change is given when THE CUSTOMER accesses any online portal which is used in connection with the SERVICES).

### 3 PROVISION OF THE SERVICES

3.1 We agree to provide to you the Services, from the Commencement Date (or such other date as may be agreed by the parties in writing) for the Term.

3.2 If during the Term we are no longer able to provide the Services (or part thereof) to you, we will immediately notify you and provide the reasons as to why the Services (or part thereof) can no longer be provided, and if applicable offer alternative solutions available for provision by THE COMPANY. In the event that such notification is given and no remedy or solution between the parties is agreed, then THE COMPANY will have no further obligation to provide those identified Services. Possible reasons as to why Services cannot be provided include but are not limited to:

(a) Site access constraints;

(b) Site occupational health and safety concerns;

(c) Service technician safety issues; or

(d) Non-payment for services rendered.

3.3 You must provide THE COMPANY or its representatives with access to the Service Address to allow us to provide the Services and where directed by THE COMPANY or its representatives, must ensure that all persons leave the vicinity where the Services are to be provided. If you fail to give us access to the Service Address and as a result THE COMPANY (or its representatives) is unable to perform the Services, then THE COMPANY may elect to charge you and issue an invoice for attempted attendance at the Service Address and there will be no adjustment to the Annual Value fees. You warrant that you have all necessary rights to grant us access to, install any Equipment at, and perform the Services at the Service Address (including, if required by THE COMPANY, facilities such as water and electricity).

3.4 If, in the course of providing the Services, there is a requirement for us to conduct any drilling, cutting or similar work, you acknowledge and agree:

(a) that you are responsible for identifying the location of all utility services (including service pipes and conduits), structural, sanitation or hydraulic services and any other potential risks (including any health and safety risks or presence of asbestos) at the Service Address in writing prior to us providing the Services; and

(b) that we will rely on the written details provided by you under paragraph 3.4(a); and

(c) we are not responsible for any damage or liability incurred to the Service Address property as a result of:

(i) our reliance on the written details provided by you pursuant to paragraph 3.4(a); or

(ii) any failure by you to provide written details to us identifying any risks at the Service Address.

3.5 If for any reason a health or safety hazard or incident results from the provision of the Services, you must immediately inform us and provide us with all relevant details.

3.6 You:

(a) warrant that you have disclosed to THE COMPANY all material information which may have an effect on the provision, performance and/or installation of the Equipment and/or the Services at the Service Address;

(b) agree to notify THE COMPANY as soon as possible where any circumstances changes (including any changes in respect of the Service Address or changes to the potential risks that were or should have been notified pursuant to paragraph 3.4(a); and

(c) must ensure that the Service Address is always a safe working environment,

and to the extent permitted by law, you agree to be liable for and indemnify us for any claims for loss, damage or liability that we may suffer where you fail to (or to the extent that you fail to) comply with this clause 3.6.

3.7 The parties agree that THE COMPANY is entitled to register a security interest the over the Equipment and THE CUSTOMER grants THE COMPANY a security interest in the Equipment and these terms constitute a security agreement for the purposes of the PPSA and creates a security interest in all of the Equipment provided under this agreement.

3.8 To the extent permitted by law:

(a) The COMPANY and the CUSTOMER agree that sections 96, 115 (contracting out provision) and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

(b) The CUSTOMER hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

(c) The CUSTOMER waives its rights as a grantor or debtor under sections 142 and 143 of the PPSA.

(d) Unless otherwise agreed to in writing by the COMPANY, the CUSTOMER waives its right to receive a verification statement in accordance with section 157 of the PPSA.

3.9 THE CUSTOMER agrees to promptly sign any further document and provide any further information which THE COMPANY may reasonably require to ensure that any security interest within the meaning of the PPSA held or taken by it is a perfected security interest under the PPSA.

3.10 THE CUSTOMER will give THE COMPANY prior written notice of any proposed change of its name or address.

3.11 If, in the course of providing the Services, the COMPANY may be required to conduct works on, near or around electricity wires in the Property. You must ensure that, prior to the commencement of any works by the COMPANY's representative, you ensure that you isolate all power and electricity lines and turn off all electricity from the meter or other appropriate source. THE COMPANY is not liable for any damage, death or injury caused (including as a result of any electricity surges) to person or property due to a failure by you to isolate or turn off all electricity where required by the COMPANY.

