

ADHOC TERMITE PEST CONTROL SERVICES

TERMS AND CONDITIONS

Thank you for appointing Flick Anticimex Pty Ltd ABN 85 000 059 665 (**Flick** or **THE COMPANY**) to supply you (**you** or **THE CUSTOMER**) with certain products and/or services relating to the treatment and pest control services relating to termites and/or timber pests (**Services** or **Termite Services**).

The Terms and Conditions set out in this document, contain the entire agreement and understanding between THE COMPANY and THE CUSTOMER on everything connected with the provision of the "Termite Pest Control" Services.

These terms supersede any previously issued Terms & Conditions.

These Terms and Conditions (**T&Cs** or **Terms**) comprise Part A of this document (General) and each other section identified below which applies to the Services provided to you by THE COMPANY (together, the **Termite T&Cs**). Any Termite Services provided to you by THE COMPANY will be subject at all times to:

- (a) the expressly stated warranties and conditions (and any applicable exclusions) provided to you in writing;
- (b) the Termite T&Cs; and
- (c) any specific instructions or recommendations to you from THE COMPANY in any service report or other written format from time to time.

To the extent that you engage THE COMPANY for certain services in addition to the Termite Services, then any terms and conditions relating to those other services will be separately governed by those other terms and conditions provided to you by THE COMPANY.

Part A: General terms and conditions relating to Termite Services
Part B: Timber Pest Inspection terms and conditions
Part C: Termite Management Plan and Proposal terms and conditions
Part D: Certificate of Treatment terms and conditions
Part E: Certificate of Installation (New Constructions – AS3660.1) terms and conditions

ACKNOWLEDGEMENT: By accepting the Services, you THE CUSTOMER represent and warrant that you have read, understand and agree to all of the Termite T&Cs.

Part A General

2 ENTIRE AGREEMENT

2.1 THE CUSTOMER may accept these terms and conditions:

- (a) by agreeing and signing a TERMITE SERVICES SUPPLY AGREEMENT (if any) which includes these terms and conditions;
- (b) by agreeing to accept these terms and conditions via THE COMPANY's website or online portal;
- (c) by confirming acceptance of a quote from THE COMPANY and the TERMITE SERVICES SUPPLY AGREEMENT by email or telephone; or
- (d) in the event that THE CUSTOMER does not provide written acceptance to the terms of the TERMITE SERVICES SUPPLY AGREEMENT and these terms and conditions in accordance with the above, if THE CUSTOMER otherwise accedes to, accepts and permits THE COMPANY to perform 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 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 TERMITE 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 17.
- 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.

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 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 If you do not pay us the amounts payable to us in full by the due date for payment, we may submit your account to a collection agency. You agree that we may recover the outstanding amount 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.
- 8.4 **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.
- 8.5 **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.
- 8.6 **Disputed invoices:** If you dispute any charges on an invoice, the dispute must be submitted to us in writing within 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.
- 8.7 **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.
- 8.8 **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.
- 8.9 **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, 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 PAYMENT OPTIONS

9.1 CREDIT CARD PAYMENTS

- (a) THE COMPANY's preferred option for payment made available to you is by way of credit card payment. THE COMPANY will provide you with an option to pay your invoiced amounts through its secured payment gateway (including options via internet website portal and via telephone).
- (b) You acknowledge that "Flick" will appear as the merchant for all payments from your credit card. Prior to the performance of the relevant Services, you authorise and permit THE COMPANY to pre-authorise the charge on your credit card and take payment upon completion of those relevant Services (or on the relevant recurring date if applicable).
- (c) All credit card information provided by you for the purpose of payment will be processed through THE COMPANY's secured payment gateway powered by Stripe. No such information will be accessed or held by THE COMPANY, and all information provided by you on the secured payment gateway will be processed and held in accordance with the third-party provider's privacy policies. We will take all reasonable efforts to keep any 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.
- (d) We will only disclose information that we have about you:
- (i) to the extent specifically required by law; and
 - (ii) 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.
- (e) 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.
- (f) By agreeing to provide us with the information necessary to charge your credit card, you authorize THE COMPANY to debit your account on the relevant due date for payment of an invoice. 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.
- (g) We may cancel your credit card authorization if any charge is rejected by your financial institution, in which case you'll need to make alternative payment arrangements. We'll keep all your bank or credit card information private and confidential. As our Customer - You may change your authorized payment options by contacting us on 0800 101 969. If for any reason, debits from your account have been unsuccessful, THE COMPANY 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. If you close or terminate your credit card, you must contact us to arrange an alternative payment as soon as reasonably practicable. Failure to do so may result in THE COMPANY taking debt recovery action.

