

TERMS AND CONDITIONS

1) ENTIRE AGREEMENT

This Terms & Conditions stated below contain the entire agreement and understanding between us (Flick Anticimex Pty Ltd ABN 85 000 059 665), THE COMPANY and you, THE CUSTOMER on everything connected with the provision of the Equipment and Services. 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 & Conditions.

These Terms and Conditions (T&Cs or Terms) comprise Part A of this document (General) and all other parts which are relevant to the Services provided to you. We may vary these Terms at any time by giving you written notice. A variation will take effect immediately for all new orders placed after we send you the written notice, and for any equipment or services under an existing order.

Your acceptance of further equipment and services and/or payment of invoices due after the date we send you written notice, is deemed acceptance of the variation."

	Part A: General
	Part B: General Pest – Home Protection T&C's
	Part C: Termite Solutions – Home Protection T&C's

Acknowledgement: By obtaining the Equipment and Services you, THE CUSTOMER represents and warrant that you have read and understood and agree to all of the Terms & Conditions

Part A General

2) Term

This agreement commences on the Commencement Date and continues until cancelled in writing by you or us.

- A. The COMPANY will supply the Equipment and Services under the Subscription plan. The Subscription Plan commences from the date we issue Our invoice ('Commencement Date'). The Monthly fee for the first year of your subscription is Our list price at the date of the order.
- B. If you cancel your Subscription Plan prior to the end of the initial Term and you have more than 30 days left in your Initial term, you can pay out the agreement. We (Flick) will calculate the amount you must pay for service support and administrative costs by multiplying your monthly fee by the number of months left in your Initial term from the Commencement Date. 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. After the initial Term, scheduled treatments will continue unless discontinued by you in writing. We, Flick may discontinue your Plan scheduled services at any time after the initial Term.
- C. Upon termination of this agreement by either party for any reason, we are entitled to immediate possession of potential Equipment on site, and you will allow us to enter the Service Address to remove the Equipment.
- D. Notwithstanding any other provision of this agreement, if either party breaches any term or condition of this agreement the other party may notify the party in breach and seek remedy of the breach via consultation and/or arbitration. 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.
- E. The Subscription plan can be transferred to a new home address if you are moving. The Subscription

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Plan commence date will restart with a new initial term from the date you are registered on your new address. The subscription plan cannot cover services in two different addresses in one 12-month period. Additional charges will apply to accommodate this.

3) PROVISION OF THE SERVICES

- A. We agree to provide the Services in accordance with the Service Instructions (if any) from the Commencement Date (or such other date as may be agreed) and for the Term.
- B. 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. In the event that such notification is given and no remedy or agreed solution between the parties is adopted, we have no further obligation to provide those Services and any warranties attached. Possible reasons as to why Services can't be provided include but are not limited to:
 - i) Site access constraints
 - ii) Site OHS concerns
 - iii) Service technician safety issues
 - iv) Non-payment for services
- C. You must provide access to the Service Address so that we can provide the Services and where directed, 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, then we will be entitled to keep the benefit of that part of the Annual Amount as attributable to the provision of that Service.
- D. If for any reason a health or safety hazard results from the provision of the Services, you must immediately inform us.
- E. You must ensure that the Service Address is always a safe working environment, and, to the extent permitted by law, you must indemnify us for any loss or damage that we may suffer where you fail to do so.

4) EQUIPMENT WITH INTEGRATED DATA SYSTEMS

- A. Some of our Equipment have an integrated system where data i.e., information regarding the use of our Equipment (such as 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 section 13) b).
- B. All data relating to the Services is owned by us.
- C. 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

5) ADDITIONAL SERVICES AND EQUIPMENT

- A. If you require additional services and/or equipment ("Additions") (and we agree to provide them), those Additions will be provided on the terms and conditions of the agreement.
- B. You will pay the current service price for the Additions which will be added to the next direct debit.

6) SERVICE EFFECTIVENESS

We are obliged to use reasonable endeavors to provide the Services, the Equipment and any Additions and we will

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provide the same in a competent and professional manner considering the terms and conditions of this agreement. The ongoing effectiveness of the Services, the Equipment and any Additions provided depends on your implementation of our recommendations. You acknowledge that our Services, Equipment and any Additions may also be rendered ineffective by disturbing treated areas, building alterations, renovations and introducing untreated or infested materials to the property that encourages pest activity.