## 4 SUPPLY AND MAINTENANCE OF THE EQUIPMENT

4.1 As part of the Services, THE COMPANY may provide certain Equipment to THE CUSTOMER from time to time. All Equipment remains the property of THE COMPANY at all times, unless otherwise agreed in writing with THE COMPANY. We will endeavour to install the Equipment on the Commencement Date set out in the Services Program (if any), but we are under no obligation to do so, and may install the Equipment on another agreed date. All Equipment supplied for the provision of the Services remains the property of THE COMPANY at all times notwithstanding its installation at the Service Address. At any time, by written notice to THE CUSTOMER, the COMPANY may replace the Equipment for any reason, provided that the COMPANY gives THE CUSTOMER prior written notice and such replacement Equipment will be subject to and complies with the relevant warranties (if any) under the terms and conditions of this Agreement.

4.2 You agree to comply with all instructions given by us relating to the use, storage, protection and operation of the Equipment and will advise us as soon as possible if the Equipment is damaged or in need of repair. Other than with the prior written consent (and only to the extent permitted by such consent) You must not attempt to relocate, move, dismantle, modify or repair the Equipment or allow any person other than us to do so (including any label that the Equipment is the property of and owned by THE COMPANY).

4.3 If for any reason the Equipment becomes a health or safety hazard, or becomes subject to any damage, you must immediately inform us and provide us with all relevant details in writing.

4.4 So long as the Equipment is at the Service Address, You must take care of the Equipment (including implementing appropriate security procedures to prevent from misuse or theft) and, to the extent permitted by law, you are liable for any damage caused to the Equipment, including for any loss, partial damage, theft or damage requiring full replacement of the Equipment and must indemnify us for all loss of or damage to the Equipment caused on the Service Address whilst the Equipment is in your care, on a replacement cost basis. If THE CUSTOMER becomes aware or suspects that there is any damage to or issue with the Equipment, it must promptly notify THE COMPANY in writing.

4.5 Upon termination of this agreement or removal of the Equipment for any other reason pursuant to the terms of this agreement, if THE COMPANY becomes aware that there is any material damage or becomes unable to remove that Equipment from the Service Address, then THE CUSTOMER is liable for and must indemnify the COMPANY for all loss or damage to the Equipment on a replacement cost basis. If THE CUSTOMER fails to allow the COMPANY to access the Service Address to remove the Equipment, or there is material damage to the Equipment on collection, then THE COMPANY may issue an invoice to THE CUSTOMER for the replacement of the Equipment on a replacement cost basis.

4.6 THE CUSTOMER acknowledges and agrees that the cost of replacement of the Equipment in referred to in each of clauses 4.4 and 4.5 are reasonable and genuine pre-estimates of THE COMPANY's loss for such Equipment.

## 5 EQUIPMENT WITH INTEGRATED DATA SYSTEMS

5.1 Some of our Equipment have an integrated system where data regarding the use of our Equipment (including but not limited to equipment failures, observations, measurement data, sensor levels) is stored automatically. Such Equipment may digitally send, upload, communicate or transmit data to us for our use by in accordance with this agreement.

5.2 All data relating to the Services or the Equipment is owned by us.

5.3 We may use data for any purpose including but not limited to provide and manage the Service, statistical purposes, development of the Service, our Equipment and other of our products or services, research and marketing. We undertake to, if personal data is included in the data, as far as is reasonably possible to use such data on a pseudonymized and/or anonymized basis, and in any case in compliance with applicable laws and clause 18.

5.4 You must not access, use or disclose to any third party any of the integrated system data on Equipment (including for any unauthorised purpose) without the prior written consent of THE COMPANY.

## 6 ADDITIONAL SERVICES AND EQUIPMENT

6.1 At any time during the Term, you may request that THE COMPANY provides you with additional Services and/or Equipment (where appropriate) ("**Variation**"). Upon receipt of such request, THE COMPANY will provide a quote to you for those Variations. THE COMPANY is under no obligation to agree to provide the Variations to the Services and/or Equipment to you.

6.2 If you accept the quote for the Variations, and THE COMPANY notifies you that it agrees to provide the Variation Services and/or Equipment on such terms, then the Variations will be provided on the terms and conditions of this agreement, subject to any other written agreement between the parties.

6.3 If, at any time during the Term, you request a reduction in Services and/or Equipment (including for a partial reduction of Services and/or Equipment for a limited period during the Term), then that reduction will be treated as a Variation under this agreement and must comply with clauses 6.1 and 6.2.

6.4 The price for the Additions will be added to the Annual Value of this agreement. If at any time during the Term of the Agreement, THE CUSTOMER requests a reduction or cancellation of any part of the Services and/or Equipment which is accepted by THE COMPANY, the proposed variation to the fees under the Variation will take into account additional set-up costs, service costs, administration costs and support costs incurred by THE COMPANY and may not result in a direct pro-rata reduction in the fees.

6.5 THE CUSTOMER acknowledges and agrees that any additional costs or non-linear reduction in the Annual Value fees under a Variation is a genuine pre-estimate of THE COMPANY's loss for such variation to the Services for the remainder of the Term.