9.2 OTHER PAYMENT OPTIONS

- (a) From time to time, THE COMPANY may offer or reduce the options for payment made available to you to pay any fees or other amounts due under these terms and conditions. Each of these payment options will be presented to you alongside THE COMPANY's invoice to you.
- (b) Certain payment options may include additional processing or transaction fees, as set out on the invoice to you next to that payment option, and you acknowledge and agree that those costs are reasonable.

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 Notwithstanding any other provision of this agreement, 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.
- 10.4 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); and
 - (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.
- 10.5 This clause 10 survives termination of this agreement.

11 LIMITATION OF LIABILITY

- 11.1 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 or as set out in these terms and conditions.
- 11.2 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:
 - (i) 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
 - (ii) 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;
 - (d) 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;
 - (e) 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;
 - (f) each party must take all reasonable steps to mitigate any loss, liability, damage, cost or claims incurred by them under this agreement;
 - (g) 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
 - (h) THE COMPANY expressly excludes all warranties, guarantees, representations and conditions except as may be made by THE COMPANY to you in writing.
- 11.3 Any goods or services provided by THE COMPANY pursuant to this Agreement are provided for the benefit of THE CUSTOMER only.
- 11.4 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.
- 11.5 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).
- 11.6 This clause 11 survives expiry or termination of this agreement.

12 TERMITE-RELATED CERTIFICATES AND RELIANCE

- 12.1 Any certificate, report or written advice produced by Flick is for the sole use and reliance of the client named in the relevant agreement, booklet or property management plan agreement. Flick and its representatives are not liable for any reliance placed on the report by any third party without Flick's prior written agreement.

13 STATUTORY WARRANTY

- 13.1 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.

14 SERVICES WARRANTY CLAIM

- 14.1 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.
- 14.2 In addition to any rights THE CUSTOMER may have under the Australian Consumer Law, 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 13), that a resupply of the Services is appropriate in the circumstances, a convenient time for the Services to be resupplied.

15 GOODS AND SERVICES TAX

- 15.1 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.

16 INABILITY TO DELIVER SERVICES

- 16.1 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.
- 16.2 For the purposes of this clause 16, 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.

17 PRIVACY

- 17.1 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.

18 INTELLECTUAL PROPERTY

- 18.1 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 GOVERNING LAW AND GENERAL TERMS

- 19.1 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.
- 19.2 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.
- 19.3 Any amendment or variation to this Agreement must be by written agreement between the parties.
- 19.4 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.
- 19.5 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).

20 RECALLS

- 20.1 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.
- 20.2 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.

21 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;

"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 provided to THE COMPANY via telephone or online portal (as applicable);

"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);

"Service Address" means the address notified to THE COMPANY by THE CUSTOMER and on our Service Reports; and

"Services or Termite Services" means the termite treatment services provided by THE COMPANY pursuant to this agreement.

Part B TIMBER PEST INSPECTION REPORT AND TERMS AND CONDITIONS

IMPORTANT INFORMATION:

THESE TERMS AND CONDITIONS APPLY WHERE YOU HAVE REQUESTED A TIMBER PEST INSPECTION FROM FLICK ANTICIMEX PTY LTD (COMPANY).

The Timber Pest Inspection report (**Report**) has been prepared in accordance with the scope, limitations, exclusions, definitions and terms and conditions as indicated and defined in an Agreement (if applicable) and the clauses below and you agree to pay Flick for the inspection and this Report prior to or on delivery of this Report, in accordance with the general terms and conditions of the timber pest inspection provided to you.

In the event that there is any inconsistency between the terms and conditions in this Report, the terms and conditions of the Agreement (if applicable) and any oral or written representations by Flick to you the following order of precedence applies:

- 1 the terms and conditions of the Agreement;
- 2 the terms and conditions in this Report; and
- 3 any oral or written representations from Flick to you.