7) PAYMENT AND TRADING TERMS

- A. This agreement also relates to your authority to Flick Anticimex Pty Ltd to directly debit the nominated bank account or credit card for any instalments or fees due under the terms and conditions of this Agreement and Direct Debit Request. These terms and conditions are set out in this agreement and can also be accessed on the Flick Anticimex (Australian) website (flick.com.au).
- B. By agreeing to the Direct Debit Request, we will direct debit your account once You have supplied your account details and confirmed the terms and conditions. We will only arrange for funds to be debited to your account as authorized in the direct debit request. If the due date isn't a business day, we will then debit the amount on the next business day. We won't change the amount or frequency of these arrangements without informing you know first.
- C. We might cancel the Direct Debit if your direct debit is rejected by your financial institution on three or more occasions, in which case you'll need to make alternative payment arrangements. We'll keep all your bank or credit card information private and confidential.
- D. As our Customer - You may change the arrangement under a Direct Debit request by contacting us on 13 14 40. You may also cancel your authority for us to debit your account at any time by letting us know you'd like to cancel it. Subject to paragraph 2 (B) above, the cancellation will be effective from the 1st day of the following month, after the 30-day notice period end, and no refunds of previous direct debits are available. If for any reason, direct debits from your account have been unsuccessful, Flick has the right to debit the accumulated amount for any months not successfully debited. If you think we've debited something incorrectly, please let us know straight away. It is your responsibility as our CUSTOMER to ensure that there are sufficient funds available in your nominated account to pay your bill on its due date. Please let us know if you close or terminate your Direct Debit account so that an alternate payment method can be arranged. If you close or terminate your Direct Debit account directly with your nominated financial provider in the minimum period required (refer to paragraph 2 (B)) you must contact us to arrange an alternative payment for the remaining months of the subscription period. Failure to do so may result in Flick taking debt recovery action.
- E. The Service Price may be increased by us once in each 12-month period by notice in writing to
- F. you, however, we will not make any price increases within 12 Months of the Commencement Date. Any increase in Service Price will be notified by us in writing to you no later than one (1) month prior to the increase. If we are not in agreement in regards of the new Annual value, both parties have the right to terminate the contract by giving a 30-day written notice period.
- G. If you fail to make payment in accordance with this agreement, 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.
- H. We may withhold the provision of Services where any amount is overdue under this agreement.
- I. Paper based Invoice processing fee: If you require to receive paper-based invoices, you agree to pay to us the invoice processing fee advised by us to you, from time to time, in writing.
- J. 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. Refunds will only be issued by us for debiting errors or for reasons the COMPANY deems to warrant a refund to a customer.
- K. 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.

8) DIRECT DEBIT REQUEST (DDR)

- A. You hereby authorize Us to make periodic debits as indicated under Payment and Trading Terms.
- B. You acknowledge that the debit amount will be debited from your account according to the terms and

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conditions of your agreement with us and the terms and conditions.

- C. You acknowledge that bank account and/or credit card details have been verified against a recent bank statement to ensure accuracy of the details provided and we will contact your financial institution if we are uncertain of the accuracy of these details.
- D. You acknowledge that it is your responsibility to ensure that there are sufficient cleared funds in the nominated account by the due date to enable the direct debit to be honored on the debit date. Direct debits normally occur overnight, however, transactions can take up to five (5) business days for the banks to settle depending on the financial institution. Accordingly, you acknowledge and agree that sufficient funds will remain in the nominated account until the direct debit amount has been debited from the account and that if there are insufficient funds available, you agree that we will not be held responsible for any fees and charges that may be charged by either your or our financial institution.
- E. You acknowledge that there may be a delay in processing the debit if.
 - i) there is a public or bank holiday on the day of the debit, or any day after the debit date.
 - ii) a payment request is received by us on a day that is not a banking business day.
 - iii) a payment request is received after normal cut off times. Any payments that fall due on any of the above will be processed on the next business day.
- F. You acknowledge that we will provide at least 14 days' notice if we propose to vary any of the terms and conditions of the Direct Debit Request or this Agreement including varying any of the terms of the debit arrangements between us.
- G. You acknowledge that any request to stop or cancel the debit arrangements needs to be directed to us.
- H. You acknowledge that any disputed debit payments need to be directed to us directly. If no resolution is forthcoming, you agree to contact your financial institution.
- I. You acknowledge that if a debit is returned by your financial institution as unpaid, a failed payment fee may be payable by you to us of \$15.00 per failed payment. Where a failed payment fee is applicable, the amount will be as detailed in the Debit Arrangement of the Direct Debit request. You will also be responsible for any fees and charges applied by your financial institution for each unsuccessful debit attempt together with any collection fees, including but not limited to any solicitor fees and/or collection agent fee as may be incurred by us.
- J. You authorize us to attempt to re-process any unsuccessful payments.
- K. You acknowledge that certain fees and charges (including setup, variation, SMS or processing fees) may apply to the Direct Debit Request and may be payable to us and subject to your agreement with us agree to pay those fees and charges.
- L. By agreeing to the Direct Debit Request, we will direct debit your account once You have supplied your account details and confirmed the terms and conditions. We will only arrange for funds to be debited to your account as authorized in the direct debit request. If You do not confirm your payment details within (3) three days of the acceptance of the order, the COMPANY will cancel your order and this agreement will become void. If the due date isn't a business day, we will then debit the amount on the next business day. We won't change the amount or frequency of these arrangements without informing you know first.