## 7 SERVICE EFFECTIVENESS

7.1 The Company will use reasonable endeavours to provide the Services, the Equipment and any Additions in a competent and professional manner. The ongoing effectiveness of the Services, the Equipment and any Additions provided depends on your implementation of our recommendations and failure to implement our recommendations may render certain warranties in respect of the Services, the Equipment and/or any Additions ineffective, where stated.

7.2 You acknowledge that our Services, Equipment and any Additions may also be rendered ineffective by disturbing treated areas, building alterations, renovations or introducing untreated or infested materials to the property that encourage pest activity and/or poor hygiene.

7.3 THE CUSTOMER acknowledges that the Disinfection Misting and/or Fogging service (if applicable) is a general broad-spectrum disinfection service for homes, offices and workplaces that targets both surfaces and inaccessible areas to aid in the prevention of harmful bacteria, fungus and viruses. Although Flick Anticimex is providing this disinfection misting service and will use the product as per label specifications, Flick Anticimex cannot guarantee or warrant the effectiveness of the product on any specific type of bacteria e.g. Salmonella, fungus e.g. mould, or virus e.g. Novel Coronavirus.

**8 PAYMENT AND TRADING TERMS**

8.1 You agree to pay for the Services and/or Equipment in accordance with the trading and payment terms set out in this agreement.

8.2 To minimize administration and assure efficient processing, our invoicing for recurring Services and/or Equipment will be calculated based on the Annual Value of this agreement (excluding GST) and invoiced in accordance with the agreed invoicing schedule agreed with you in the SERVICES PROGRAM in advance (being, monthly, quarterly or annual invoicing, unless otherwise agreed), in accordance with the following:

(a) payment terms are thirty (30) days from the date of invoice; and

(b) You may not set-off against any payment under this agreement any amount of money that we may owe to you without our prior written approval.

8.3 To the extent that there are any one-off or ad-hoc Services agreed between THE COMPANY and the CUSTOMER, based on a quote provided by THE COMPANY, then those ad-hoc Services will be charged at such agreed terms, and invoiced to THE CUSTOMER following the performance of the Services.

8.4 It is not the responsibility of THE COMPANY to assure that any purchase orders have been issued by the Customer and this agreement supersedes any purchase orders from the Customer.

8.5 Payments and Allocations – THE COMPANY may from time to time, permit multiple payment methods, as set out in each invoice provided to you. If B-Pay is provided as an option to you, then the B-Pay payment method will result in payment allocation for the CUSTOMER's account to the oldest outstanding invoice as reflected by the B-Pay CRN. B-Pay cannot be used to make payments for multiple accounts. EFT payment method requires remittance advice to be sent to the email provided by THE COMPANY to you to allow for allocation to invoices. If remittance advice is not received, the payment will be allocated to the oldest invoice of the account. If any information is provided by you on a secured payment gateway, that information will be processed and held in accordance with the applicable third-party provider's privacy policies. You agree that the Annual Value fees under this agreement are not strictly dependent on the completion of scheduled services given that scheduled services may move depending on other factors such as site availability. In the event that a service needs to be rescheduled, we will notify you and continue to invoice based on the Annual Value of this agreement. The rescheduled service may be performed at a later date agreeable with you.

8.6 **Pricing review:**

(a) An annual price increase will be applied to all contracted services linked to each customer's Billing Account (maintained on THE COMPANY's databases) on 1st January each calendar year (or such later date notified to THE CUSTOMER).

(b) Without limiting clause 8.6(a), THE COMPANY may at any time review and increase the price of the Equipment or the Services (including the Annual Value) by written notice to the CUSTOMER.

(c) Written notice of all price increases under this clause will be communicated to the CUSTOMER no later than 45 days prior to the price increase effective date.

(d) If THE CUSTOMER does not accept the price increase, then THE CUSTOMER has the right within 60 days' of being notified of the price increase to terminate this agreement by giving 30 days' written notice and complying with clause 10 ('Term and Termination') found within these Terms and Conditions.

8.7 If you do not pay us the invoiced amount in full within the time stipulated in the invoice, we may submit your account to a collection agency. You agree that we may recover the outstanding amount specified in the invoice together with interest, our legal costs, bank fees, charges and other expenses incurred in attempting to recover the debt and any fees, commissions, or other amounts we pay to any collection agency to act on our behalf. Without limiting our right to terminate, we may withhold the provision of Services where any amount payable by you is overdue under this agreement.

8.8 **Paper based Invoice processing fee**: If you require paper-based invoices, you agree to pay to us the invoice processing fee advised by us to you, from time to time, in writing.