1 INSPECTION

- 1.1 The inspection was 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 this Report is to provide you, with advice about the status and condition of the Service Address concerning termites and timber pest activity.
- 1.2 A copy of the Australian Standard AS 4349.3-2010 Inspection of buildings Part 3: Timber pest inspections is available for purchase by you at your cost from Standards Australia.
- 1.3 The inspection conducted by the Company was purely a visual and non-invasive inspection and is limited to those areas and sections of the Service Address to which Reasonable Access was both available and permitted at the time of inspection to the Company (and its authorised representatives).
- 1.4 The Flick accredited inspector may have used a probe or screwdriver to tap and sound some timbers. The Flick accredited inspector may have used a moisture meter to check moisture levels in walls that back onto wet areas such as showers etc. Other than these areas, the moisture meter was not used on other surfaces by Flick Anticimex Pty Ltd except where the visual inspection indicated that there may be a need to further test the area.
- 1.5 The inspection did 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.
- 1.6 The Flick accredited inspector cannot see or inspect inside walls, between floors, inside skillion roofing, inside the eaves, behind stored goods, in cupboards, in other areas that are concealed or obstructed. Insulation in the roof void may conceal the ceiling timbers and make inspection of the area unsafe. The Flick accredited inspector did not dig, gouge, force or perform any other invasive procedures.
- 1.7 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 inspection if requested by you.

2 SCOPE OF THE INSPECTION & REPORT

- 2.1 This Report details any evidence of curative or preventative termite management systems that were found at the time of the inspection.
- 2.2 To facilitate the inspection and the preparation of this 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 and/or the Property. 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. In the event that any incorrect or false information has been provided to the COMPANY, you acknowledge that any proposed treatments recommended by the COMPANY may not be sufficient or appropriate to manage any timber pests in the Service Address or continue managing any existing termite management systems in place.
- 2.3 Where a termite management system has previously been installed by a third party, the COMPANY may not be able to rely on such system and will, in the Report and/or any proposed termite management or treatment plan, notify you of the validity of a previous Flick Anticimex system or potential application of a third party termite and/or timber pest treatment (if any).
- 2.4 The inspection and this Report 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.
- 2.5 The inspection did not cover and this Report does not comment on any pests other than Timber Pests. Dry wood termites (Family: KALOTERMITIDAE) and European House Borer (*Hylotrupes bajulus* Linnaeus) are expressly excluded from the inspection and the scope of this Report.
- 2.6 The inspection is limited solely to the defined Property area, as notified by you to the COMPANY. 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 of any areas outside of that prescribed fifty (50) metre radius from the exterior walls of the main building. Where you have requested that the COMPANY inspects external gardens, trees and/or fences, such inspection is expressly limited to a visual and non-invasive inspection for key indicators used by the COMPANY and due to external factors including weather conditions, third party items, seasonal changes and other environmental factors, that visual and non-invasive inspection of external areas beyond the Property may not be a reliable or exhaustive inspection.
- 2.7 Please be aware that mildew and non-wood decay fungi are commonly known as mould is not considered a timber pest but may be an indicator of poor ventilation or the presence of Termites, wood decay or water leaks. Mould and the associated

spores may cause health problems or allergic reactions such as asthma and dermatitis in some people. Mildew and non-wood decay fungi has not been expressly identified as a Timber pest for the purposes of this Report.

3 LIMITATIONS AFFECTING THE INSPECTION AND THE REPORT

- 3.1 Nothing contained in this Report will imply that any inaccessible or partly inaccessible area(s) or section(s) of the Property are not, or have not been, infested by Termites or Timber Pests. The Report does not include the inspection and assessment of matters outside the scope of the Report.
- 3.2 Please be aware that **THIS 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.** This Report cannot and does not warrant or guarantee in any way that Timber Pests will not infest the structure(s) and/or Property anytime in the future. The Report is indicative of the condition of the subject building and site at the date and time of the inspection only and is not to be constituted as an express or implied warranty or guarantee against latent, concealed, or future infestation or defects. The COMPANY does not warrant or guarantee in any way that an inspection will exhaustively identify all timber pest infestations present at the SERVICE ADDRESS or PROPERTY.
- 3.3 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 on the Property. An inspection for Drywood termites can be performed upon special request.
- 3.4 Please be aware that Active Timber Pests may have been present within concealed or partly concealed locations of the structure(s) and/or within the boundaries of the Property at the time that the inspection was carried out. It is also possible that there may be Active Timber Pest within the structure(s) or boundaries of the Property at the time of writing of the Report. 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.
- 3.5 Please be aware that if the Property inspected is occupied then furnishings or household items may have concealed evidence of problems, which may only be revealed when the items are moved or removed. The scope of this inspection and any findings or recommendations 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. The Flick accredited inspector can only make comment on those areas of the Property to which Reasonable Access is both available and permitted at the time of inspection and any findings or recommendations are made expressly on the areas of the Service Address property to which the COMPANY has been granted Reasonable Access.
- 3.6 The inspection and report is 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.
- 3.7 The inspection and report is indicative of the condition of the subject building and site at the date and time of the inspection only and is not to be constituted as an express or implied warranty or guarantee against latent, concealed, or future infestation or defects.
- 3.8 The Flick accredited Inspector does not possess technology advanced enough and accurate enough to thoroughly and conclusively, look inside wall cavities and other visibly and/or physically inaccessible areas of a structure, without removal of interior linings, external cladding and a myriad of other obstructions incorporated in any type or mode of building construction. New technology does exist, in the form of a limited number of instruments that do assist in more thorough inspection of concealed areas of structure(s). However, these technologies do have distinct, inherent limitations and unless expressly stated to you in writing, have not been used in the conduct of the inspection or the preparation of this Report in respect of the Property.