CREDIT CARD PAYMENTS

- M. You acknowledge that "Flick" will appear as the merchant for all payments from your credit card.
- N. We will keep all information in your direct debit request confidential. We will make reasonable efforts to keep any such information that we have about you secure and to ensure that any of our employees or agents who have access to information about you do not make any unauthorized use, modification, reproduction or disclosure of that information.
- O. We will only disclose information that we have about you:

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□ to the extent specifically required by law

□ for the purpose of this agreement (including disclosing information in connection with any query or claim or when we refer you to debt collection agency). You hereby irrevocably authorize, direct and instruct any third party who holds/stores your personal information (relating to Agreement) to release and provide such information to us on our written request.

P. You authorize:

- i) Us to verify and/or correct, if necessary, details of my/our account with my/our financial institution; and
- ii) Your financial institution to release information allowing us to verify my/our account details.

DIRECT DEBIT REQUESTS

Q. The Authorization is to remain in force in accordance with the terms and conditions and the details provided in the agreement until cancelled by You or lapsed in accordance with the details provided.

9) LIMITATION OF LIABILITY

To the extent permitted by law:

- A. nothing in this agreement operates to make us liable (whether under contract law, common law or otherwise) to you 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. where a claim relates to a guarantee or warranty under the Australian Consumer Law, our liability to you under this agreement, whether in contract, tort (including, without limitation, negligence) or otherwise is 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 in the case of Services, is limited to the cost of supplying those Services again, whichever may be determined in our absolute discretion to be appropriate in the circumstances.
- C. 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 we are not liable for any claims made for injury, 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.

10) STATUTORY WARRANTY

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

- A. to cancel your service contract with us; and
- B. to a refund for the unused portion, or to compensation for its reduced value. You are also entitled to be compensated for any other reasonably foreseeable loss or damage.
- C. 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 your contract and obtain a refund for the unused portion of the contract.

11) SERVICES WARRANTY CLAIM

- A. If you have a problem with our Services or believe that you may have a Services warranty claim in relation to our Services:
- B. please contact our Branch who provided the Services at Flick Anticimex Pty Ltd of Unit 9, 145 Arthur Street, Homebush West NSW 2140): Phone number 13 14 40 or email flickservices@flick.com.au
- C. arrange a convenient time for the Services to be inspected and if we determine in our absolute discretion to

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be appropriate in the circumstances, a convenient time for the Services to be resupplied

12) GOODS AND SERVICES TAX

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.

13) INABILITY TO DELIVER SERVICES

To the extent permitted by law, we will not be responsible for failure to meet its contractual obligations if the failure results directly or indirectly from a cause beyond its control

14) PRIVACY

Subject to us complying with the Privacy Act 1988, you authorize us and our agents to collect your personal information for providing the Services and the Equipment and for internal administration and operational purposes, market and customer satisfaction research and to comply with legislative and regulatory requirements. If you do not provide your personal information, we may not be able to provide you with our Services and Equipment. We and our agents may use your personal information and disclose it to our related bodies corporate and third parties to inform you about products and services, special offers and discounts provided by us, our related bodies corporate and third parties that may be of interest to you. For further information on how we deal with your personal information you can view our privacy policy at flick.com.au/privacy, call 13 14 40 or send an email to privacyofficer@flick-anticimex.com.au. If you do not wish to receive direct marketing communications from us, our related bodies corporate or third parties, please contact us at privacyofficer@flick-anticimex.com.au and include your name and address and we will not send you any further direct marketing communications.