8.9 **Refunds**: You agree that we do not have to process any overpayments by you as a refund if your accounts balance is not zero balance.

8.10 **Disputed invoices**: If you dispute any charges on an invoice, the dispute must be submitted to us in writing with in fourteen (14) days of the invoice generation date. THE COMPANY reserves all of its rights accruing under this agreement where You fail to pay any undisputed charges by the due date. You must pay all parts of the invoice which are not the subject of a bona fide dispute before the due date for payment of the invoice.

8.11 **Environmental Levy Fees**: You are liable for any fees incurred by or imposed on us for supervisions or inspections according to any applicable environmental legislation (for example any EPA waste levies) that arise as a result of the provision of the Services and/or Equipment to you.

8.12 **Subscription Fees/Inductions Fees**: You agree to reimburse us for any subscription fees / induction fees that are charged to us due to any such requirements for provision of the Services and/or Equipment at the Service Address.

8.13 **Set-off**: You agree that at any time during the term of this agreement, THE COMPANY may set-off, deduct from or provide as a credit on any invoice, any amount that THE COMPANY owes to You. You agree that such credits will have an expiration date equal to the term of this Agreement or 12 months from the issuance of such credit, whichever is sooner. THE CUSTOMER may not withhold, deduct or set-off any amount owing to THE COMPANY without prior written consent from THE COMPANY.

**9 CREDIT**

9.1 If you desire to obtain or have obtained commercial credit from us, you authorise us to:

(a) conduct credit checks on you, your related entities and any subsidiaries (together with any directors, partners or other authorised representatives) from credit reporting agencies;

(b) collect and/or disclose the following types of credit-related information about you, your related entities and any subsidiaries (together with any directors, partners or other authorised representatives) which credit providers are permitted to supply obtain or receive under privacy laws including but not limited to:

(i) name, business address (including previous addresses), contact details (including telephone and email addresses) and other identity verification emails;

(ii) credit history (including any repayments missed or late repayments made);

(iii) details of any credit provided by other credit providers (such as other financial institutions, utilities or any other cooperation that has given you credit terms);

(iv) any credit rating or credit assessment score; and

(v) details of any credit-related court proceedings or insolvency applications;

(c) disclose information about your application for credit under this agreement and if successful, about the credit account and credit provided to a credit reporting agency to obtain information or credit reports; and

(d) disclose details of your payments that are more than 60 days overdue to credit reporting agencies and other credit providers; and disclose information to any person considering acting as your guarantor.

9.2 If the credit check report obtained through our Credit Reporting Agency results in an adverse credit score rating, we may consider supplying your services on an annual payment in advance basis. If you agree to paying for the service in advance, we will issue you with an annual tax invoice on a 7-day credit terms. Services on payment in advance basis can only be scheduled and fulfilled once payment has been received by us. If payment is not received by the due date stipulated in the invoice, we will issue a credit note to clear the outstanding invoice balance and change your account status to closed.

9.3 THE CUSTOMER acknowledges and agrees that, by entering into this Agreement, THE CUSTOMER consents to THE COMPANY seeking and/or disclosing information about THE CUSTOMER and its related entities (including any information about their credit worthiness, credit history, standing or capacity) in accordance with the Privacy Act 1988 to supply, obtain, receive or disclose such information.

**10 TERM AND TERMINATION**

10.1 Upon termination of this agreement by either party for any reason, we are entitled to immediate possession of the Equipment and you will allow us to enter the Service Address to remove the Equipment.

10.2 A party may not commence legal proceedings (other than urgent interlocutory relief) in respect of any dispute arising out of this agreement without first complying with clause 10.3.

10.3 If either party breaches any term or condition of this agreement or wishes to dispute any matter arising under this Agreement, the other party may notify the relevant party in writing and a representative of THE COMPANY and THE CUSTOMER (or a duly authorised representative of THE CUSTOMER) must meet to discuss in good faith to seek remedy of the breach within 14 days. The party not in breach may at its sole discretion immediately terminate this agreement or suspend services by notice in writing to the party in breach if no agreed solution to the breach is reached within 14 days. If THE COMPANY has breached the agreement during the Term, THE CUSTOMER can terminate the agreement without having to pay out the remainder of the Initial Term.

10.4 If you terminate this agreement within the Initial Term when we are not in breach of any Term or Condition of this agreement, but excluding any termination by you as a result of a price increase under clause 8.6(b), then you must pay us an early termination fee equivalent to sixty percent (60%) of the balance of the Initial Term. You authorise THE COMPANY to charge such termination fee, to your selected payment method on or immediately prior to termination of your service. The parties acknowledge that this early termination fee is a genuine pre-estimate of THE COMPANY's loss for early termination of the Services before the end of the Initial Term having regard to the set-up, removal and ongoing administrative costs of THE COMPANY.