4 RISKS AND DAMAGE

- 4.1 This Report does not and cannot state the extent of any Timber Pest damage. If any evidence of Timber Pest activity and/or damage resulting from Timber Pest activity is reported either in the structure(s) or the grounds of the Property, then you must assume that there could be some concealed damage which may be structural and load bearing within the structures(s).
- 4.2 If Timber Pest activity or damage is mentioned in this Report, it may be strongly recommended that an invasive Timber Pest Inspection (for which a separate contract is required with the owner of the property) should be carried out and you should arrange for a qualified person such as a builder, engineer or architect to carry out a structural inspection to determine the full extent of the damage and the extent of repairs that may be required.
- 4.3 It is possible that damage may only be found when wall linings, cladding or insulation are removed to reveal previously concealed timber.
- 4.4 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.

5 COMPLAINTS AND DISPUTE RESOLUTION PROCEDURE

- 5.1 In the event of any dispute arising out of, or relating to the inspection or this Report, you must notify Flick as soon as possible of the dispute or claim. 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.
- 5.2 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. If the COMPANY requires that it must visit the Property and inspect for any issues relating to the dispute, then You must allow Flick (which includes persons nominated by Flick) to visit the Property (the visit must occur within twenty-eight (28) days of your notification to Flick) and give Flick full access in order that Flick may fully investigate the complaint. You will be provided with a written response to your dispute or claim within twenty-eight (28) days of the date of the inspection. 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 (or 14 days after the COMPANY's response to

your dispute where an inspection is required). If THE COMPANY has breached the agreement during the Term, THE CUSTOMER can terminate the agreement.

- 5.3 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 5.2.

6 DEFINITIONS

- 6.1 You should read and understand the following definitions of words used in the Agreement (if applicable) and this Report. This will help you understand what is involved in a Timber Pest inspection, the difficulties faced by an inspector and the contents of the Report which Flick will provide to you following the inspection.