15) GOVERNING LAW

This agreement is subject to the laws of the State where the Service Address is located, and the parties submit to the jurisdiction of that State.

16) DEFINITIONS:

For these terms and conditions:

“Commencement Date” means the date The Customer agree with Flick to start the Home Protection Plan and Authorize Flick to Debit the Nominated Payment method.

“THE COMPANY” means us, our, we and Flick Anticimex Pty Ltd. (ABN 85 000 059 665) Unit 9, 145 Arthur Street, Homebush West NSW 2140;

“THE CUSTOMER” means you being the customer, receiving the service

“Equipment” means the pest control equipment and any other equipment potentially provided under this agreement, and includes any additional or replacement equipment;

“Initial Term” 12 months from Commencement Date or from the date an upgrade/downgrade of your subscription is invoiced. In addition, if a reticulation maintenance add-on form part of your package, the initial term will become 36-months.

“Service Address” means the address specified on the Customer Portal and on our Service Reports;

“Service Price” means the price for each service specified in the Customer Portal;

“Services” means the pest control service agreed with Flick and as specified on your Service Report;

“Term” means the Initial Term and further term we are servicing you, THE CUSTOMER,

“Subscription” means the arrangement where the services are offered to you periodically by sending you recurring invoices as per the Terms and Conditions set out under this agreement. “Termite Solutions” means the Termite Management System or Termite Baiting System installed at customer premises

By accepting the Terms and Conditions, this Authorization is to remain in force in accordance with the terms and conditions for Direct Debit Requests. I acknowledge that my personal information will be collected, used, held and disclosed in accordance with the Flick Anticimex Privacy Policy as stated in the Terms and Conditions.

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Part B General Pest - Home Protection T&Cs

17) Exclusions

Excluded Pest Species from Package Pest Targets:

- i. Ants exclude Red Fire Ants, Carpenter Ants, Funnel Ants & other declared pest species
- ii. Rodents exclude native rodent species,
- iii. Bees,
- iv. Spiders exclude ground dwelling species (Funnel web, Trapdoor, Mouse, Wolf, Huntsman and Jumping,
- v. Wasps exclude Mud Daupers, VI) Caterpillar excludes all species except Urticaria (rash) causing species, VII) Lice exclude Head and Body Lice,
- vi. Moths exclude Fabric moths, IX) Other – Any other native or declared species.

18) CUSTOMER RESPONSIBILITIES

- A. Follow all recommendations by the Pest Technician on the service report provided
- B. Pets are regularly treated to ensure they are free from Fleas and ticks at all times
- C. To work in conjunction with Us or any of their representatives in reference to any reportable pest species found on the property including specific guidelines as outlined by the relevant authority

19) FREE EMERGENCY SERVICES

Free Emergency Services refer to pest treatment required for internal sightings only, the Free Emergency service will be a targeted internal treatment to the pest species reported at time of request, this is a limit of the warranty conditions and any additional costs incurred are not covered

20) IF EQUIPMENT IS NEEDED IN YOUR HOME PROTECTION PLAN

- A. If Equipment is needed for your Home Protection Plan - We will endeavor to install the Equipment on the Preferred Installation date, 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 our property of notwithstanding its installation at the Service Address.
- B. You agree to comply with all instructions given by us concerning the use and operation of the Equipment and will advise us as soon as possible if the Equipment is damaged or in need of repair. You will not attempt to relocate, move, dismantle, modify or repair the Equipment or allow any person other than us to do so.
- C. You agree to take care of the Equipment (including prevention from misuse and theft), and, to the extent permitted by law, you indemnify us for all loss of or damage to the Equipment from any cause whatsoever on a replacement cost basis.
- D. If for any reason the Equipment becomes a health or safety hazard, you must immediately inform us
- E. All equipment remains the property of Flick Pty Ltd and must be returned to Flick on termination of the said agreement.

21) TERMITE PROTECTION - TIMBER PEST INSPECTION ("TPI"), WARRANTY INSPECTION AND RETICULATION SYSTEM ("RE-TIC SYSTEM")

If Timber Pest Inspection, Warranty Inspection or Re-Tic system services forms part of your Home Protection Plan specific terms and conditions apply in accordance with

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the Report/Reports that will be delivered to you after Inspection has been completed. In addition.