10.5 Upon termination of this agreement:

(a) You must return to THE COMPANY any documentation, Equipment, notes, records or any other documentation relating to the Equipment or the Services are required by THE COMPANY;

(b) all amounts owed to THE COMPANY for Equipment and Services rendered up until the date of the termination becomes payable immediately (provided that THE COMPANY will provide to You an invoice for any amounts not yet invoiced);

(c) THE COMPANY may enter the relevant Service Address premises to remove any Equipment in THE CUSTOMER'S possession or control. In complying with this clause, THE COMPANY is not required to 'make-good' or return the Service Address premises to its original state prior to the installation of the Equipment, and will take reasonable actions to ensure that no additional damage is caused to the Service Address; and

(d) for the avoidance of any doubt, if THE CUSTOMER fails to allow the COMPANY to access the Service Address to remove the Equipment, or there is material damage to the Equipment on collection, then THE COMPANY may issue an invoice to THE CUSTOMER for the replacement of the Equipment on a replacement cost basis.

10.6 This clause 10 survives termination of this agreement.

**11 LIMITATION OF LIABILITY**

11.1 To the extent permitted by law:

(a) nothing in this agreement operates to make a party under this agreement liable (whether under contract law, common law or otherwise) to the other for any consequential, indirect or special loss or damage of any nature whatsoever including (but not limited to) those arising out of delay, loss of product, loss of production, business interruption, loss of revenue, loss of profits or loss of opportunity;

(b) if THE CUSTOMER is a consumer under the Australian Consumer Law, nothing in this agreement excludes, modifies or restricts any of those rights;

(c) where a claim relates to a guarantee or warranty under the Australian Consumer Law, and the goods and/or services supplied are not of a kind ordinarily acquired for personal, domestic or household use or consumption, then THE COMPANY's liability to you under this agreement, whether in contract, tort (including, without limitation, negligence) or otherwise is:

(d) in the case of the Equipment, limited to the replacement or repair of the Equipment or the cost of replacing or repairing the Equipment; and

(e) in the case of Services, is limited to the cost of supplying those Services again,

(f) whichever may be determined in our absolute discretion to be appropriate in the circumstances;

(g) in all other circumstances, our liability to you (including in contract, negligence, tort or any common law or statutory right) under this agreement will not exceed the total fees received by us from you pursuant to this agreement, and we are not liable for any claims made for any injury, death, loss or damage whether caused negligently or otherwise to you or your property, or to any third party as a consequence of providing the Services, the Equipment or any additions;

(h) THE COMPANY will not be liable for any loss, damage or liability incurred by the CUSTOMER as a result of non-compliance or failure to implement THE COMPANY'S written recommendations or instructions in respect of the Services or the Equipment;

(i) each party must take all reasonable steps to mitigate any loss, liability, damage, cost or claims incurred by them under this agreement;

(j) a party may not recover damages or obtain payment, reimbursement or restitution more than once for the same loss, liability, damage or breach of this agreement; and

(k) THE COMPANY expressly excludes all warranties, guarantees, representations and conditions except as may be made by THE COMPANY to you in writing.

11.2 Any goods or services provided by THE COMPANY pursuant to this Agreement are provided for the benefit of THE CUSTOMER only.

11.3 Nothing in this Agreement, excludes or limits the liability of either party for death or personal injury caused by that party's negligence, fraud or fraudulent misrepresentation of any other matter to the extent that such exclusion or limitation would be unlawful.

11.4 Each of THE CUSTOMER and THE COMPANY agree that the limitations in this clause 11 are fair and reasonable and apply to all claims whether in contract, tort (including negligence), misrepresentation or otherwise).

11.5 This clause 11 survives expiry or termination of this agreement.

**12 STATUTORY WARRANTY**

12.1 Our Services and Equipment come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Service, you are entitled:

(a) to terminate this agreement; and

(b) to a refund for the unused portion of the Service in the relevant Term only, or to compensation for its reduced value. You are also entitled to be compensated for any other reasonably foreseeable loss or damage.

If the failure does not amount to a major failure, you are entitled to have problems with the Service rectified in a reasonable time and, if this is not done, to cancel the Services and obtain a refund for the unused portion of the Services.

**13 SERVICES WARRANTY CLAIM**

13.1 If you have a problem with our Services or believe that you may have a Services warranty claim in relation to our Services, you must contact our Branch directly who provided the Services, phone 13 14 40 or email nationalenquiries@flick.com.au.

13.2 THE COMPANY will arrange a convenient time for the Services performed to be inspected and if we determine, in our absolute discretion (but subject to clause 12), that a resupply of the Services is appropriate in the circumstances, a convenient time for the Services to be resupplied.