- (a) **access hole** means a hole in the structure allowing entry to an area.
- (b) **Active** means that live Timber Pests were sighted during the inspection.
- (c) **Agreement** means the Timber Pest Pre-Inspection Agreement (including the background and any document referred to in it) that you entered into with Flick (if any) prior to provision of this Report.
- (d) **Client** means the party identified as the client in the details on the front page of the Agreement (if any) and this Report, and where more than one party, all such parties jointly and together with any agent of that party who requested the report. If ordered by the client's agent, then it is agreed that the agent represents the client and has the authority to act for and on behalf of the client.
- (e) **Conducive Conditions** means the following conditions conducive to or may cause high risk of undetected Termite entry (and where any of the following terms are used in the Report, they must be interpreted in accordance with the conditions and definitions of those terms below) including but not limited to the following:
 - (i) **High moisture readings** which means a reading on a moisture meter that is higher than the norm for other parts of the structure. Such high reading should be investigated by invasive means as the high reading could indicate a leak or timber pest activity and damage.
 - (ii) **Slab Edge Exposure:** Where external concrete slab edges are not exposed, this presents a high risk of concealed Termite entry. In some buildings built since July 1995, the edge of the slab forms part of the termite shield system. In these buildings an inspection zone of at least 75mm (slab edge exposure of 75mm minimum from the top of the slab edge down) should be maintained to permit detection of Termite entry (during inspections). The concrete edge should not be concealed by render, tiles, cladding, flashings, moisture membranes, adjoining structures, paving, soil, turf, vegetation or landscaping etc. Where this is the case you should arrange to have the slab edge exposed for inspection. Concealed Termite entry may already be occurring but could not be detected at the time of the inspection. This may have resulted in concealed timber damage. Termites often gain entry into a building by tracking over the foundation slab edges. Covering the edge of a concrete slabs makes concealed Termite entry easy. Infill slab type construction has an even higher risk of concealed Termite ingress as the slab edge is concealed due to the construction design and cannot be exposed. The type of slab may only be determined by assessment of the construction plans by a qualified person e.g. Builder, Architect. Construction Plans may be obtainable by your conveyancer. Termite activity and or damage may be present in concealed timbers of the building. We strongly recommend frequent regular inspections in accordance with AS 4349.3. Where the slab edge is not fully exposed, or the slab is an infill slab or the slab type cannot be determined then we strongly recommend inspections every 3 to 6 months.
 - (iii) **Termite Shields (Ant Caps)** should be in good order and condition so Termite workings are exposed and visible. This helps stop Termites gaining undetected entry. Joins in the shielding should have been soldered during the installation. Whenever it is evident that the joins in the shielding have not been soldered then the shielding must be reported as inadequate. It may be possible for a builder to repair the shielding. If not, a chemical treated zone may need to be installed to the soil abutting the foundation piers to deter Termites from gaining concealed access to the building.
 - (iv) **weep holes in external walls:** It is very important that the weep holes in brick foundation walls are not concealed or covered at all by soil, lawn, concrete paths or pavers. Sometimes they have been covered during the rendering of the brick work. They should be clean and free flowing. Covering the weep holes in part or in whole may allow concealed or undetected Termite entry.
- (f) **Flick or Company** means Flick Anticimex Pty Ltd (ACN 000 059 665) who is the company you have requested to carry out a Timber Pest inspection and provide this Report.
- (g) **Inactive** means that no Active Timber Pests were detected but evidence such as workings, damage, mudding or exit holes are found at the time of the inspection. NOTE: Where visual evidence of inactive termite workings and/or damage is located, it is possible that termites may still be active in the immediate vicinity and the termites may continue to cause further damage. It is not possible, without benefit of further investigation and inspections over a period of time, to ascertain whether any infestation is active or inactive. Continual, thorough, regular, inspections are essential.
- (h) **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.
- (i) **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:
 - (i) **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.
 - (ii) **Roof Exterior** – Only areas accessible from a 3.6-metre-high ladder will be inspected.
 - (iii) **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.
- (j) **Report** means the report issued to you by Flick following Flick's inspection of the Property.
- (k) **Termites** means subterranean and dampwood termites (white ants) and does not include dry wood termites.

- (l) **Timber Pests** means subterranean and dampwood termites (white ants), borers of seasoned timber, wood decay fungi (rot) present and, for the avoidance of any doubt, specifically excludes dry wood termites (Family: Kalotermitidae) and European House Borer (*Hylotrupes bajulus* Linnaeus).

Part C TERMITE MANAGEMENT PLAN AND PROPOSAL

TERMS AND CONDITIONS

1 APPLICATION OF TERMITE MANAGEMENT PLAN AND PROPOSAL TERMS

- 1.1 Prior to the quote, proposal or offer of a termite/timber pest management plan by the COMPANY to you, the COMPANY must have first conducted a timber pest inspection on the Service Address / Property. The COMPANY cannot rely on any timber pest inspection that is conducted by a third party or otherwise not conducted by the COMPANY, unless agreed in writing between the COMPANY and you.
- 1.2 The terms and conditions set out in these Terms will apply to any Termite Management Plan set out in a proposal or quote provided to you following the Timber Pest Inspection.

2 QUOTES, CONTRACTS AND TERMS

- 2.1 A quote or proposal given by Flick does not constitute an offer to provide any services. A quote or proposal is valid for thirty (30) days only and Flick reserves the right to withdraw or amend it at any time.
- 2.2 Any quote or proposal is valid only in respect of the scope and identification of any timber pests (or the absence of any timber pests) as described in the timber pest inspection report provided by the COMPANY to you, conducted on the Services Address and/or Property as referred to in the termite management plan and proposal.
- 2.3 A contract will only be formed after we accept an order from you (whether by issue of work order, or you allowing performance of the services set out in the order or otherwise) and will be subject to these Terms.
- 2.4 These terms replace all trading terms and conditions which may have applied between us and you in respect of the Termite Management Plan services.
- 2.5 These terms apply to the extent permitted by law, to the exclusion of any conditions or terms of purchase which the client may use or purport to apply to the contract.
- 2.6 Any quantities, weights or dimensions included in any quote, catalogues, advertisements, illustrated matter or price lists are approximates only and will not be binding unless and to the extent only that such details are specified in a contract with you.