- A. Active Termites found during initial TPI - Please note
– if any termite activity is found during initial TPI or other service at commencement of Home Protection Plan this will require remedial termite treatment at client costs prior to any further works or Home Protection Plan can be considered active.
- B. Termite Management System in place that has not been installed by us or our subsidiaries – If we under our current license are not allowed to service the system, we have the right to cancel our current Home Protection Plan with you.
- C. A termite management system installed by us requires warranty activation by signing up to the home protection plans (exception, Convenience Plan). As per the Home protection plan, annual warranty inspections required to maintain warranty and it is your responsibility as our customer to provide access for these on annual basis.
- D. Pump-up of the installed re-tic system is required every three years. The reticulation maintenance add-on cover the ongoing maintenance of your system.

22) ADDITIONAL PAYMENT AND TRADING TERMS

- A. You agree to pay for the Service in accordance with our trading terms that are stated in the agreement; Direct Debit of monthly charges depending what Home Protection Plan that has been chosen.
- B. Excluded pest species may incur extra charges depending on the environment and conditions as required.
- C. Any adhoc or value add services sold at service to be paid with credit card and are considered a knockdown treatment with no warranty or emergency services.

Part C Termite Solutions - Home Protection T&Cs

23) Term – Termite Services

If a reticulation maintenance add-on form part of your package, the initial term will become 36-months based on the need for 3-yearly reticulation maintenance (pump-up). If you cancel your Subscription Plan prior to the end of the initial 36-month Term and you have more than 30 days left in your minimum term, you can pay out the agreement. We (Flick) will calculate the amount you must pay for service support and administrative costs by multiplying your monthly fee by the number of months left in your minimum term from the Commencement Date.

24) OWNERSHIP OF DRAWINGS

- A. Technical documents, specifications or drawings submitted to you before a contract is formed remain the property of us at all times and may not be transmitted to a third party, copied, reproduced or used by you unless our prior written permission of the company is obtained.

25) WARRANTIES

- A. The installed Termite solutions will give you between 3 to 5 years cover from the date of installation for certain events on the condition that service plans are performed by Us in accordance with your current agreement. Further, below terms will need to be complied with by as outlined below:
 - a. It is your obligation to assure the services are performed in accordance with your current agreement. Failed payments (direct debits) may result in warranty being void.
 - b. If the warranty gets cancelled due to non-payments, you may request that we reinstate the warranty, which will need to follow the specific procedure set out in this clause for this to occur.
 - c. In the event that the Termite solution does not perform to the warranty and subject to the Conditions and Exclusions below, we agree that we will:
 - i. at our option repair or replace any timber which is damaged as a result of damage by termites entering the Premises by subterranean infestation within the agreed period from the date of the Termite solution being installed for a value up to AUD \$50,000. Any repairs by us to the building will be performed to match, as close is reasonably possible, the existing

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fit, finish and appearance in the damaged area of the building.

- ii. at our option repair, restore or replace any painted or varnished or stained surfaces damaged as a result of attack by termites entering the Premises by subterranean infestation within the agreed period from the date of the Termite Solution being installed.
 - iii. During the repair process, we may decide that, instead of removing or replacing the damaged components of the Building, it will instead reinforce and/or reconstruct that component or part of the Building containing the component in such a way that the structural purpose of the components are preserved, supplemented or transferred to another component provided that the area of the Building that contains such components shall have an appearance after repair, when viewed from the exterior or interior living spaces, which are similar to its appearance before it was damaged;
- B. The method of repair, replacement or restoration will be determined after consultation with You, but we shall be solely entitled to determine the method, whether and to what extent the repair, replacement or restoration shall be carried out.
- C. The benefits conferred upon you by this Warranty are in addition to all other rights and remedies had by you in law against us except to the extent to which we are entitled to modify or exclude such rights and remedies.
- D. Exclusions that apply to the warranty;
- a. The benefits of the warranty do not apply to; any claim in respect of any timber forming part of the premises where:
 - i. the floor area of such Premises has been extended or increased;
 - ii. the premises have been renovated, altered, restored or repaired in the areas of infestation or access by termites;
 - iii. the areas have not been treated or serviced according to the service plan or in accordance with our recommendations.
 - b. Any claim arising out of a physical or chemical disruption to the System where such disruption is directly or indirectly the result of:
 - i. the negligent or deliberate act or omission of you.
 - ii. any act of God, natural disaster, riot, civil commotion, war, undeclared hostilities, arson, vandalism or any other cause whatsoever beyond our reasonable control;
 - c. Any claim in respect of any damage by subterranean termite attack, where the regular inspections as per AS 3660 have not taken place;
 - i. any claim arising from termite infestation through the concrete slab, or where the slab has not been constructed in accordance with AS 2870-1996;
 - ii. any claim arising from termite infestation through the penetrations, concrete slab, or where any termite infestation has occurred at any point.
 - iii. any claim where you have increased the risk to the area of infestation or access by termites:
 - 1. building garden beds or landscaping or otherwise covering weep holes in the brickwork or structure of the Premises;
 - 2. storing or allowing the accumulation of timber, refuse, firewood or other materials close to the Premises;
 - 3. Committing any other act or omission
 - d. (a) any claim lodged more than 30 days after you become aware (or reasonably should have been aware) of any attack by termites;