**14 GOODS AND SERVICES TAX**

14.1 Where any supply under this agreement is or becomes subject to GST, an amount equal to the GST paid or payable for that supply will be added to the amount exclusive of GST paid or payable for that supply.

**15 INABILITY TO DELIVER SERVICES**

15.1 To the extent permitted by law, neither party is liable for failure of or delay in performance of their obligations under this agreement (other than an obligation for payment of amounts due) to the extent that the failure or delay arises from a Force Majeure Event.

15.2 For the purposes of this clause 15, Force Majeure Event means any act, occurrence or event not within the control of the relevant party including but not limited to any accidents, weather conditions or events, floods, fire, explosions, riots, acts of war, earthquakes or other natural events, pandemics, outbreak of infectious disease (and any associated government or regulatory authority-mandated restrictions), destruction or loss of products or materials, cyber breaches or attacks, ransomware attacks, infrastructure failures or outages, shipping delays, industrial action or disputes, shortage or unavailability of fuel or other resources, congestion in roads, railways, ports or other venues, derailments, sinkings, government restrictions, change in any law, or any direction of a government authority.

**16 MODERN SLAVERY**

16.1 THE COMPANY will use its reasonable endeavours to comply with and reduce the risk of modern slavery in its supply chain under the Modern Slavery Act 2018 (Cth) and will maintain throughout the term of this Agreement appropriate policies and procedures to ensure compliance with such laws.

**17 INSURANCE**

17.1 THE COMPANY will maintain for the Term appropriate insurance policies with a reputable insurer including;

(a) Public and products liability insurance; and

(b) Worker's compensation insurance.

**18 PRIVACY**

18.1 By accepting this Agreement, you acknowledge that and authorise personal information relating to THE CUSTOMER to be collected, used, held and disclosed by THE COMPANY, its representatives and its agents in accordance with the Flick Privacy Policy which can be accessed at flick.com.au/privacy for any purpose connected with this Agreement. You have the right to access and correct your personal information, to do so please contact nationalenquiries@flick.com.au.

**19 INTELLECTUAL PROPERTY**

19.1 Nothing in this agreement transfers or assigns any intellectual property rights of THE COMPANY (whether registered or unregistered and including trademarks, patents, copyright, designs, inventions and all other intellectual property rights) to THE CUSTOMER. You agree that any intellectual property rights developed in the course of this agreement or the Services will belong to THE COMPANY and THE COMPANY is the absolute legal and beneficial owner of all derivative works, modifications, enhancements or improvements on the intellectual property rights developed under this agreement.

19.2 THE COMPANY grants to THE CUSTOMER a limited, revocable licence for the Term of this agreement to use certain intellectual property rights of THE COMPANY as necessary to enjoy the Services and use of the Equipment in accordance with the terms of this agreement.

**20 GOVERNING LAW AND GENERAL TERMS**

20.1 This agreement is subject to the laws of the state where the Services and/or Equipment are performed or provided, and the parties submit to the exclusive jurisdiction of the courts of that state.

20.2 THE COMPANY may assign, transfer, novate, dispose of or create an interest in any of its rights, title or interest in or under this agreement by giving written notice to THE CUSTOMER. You may only assign your rights under this agreement with our prior written consent.

20.3 If a provision of this agreement is invalid or unenforceable in a jurisdiction, it must, in that jurisdiction, be read down or severed from this agreement to the extent of the invalidity or unenforceability and it does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions of this agreement.

20.4 Unless specified otherwise in this agreement, the rights of the parties under this agreement are cumulative and do not exclude any other rights (whether under law or otherwise).

**21 RECALLS**

21.1 THE COMPANY will promptly notify you of any information relating to any:

(a) investigation by any government or regulatory authority that is or may be relevant to the Equipment or the consumables used in the Services; or

(b) other quality, labelling or other regulatory issue relating to the Equipment or the Services or consumables used in the Services.

21.2 In the event that any of the consumables used are subject to a recall by THE COMPANY, you must take all reasonable steps to provide assistance reasonable required by THE COMPANY to give effect to the recall.

**22 NOTICES**

22.1 Any notices under this agreement must be in writing and addressed and delivered to the intended recipient by hand, prepaid post, or by email at the address and/or email address notified by the intended recipient to the sender. THE CUSTOMER's address for service of notices is as set out in the SERVICES PROGRAM.