3 SERVICES AND TERM

- 3.1 Under the Termite Management Plan, the COMPANY may consider it appropriate to offer to you a Termite / Timber Pest treatment or management plan, which aims to eradicate or control any termites at the Property.
- 3.2 Where a minimum treatment or minimum services term is specified in your Termite Management Plan services, then you agree that the COMPANY will provide such Services to you for at least that minimum term period.
- 3.3 The COMPANY will perform the Services in a professional manner, in accordance with any expressly stated Australian Standards requirements.
- 3.4 Installation of any physical or chemical products, or any other Termite management system at the Property as part of the Services does not negate the need for regular Timber Pest Inspections. All warranties provided by the COMPANY under these Terms relating to the Services is subject to the completion and findings of any Timber Pest Inspections conducted as the regular timing set out in your Termite Management Plan. THE COMPANY may charge you a fee for attending any scheduled Timber Pest Inspections in the manner set out in your Termite Management Plan.
- 3.5 If you fail to provide the COMPANY or its representative with Reasonable Access to the Property to conduct any regular Timber Pest Inspections within a reasonable time of the scheduled time, then the COMPANY may not advise you on whether the Termite Management Plan is effective and you acknowledge that your Property may be at risk of Termites. To the extent permitted by law, the COMPANY expressly excludes any liability in respect of the Termite Management Plan and the Services from the date that is 12 months from the last performance of the Termite treatment Services (whether physical or chemical treatment).
- 3.6 On completion of each Services treatment, the COMPANY will provide you with a written report detailing the scope and/or extent of any signs of infestation, and the treatment and products used by the COMPANY in the Services. Any reports provided by the COMPANY are provided solely for the benefit of the Client named in that document, and may not be relied upon by any other person or third party without the prior written consent of the COMPANY. The COMPANY may impose certain conditions or exclusions in respect of any permitted reliance on the Services report at its absolute discretion. The COMPANY expressly excludes any liability and you agree that you may not bring any claim against the COMPANY for any liability, loss or damage incurred by any third party due to a reliance on the contents of a Service report provided by the COMPANY without prior written consent of the COMPANY.
- 3.7 Termite management systems are implemented by the COMPANY to aim to eliminate or control a Termite colony. External factors beyond the control of the COMPANY may affect the effectiveness of any Services provided, including weather conditions, colony size, timing of treatment, time of year, species and third party interferences. If you have altered or conducted any third party services at any time after the COMPANY's performance of the Services, this may affect the validity of the treatment Services performance and may affect the application of any warranties relating to those Services. The COMPANY expressly excludes any liability, loss or damage incurred as a result of any third party interference or disturbance (including the performance of any alternative termite treatments by a third party) during the applicable warranty periods for the Services.

4 PROPERTY AND OWNERSHIP OF DRAWINGS

- 4.1 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.
- 4.2 The Services will be limited to treatment of an area defined as the Property as described in your Termite Management Plan. The Services may not offer any protection to structures or areas not identified on the Property.

5 TERMITE SERVICES LIMITATIONS AND ENVIRONMENTAL CONDITIONS REQUIREMENTS

5.1 IT IS IMPORTANT THAT THIS SECTION IS READ, UNDERSTOOD AND IMPLEMENTED. FAILURE TO ADHERE TO THESE PRECAUTIONS MAY RESULT IN THE VOIDING OF ANY WARRANTIES PROVIDED BY THE COMPANY, CANCELLATION OF ANY FREE SERVICE PERIOD OR VOIDING OF ANY TIMBER REPLACEMENT GUARANTEE ISSUED BY THE COMPANY. FOR FURTHER ADVICE AND INFORMATION, OR IF ANY DETAILS OF THIS SECTION IS UNCLEAR, PLEASE CONTACT YOUR LOCAL COMPANY REPRESENTATIVE.