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- e. Any claim for loss, damage costs or expense whatsoever suffered by you which is caused or contributed to by any negligence or willful default by us, our employees, agents or independent contractors.
 - f. **All environmental conditions and recommendations are rectified following each Annual Timber Pest Inspection included as part of this agreement.**
- E. The services comprise our assessment of the best way to manage your needs, any expected results from the services communicated by us to you are our assessment of the most likely outcome for you and do not and will not be deemed to constitute a warranty or guarantee by us that any expected results will in fact be achieved by the services.
- F. Subject to the provisions of the contract, all and any express or implied terms, conditions, warranties and representations with respect to the standard, quality, condition, fitness, durability or suitability of the services (except those expressly contained in these terms or otherwise expressly agreed to in writing by us) are to the extent that the same may be excluded by law, hereby expressly negated and excluded.
- G. You must satisfy yourself as to the standard, quality and suitability of the services and the fitness of the services for the purpose(s) for which the services are being purchased and as to its compliance with the description (if any) of such services. Any description is for identification purposes only and the use of a description does not of itself make any contract a contract of sale by description.
- H. These terms shall not exclude restrict or modify or have the effect of excluding restricting modifying the application in relation to a contract of all or any of the provisions of division 1 of Part 3-2 of schedule 2 to the Competition and Consumer Act 2010 ("the act") or the exercise of right conferred by such a provision or any liability of us for breach of a guarantee implied by such a provision but all other guarantees, conditions of warranties which would or might otherwise be implied are hereby expressly excluded and negated.
- I. To the extent that the Competition and Consumer Act 2010 permits us to limit our liability for a breach of a guarantee implied pursuant to division 1 of Part 3-2 of schedule 2 of the act, then our liability for such breach including any consequential loss which you or any third party may sustain or incur is limited, at our option, to:
- a. the replacement or repair of the any goods supplied to you;
 - b. the supply to you of equivalent services; or
 - c. the payment of the cost or replacing or repairing the goods or of having the equivalent services supplied again, whichever may be determined in our absolute discretion to be appropriate in the circumstances.
- J. The benefits of any warranty herein contained do not apply in the case of:
- d. Defects in any goods caused by your misuse or neglect; or
 - e. Services, which have been altered or added to or otherwise modified without our prior written consent.
- K. Warranty Service
- A. To the extent permitted by law, no warranty period applies in respect of the services unless we have expressly offered a warranty period as a term of the contract you.
 - B. If you have a problem with our services or believe that you may have a services warranty claim in relation to our services:
 - a. please contact our Branch who provided the services (or if this is not convenient call us at 13 14 40);
 - b. arrange for inspection of your premises and an assessment of the effectiveness of the services may be carried out by us, at our expense.
 - c. if a warranty period applies under clause A, you must allow us access to your premises at all reasonable times as required by us to undertake any warranty work.

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26) Timber Pest Inspection and Report

If a timber pest inspection/report is required as part of your suggested property management plan you acknowledge that:

- A. The inspection report does not include the inspection and assessment of matters outside the scope of the requested inspection and report.
- B. 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. Obstructions are defined as any condition or physical limitation which inhibits or prevents inspection and may include -- but not limited to -- 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.
- C. The detection of "Drywood Termites" may be extremely difficult due to the small size of the colonies. Any inspection DOES NOT IN ANY WAY search for the existence of Drywood termites. An inspection for Drywood termites can be performed upon special request.
- D. The inspection and report are not a structural damage report. If it reveals evidence of any timber pest activity/damage, it is recommended that the client engage the appropriate professional to conduct a full inspection to ascertain the extent of any damage.
- E. The inspection and report are indicative of the condition of the subject building and site at the date and time of the inspection only and is not to be construed as an express or implied warranty or guarantee against latent, concealed, or future infestation or defects.
- F. The inspection is to be produced for the sole use of the client named in the booklet or property management plan agreement. The company or its representatives are not liable for any reliance placed on the report by any third party.