**23 DEFINITIONS**

In these terms:

"**Australian Consumer Law**" means the Australian Consumer Law as set out in Schedule 2 to the Competition and Consumer Act 2010;

"**Annual Value**" means the total amount payable annually for the provision of the Equipment and Services as specified in the Services Program (as may be amended from time to time in accordance with this agreement);

"**Commencement Date**" means the commencement date specified in the Services Program;

"**THE COMPANY**, **us**, **our** or **we**" means Flick Anticimex Pty Ltd (ABN 85 000 059 665) of Unit 9, 145 Arthur Street, Homebush West NSW 2140;

"**THE CUSTOMER**" means you, being the customer whose details are as specified in the Services Program Acceptance Form;

"**Equipment**" means the pest control, disinfection and/or hygiene services equipment and any other equipment provided by THE COMPANY under this agreement, and includes any additional or replacement equipment;

"**PPSA**" means the Personal Property Securities Act 2009 (Cth);

"**Property**" means the structures, gardens, trees, fences etc. up to fifty (50) metres from the exterior walls of the main building but within the boundaries of the land on which the main building is erected;

"**Reasonable Access**" means only areas to which reasonable access was available at the time of inspection. The Australian Standard AS 4349.3-2010 defines reasonable access. Access was not made where there were safety concerns, or obstructions, or the space available was less than the following:

(a) Roof Void – the dimensions of the access hole into the ceiling space should be at least 500mm x 400mm and be accessible from a 3.6 Metre high ladder. There must be space to crawl no smaller than 600mm x 600mm.

(b) Roof Exterior – Only areas accessible from a 3.6-metre-high ladder will be inspected.

(c) Subfloor – Access is normally not available where dimensions are less than 500mm x 400mm for the subfloor access hole and less than 400mm of crawl space beneath the lowest bearer, or less than 500mm beneath the lowest part of any concrete floor.

Reasonable access did not include the use of destructive or invasive inspection methods. Nor did reasonable access include cutting or making access traps or moving heavy furniture or stored goods. The Flick accredited inspector determined whether or not there was sufficient space to allow safe access to confined areas;

"**Services Program**" means the pest control, disinfection and/or hygiene management program to be provided by THE COMPANY to THE CUSTOMER;

"**Services Program Acceptance Form**" means the form provided to and to be signed by THE CUSTOMER which includes these terms and conditions and the Services Program;

"**the Schedule**" means the services stated within the Services Program provided with this agreement;

"**Service Address**" means the address specified in the Services Program;

"**Service Instructions**" means the service instructions specified in the Services Program;

"**Services**" means pest control and/or hygiene services, and any other services provided under this agreement as specified in the Services Program; and

"**Term**" means the Initial Term and any Renewal Term as specified in the Services Program;

**"Timber Pest Services"** or "**Termite Services"** has the meaning given to that term in clause 24.1 of these Terms.

***THE TERMS AND CONDITIONS BELOW APPLY TO YOU IF YOU HAVE REQUESTED A TIMBER PEST / TERMITE INSPECTION AND PRIOR TO THE PROVISION OF ANY TIMBER PEST SERVICES OR TERMITE SERVICES.***

**24 TIMBER PEST INSPECTION**

24.1 If you wish to engage the COMPANY for any:

(a) timber pest management or prevention services; or

(b) termite pest reticulation services (in which certain pesticides will be applied by the COMPANY around the relevant Service Address and applicable property areas),

(the **Timber Pest Services** or **Termite Services**) the COMPANY requires that you must first engage the COMPANY to conduct a timber pest inspection. You should notify the COMPANY and provide all accompanying information of any previous timber pest inspection completed at the Service Address, and acknowledge that the details of such timber pest management or inspections may be referred to by the COMPANY for reference purposes only, but the COMPANY, at its absolute discretion, may elect not to rely upon the findings or conclusions in such previous inspections.

24.2 Any timber pest inspection and/or report from the COMPANY are confined to reporting on the discovery, or non-discovery, of infestation and/or damage caused by subterranean and dampwood termites (white ants), borers of seasoned timber, wood decay fungi (rot) present at time of the inspection. The inspection and any report will not cover and do not comment on any pests other than the aforementioned timber pests. Dry wood termites (Family: KALOTERMITIDAE) and European House Borer (Hylotrupes bajulus Linnaeus) are expressly excluded from the scope of the inspection and any report.

24.3 You may request a timber pest inspection by contacting the COMPANY phone 13 14 40 or email nationalenquiries@flick.com.au.

24.4 An initial cost will apply and will be payable by you to the COMPANY for a timber pest inspection, payable in accordance with these terms and conditions as set out above.

24.5 Unless otherwise agreed with you in writing prior to the completion of the timber pest inspection, the inspection will be a visual and non-invasive inspection only. Prior to commencement of the inspection, you must notify the COMPANY, providing full details, of any damage or health risks to the COMPANY's inspector attending the Service Address or the Property.