27) Delays

- A. We are not be liable for any loss or damage suffered by you by reason of a delay, suspension or cancellation of any services in part or in whole for any reason beyond our control, breakage or failure of any machinery or apparatus required to deliver the services or labor trouble, strikes, lockouts or injunctions, services delayed, suspended or cancelled under this clause may at the option of the company be cancelled completely or delivered at a later time, (without any liability attaching to us as a consequence) and in either case, we will notify you in writing accordingly.

28) Risk and Title

- A. Title to any goods or materials supplied by us to you as part of the services does not pass to the you until such time ("the specified time") as the cost of the services and all other moneys (if any) due from you to us in respect of the services or under any contract between the us and you have been paid to us in full.
- B. Until the specified time, you are only a bailee of any goods or materials for us and you will:
- C. Hold the goods or materials until the specified time as to enable them always readily to be identified as our property; and
- D. Upon written demand re-deliver the goods or materials to us or allow us by our servants or agents to enter upon any premises where the goods or materials are stored recover the Same.
- E. Any goods and materials are at our risk until the time they are delivered to you, when risk passes to you.

29) Damage

- A. Although all care will be taken by us, we do not assume any responsibility for damage to utility/service pipes, conduit and/or fittings caused by drilling, cutting and/or trenching of soil and masonry surfaces whilst engaging in the application of the selected property management plan. It is highly recommended that if any uncertainty exists as to the location of any utility/service pipes, conduit and/or fittings you should engage the appropriate professional to locate and mark any utility/service pipes, conduit and/or fittings before the commencement of treatment.
- B. We are not experts in the construction or building trades, any property management plan proposal and/or its associated components do not and cannot state the extent of any structural damage caused by subterranean termites, wood decay fungi or borer infestation. If any past/present/suspected damage is brought to your attention it is recommended that the owner or other interested parties contact a qualified building engineer, architect, or other qualified expert in the construction or building trades to determine the existence and/or extent of possible structural damage to the building or structures pertaining to this property management plan.

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- C. During the course of the selected property management plan, we may be required to carry out tests and procedures using the following techniques and instruments:
- a. Electronic moisture detecting meter - an instrument used for assessing the moisture content of timber.
 - b. Stethoscope/listening device -- a listening device used to hear sounds within building elements.
 - c. Termatrac -- an electronic device used to track termite movement within building elements.
 - d. Borescope -- an instrument used to view the internal of voids through a small hole, usually a hole will be made to accommodate this method.
 - e. Sounding -- a technique where building elements are tapped with a solid object.
 - f. Probing -- a technique where timber and other materials/areas are penetrated with a sharp instrument.
 - g. The removal and/or cutting and/or drilling of certain building elements to ascertain subterranean termite infestation/activity and suitability for treatment may also be required.

Although all care will be taken, we are not liable for damage caused by the carrying out of these or any other tests or treatment techniques that are a required part of the selected property management plan.

30) Waiver

- A. A party does not waive a right or power simply because it fails to exercise or delays exercising that right or power. A single exercise or power does not prevent in exercising it again or exercising any other right or power. A right or power may only be waived in writing signed by the party to be bound by the waiver.

31) Severability

- A. Any provision in these terms which is invalid or unenforceable is to be read down, if possible, so as to be valid and enforceable. Otherwise, the offending provision may be severed to the extent of the invalidity of unenforceability, without affecting the remaining provisions of these terms.

32) Environmental Conditions

- A. The actions of property owners can be instrumental in reducing the suitability of the environment to subterranean termites. This will help in reducing the risk to the serviced structure of subterranean termite attack as well as improving the ease of inspection to the building for the presence of subterranean termites and timber pests.
- B. For any Termite solution or treatment system installed by Us to work effectively, the following Environmental Conditions must be adhered to in respect of the Serviced Structure during the Cover Period:
- C. It is important that this section is read, understood and implemented. Failure to adhere to these precautions will result in the cancellation of any warranty issued by Us.
- D. For further advice and information contact your local Branch,
- E. Slab edge exposure: Where no termiticide treated zone exists, a minimum of 75mm of exposed slab edge must be maintained.
- F. Slab Levels: The finished level for soil, paths, pavers, garden beds etc. must be a minimum of 75mm below weep holes.
- G. Storage Practices: All areas of the subfloor and/or external perimeter of the structure should be kept clear of stored items, (a minimum clearance of 350mm away from the serviced structure is required). Any item/s stored within the property's boundaries, especially those containing cellulose such as timber, cardboard, paper, etc. must be stored in a manner that allows clear access for inspection and does not bridge, breach or disturb any part of the installed subterranean termite treated zones. Any items stored in subfloor areas must not provide accessible food for termites, hidden paths for termite entry, and must not reduce effective ventilation.
- H. Vegetation & Gardens: General vegetation around foundation areas should be managed so that inspection zones and airflow are not impeded. Planting of trees near buildings must be avoided to limit root intrusion, climbing plants and/or thick vegetation growing against the side of the structure will bridge or breach the subterranean termite treated zone and provide subterranean termites with a well concealed entry point. These situations must be remedied as soon as possible by clearing plants away from the structure, leaving a clearance of at least 300mm and/or installing root barriers 300mm out from the foundation. Garden beds with coverings such as pine bark, woodchip and/or materials containing cellulose create an environment conducive to subterranean termite activity, in addition to creating a bridge across any subterranean termite treated zones that are installed.

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Vegetation must be maintained so that it does not obstruct the weep holes and/or ventilation. Soil levels must be maintained at least 75mm below weep holes, any disturbance to soil adjacent to building where a termiticide treated zone is installed must be repaired immediately. Contact Us for assistance.

- I. Moisture: Moisture sources can result in unnecessary moisture accumulation which is one of the main contributing factors in subterranean termites nesting close to, or within structures, particularly in drier areas. Moisture sources should be managed to reduce their effect on structures, surface and ground water should be diverted away from the structure by installing appropriate drainage systems. Moisture situations may result from inadequate poorly maintained:
 - J. roof drainage e.g., leaking plumbing, inadequate down-pipes;
 - K. surface drainage e.g., ground sloping towards walls, raised ground levels, garden beds and wind-blown soil;
 - L. plumbing e.g., leaking showers, unsealed tap flanges, leaking taps, cracked and perforated pipes, blocked drains and faulty connections, inadequate air conditioner and/or hot water system drainage, flashing around windows and doors, and leaking garden/lawn irrigation systems.
- M. rainwater tanks, spas etc. installed abutting the structure pose significant moisture problems, especially when installed on a concrete pad. In such cases subterranean termites often gain entry into the structure from these concealed areas, treatment to these concealed areas is vital in any subterranean termite management plan.
- N. Debris Timbers: Timber off-cuts, form timbers, etc., existing in subfloor and perimeter areas of the structure provide an attractive food source and nesting site for subterranean termites and pose an unnecessary risk. These situations must be remedied as soon as possible by removal of these items from subfloor and external areas.
- O. Ventilation: Substandard ventilation in the subfloor areas of a structure result in high humidity and a moisture rich environment. Wood decay fungi and subterranean termites thrive in these conditions. Strong airflow by natural or artificial means may aid in reducing temperature and humidity in the subfloor area resulting in evaporation of soil moisture, crossflow ventilation with the avoidance of eddy or still points should be optimized.
- P. Structures: Structures such as fences, retaining walls, pergolas, etc. should be constructed using termite-resistant components. Attachments to buildings such as down-pipes, service pipes, attached fence posts, air conditioning units, hot water systems, etc. must have a nominal gap of 50mm minimum at the ground contact point to allow clear and uninterrupted visual inspection. All timber posts, fence palings, house battens, etc. in ground contact must have a nominal gap of 50mm minimum to allow clear and uninterrupted visual inspection or have an effective termiticide treated zone installed where practical.
- Q. Dead Trees and stumps: Dead trees and/or stumps are favored nesting sites for subterranean termites and must be removed as they pose an un-necessary risk to the structure; Treatment may be conducted to these areas and is highly recommended prior to removal if subterranean termite activity is located. However, this treatment offers no protection from future/further subterranean termite activity.
- R. Disturbance to treated soil areas: If a termiticide soil treated zone is installed to the property, the disturbance, adding to and/or removal of this soil will result in a break to the treated zone allowing subterranean termites entry through the breach, disturbance may be caused by tilling of soil, pets and/or children excavating soil, degradation and erosion by way of water runoff, installing paving and/or concrete paths, etc. Any suspected breach of the treated zone must be investigated immediately so that rectification of the breach can be undertaken. Contact Us for assistance.