24.6 You agree that neither Flick nor the Flick accredited inspector conducting the inspection is responsible or liable for the repair of any pre-existing damage to the Property (or damage caused by existing weaknesses or deficiencies in the Property) whether disclosed by the Report or not. You must notify the COMPANY, providing full details of any pre-existing damage or risks at the Service Address or Property prior to commencement of the inspection.

24.7 The inspection will be conduct purely on a visual and non-invasive basis, and is limited to any areas which you provide the COMPANY's representative with Reasonable Access and you must ensure that the COMPANY's representative is provided with such Reasonable Access. You must ensure that any area to be inspected by the COMPANY at your request is kept safe and free of potential risks. You must notify the COMPANY and its representatives immediately if there are any health hazards or other risks or dangers (including but not limited to exposure to asbestos) at the Service Address or the Property prior to conducting the timber pest inspection. In the event that a representative of the COMPANY incurs any injury, death or other health risk (including but not limited to exposure to asbestos), you agree to indemnify the COMPANY for all liability incurred by it relating to such risk or injury. You must ensure that you have maintained appropriate insurance in respect of the Service Address and the Property (including for any injury, death or other health risk caused as a result of a COMPANY representative's attendance at the Services Address and/or Property to conduct the termite pest inspection) and in the case of residential properties, ensure that you hold appropriate homeowners' insurance. If you fail to provide Reasonable Access to the COMPANY's representative, the COMPANY may not be able to appropriately conduct the timber pest inspection and any report provided by the COMPANY may not proposed appropriate treatment plan(s) for the Service Address and/or Property. Active timber pests may be present within concealed or partly concealed locations of the structure(s) and/or within the boundaries of the Property at the time of the inspection. The inspection only covers the readily accessible areas of the building and site. The inspection does not include areas which were inaccessible, not readily accessible or obstructed at the time of the inspection, (for example: fixed ceilings, wall linings, floor coverings, fixtures, fittings, furniture, stored clothing/articles/materials, thermal insulation, sarking, pipe/duct work, builder's debris, vegetation, pavements or earth). The scope of any inspection and any findings or recommendations will expressly exclude any areas to which the COMPANY has not been granted access due to inability or failure to move furnishings or household items by you. Unless you, the client specifically ordered in writing that structures, gardens, trees and fences etc. outside the fifty (50) metre radius from the exterior walls of the main building be inspected prior to the inspection, no such inspection was carried out.

24.8 Timber pest inspections are an important and difficult process which is subject to many external factors. The COMPANY in no way warrants that a timber pest inspection is fit for your purposes and to the maximum extent permitted by law, the COMPANY excludes any implied warranties or guarantees in respect of the timber pest inspection(s).

24.9 The inspection will be conducted in accordance with the requirements of Australian Standard AS 4349.3-2010 Inspection of buildings Part 3: Timber pest inspections. The purpose of the inspection and the timber pest inspection report (**Report**) is to be provide you with advice about the status and condition of the Service Address concerning any termites and timber pest activity at the Service Address. The inspection will not involve any invasive inspection including cutting, breaking apart, making holes, dismantling, removing or moving objects including but not limited to, roofing, wall and ceiling sheeting, ducting, foliage, mouldings, debris, roof insulation, sarking, floor or wall coverings, sidings, fixtures, floors, pavers, furnishings, appliances or personal possessions. An invasive inspection can be performed by Flick if requested by you. A separate contract or set of terms and conditions will apply to an invasive inspective if requested by you. To facilitate the inspection and the preparation of a Report by the COMPANY, the COMPANY may have asked you to confirm your knowledge of any previous termite management systems or other termite treatments completed by you (or any other person) affecting the Service Address. You warrant that all information provided to the Company has been, to the best of your knowledge, been true and accurate. You acknowledge and agree that, where information has been provided to the COMPANY, the COMPANY has relied on such information or representations made by you.

24.10 The timber pest inspection report should not and may not be relied upon (by you or any third party) as an exhaustive indication of whether there are any timber pests present at the Services Address or Property.

24.11 **A REPORT IS NOT A GUARANTEE THAT TIMBER PEST DAMAGE AND/OR A TIMBER PEST INFESTATION DOES OR DOES NOT EXIST AT THE SERVICE ADDRESS OR PROPERTY**. The COMPANY does not warrant or guarantee in any way that an inspection will exhaustively identify any timber pest infestations.

24.12 You agree that neither the COMPANY nor the COMPANY's accredited inspector or representative conducting the inspection is responsible or liable for the repair of any damage to the Service Address or the Property, regardless of whether any pre-existing damage is disclosed by the Report or not, other than where caused by the negligence or fraud of the COMPANY's representative.