- 5.2 If you request that the COMPANY provides you with timber pest management or prevention services or termite pest reticulation services (in which certain pesticides will be applied by the COMPANY around the relevant Service Address and applicable property areas), then the following conditions apply:
- (a) **(if inspection reveals any timber pests)** if there are any timber pests or termite activity found during the initial inspection conducted by the COMPANY, then the COMPANY requires that there is remedial termite treatment before ongoing termite prevention services or management services may be provided by the COMPANY. Proposed remedial treatment solutions will be at an additional cost, as per the quotation provided by the COMPANY to you.
 - (b) **(Non-Flick termite management systems)** If there are any non-Flick termite management systems currently in place, please inform the COMPANY or its representative as soon as possible. If the COMPANY did not install the termite management system, then, for the purposes of compliance under the applicable Australian Standards, the COMPANY may conduct a timber pest inspection. However, any timber pest inspection conducted by the COMPANY will not ensure the ongoing application of any third-party warranties or ongoing effectiveness of third-party or non-Flick timber pest prevention systems, and the COMPANY cannot and does not assume any warranty or liability in respect of those non-Flick termite management systems or products. For the avoidance of any doubt, if you have a non-Flick termite management system in place, You will not have the benefit of Flick's "Timber Replacement Warranty".
 - (c) **(Activation of warranty)** Any termite management system installed and the effectiveness of such system or timber pest prevent services is subject to (at a minimum) **ANNUAL** inspections conducted by the COMPANY – any areas or locations that have been identified as high-risk of timber pests may require more frequent inspections, such as on a 3 or 6 monthly recurring basis to maximise the effectiveness of any timber pest treatment system, and the COMPANY will inform you of this requirement upon installation of any timber pest management system. It is your responsibility as the customer to contact and arrange an appropriate time with the COMPANY to conduct such inspection. In the event that you elect to terminate the services provided by the COMPANY or elect not to conduct an annual inspection, then commencing from the period that is 12 months after the previous inspection conducted by the COMPANY, each of the warranties provided by the COMPANY in these terms and conditions will cease to apply to you, the Service Address and the Property. This means that your Property may be at risk of infestation, re-infestation or damage by timber pests.
 - (d) **(Reticulation services)** Where you have had termite reticulation services performed by the COMPANY, you must arrange for a 'pump-up' of the installed reticulation system no less than once every three (3) years or such other period as required by the Company (including as a result of your Property being in a high-risk location). It is your responsibility as the customer to contact and arrange an appropriate time with the COMPANY to conduct such annual inspection. Unless expressly provided in your Services package, reticulation pump-up service is not included in the COMPANY's service package and a separate quotation for the reticulation pump-up services will be provided to you.
- 5.3 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.
- 5.4 For the purposes of this clause 5:
- (a) **"Cover Period"** means the period during which the System and any applicable warranties under these terms which continues to apply, pursuant to any other written agreement between Flick and you relating to the System and/or the Serviced Structure or otherwise as agreed in writing between Flick and you.
 - (b) **"Serviced Structure"** means the property structure at the Service Address (including surrounding structures, gardens, trees fences etc. up to (50) metres from the exterior walls of the main building but within the boundaries of the land on which the main building is erected) on which the System was installed, as detailed in the written agreement between you and Flick relating to the System.
 - (c) **"System"** means the pest management or treatment system installed by Flick on the Serviced Structure.
- 5.5 For any Termite management or treatment system installed by Flick (**System**) to work effectively, the following Environmental Conditions must be adhered to in respect of the Serviced Structure during the Cover Period:
- (a) **Slab edge exposure:** Where no termiticide treated zone exists, a minimum of 75mm of exposed slab edge must be maintained.
 - (b) **Slab Levels:** The finished level for soil, paths, pavers, garden beds etc. must be a minimum of 75mm below weep holes.
 - (c) **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.
 - (d) **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, wood-chip 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. 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 Flick Pest Control for assistance.
 - (e) **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:

- (i) roof drainage e.g., leaking plumbing, inadequate down-pipes;
 - (ii) surface drainage e.g., ground sloping towards walls, raised ground levels, garden beds and wind-blown soil;
 - (iii) 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; or
 - (iv) 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.
- (f) **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.
- (g) **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, cross-flow ventilation with the avoidance of eddy or still points should be optimized.
- (h) **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.
- (i) **Dead Trees and stumps:** Dead trees and/or stumps are favoured nesting sites for subterranean termites and must be removed as they pose an unnecessary 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.
- (j) **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 Flick Pest Control for assistance.
- (k) **Renovations, landscaping or additions:** If you conduct any renovations, additions, landscaping, or otherwise change the structure of the Serviced Structure or the land and/or environment around the Serviced Structure at any time following the installation of the System or following a treatment by the COMPANY, then this will compromise the effectiveness and integrity of the System installed by Flick (including compliance requirements under the applicable Australian Standards. We recommend that prior to conducting such activity, you contact Flick Pest Control for assistance, or otherwise contact Flick following completion of your renovation or landscaping activity as soon as possible.
- 5.6 In the event that you fail to maintain or comply with the Environmental Conditions set out in clause 5.5 above, then the warranties described in clause 7 below will cease to apply in respect of the Service Address and/or Property. You should promptly contact Flick as soon as you are aware that there has been any non-compliance with any of the aforementioned Environmental Conditions. Flick will provide you a quotation for any inspection and/or treatment or remedial solution required to ensure that the Serviced Structure continues to be protected and for the warranties described in clause 7 below to be reinstated.

6 STATUTORY WARRANTY

- 6.1 Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
- (a) to a refund for the unused portion, or
 - (b) to compensation for its reduced value.
- 6.2 You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

7 WARRANTIES

- 7.1 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.
- 7.2 The COMPANY offers the following 'free service' warranty:
- (a) **(FREE EMERGENCY SERVICES)** following performance of the Services, within a period of 12 months from the date of completion of that treatment under the Services (**Warranty Period**), if there is any reoccurrence or infestation of Termites, the COMPANY will promptly arrange a time with you to re-perform the treatment Services under your management plan; and
 - (b) **(TIMBER REPLACEMENT WARRANTY)** following performance of the Services, subject to your compliance with the applicable conditions and exclusions, the COMPANY will, at no cost and at its option, repair or replace any damaged timber to the extent caused by any termites damaging the Property up to a limited amount. The full terms and conditions of this replacement warranty is available at: <https://www.flick.com.au/termitewarranty>.

Within the Warranty Period, you must notify the COMPANY promptly (by contacting your representative or a branch of the COMPANY) of any signs of re-infestation, presence of Termites or potential signs of presence of Termites (including weakened wood or other usual indicators). You acknowledge that re-performance of the original treatment Services may not be sufficient to combat any re-infestation or new infestation, and the COMPANY may recommend that you amend the scope of your

Termite Treatment Plan. This may result in additional Services at an additional cost to you. The COMPANY will not perform any amended Services without written agreement with you and will first provide you a quotation or proposal relating to such Services.

- 7.3 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.
- 7.4 To ensure the effectiveness and application of the warranties offered by the COMPANY under this clause 7, you must ensure that you comply with the Environmental Conditions, and implement any other conditions or recommendations by the COMPANY in your Termite Treatment Plan. Failure to implement these recommendations or conditions will result in the warranties provided by the COMPANY becoming void, or for the COMPANY to require that additional services are performed for you at an additional cost. If you have not complied with the Environmental Conditions or failed to implement any other conditions or recommendations by the COMPANY in your Termite Treatment Plan, you should contact Flick as soon as possible, and the COMPANY may require that a further inspection is carried out at the Property before it can reinstate the application of its termite treatment warranties.
- 7.5 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.
- 7.6 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.
- 7.7 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 of 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.
- 7.8 The benefits of any warranty herein contained do not apply in the case of:
- (a) Defects in any goods caused by your misuse or neglect; or
 - (b) Services, which have been altered or added to or otherwise modified without our prior written consent.
- 7.9 Certain manufacturers of products (including but not limited to physical barrier products and chemical products) used in the provision of the Services, may offer manufacturers warranties. Performance of the Services using such products is subject to these manufacturer warranties (including all limitations and exclusions in such warranties) and the COMPANY will notify you of any issue or recall associated with any products used.

8 RELEASE AND INDEMNITY

- 8.1 After delivery of the services to you, to the extent permitted by law, Flick is not responsible or liable to the you, and you release and discharge us, (in the absence of any wilful or negligent act or omission on our part) for and from any liability claim loss damage or expense of any kind or nature (including but not limited to loss of profits earnings or income direct indirect consequential contingent or resulting liability loss or damage whether to persons property or otherwise) or death or injury caused by or arising out of or relating in any manner or incidental to the services or the delivery of the services.

9 PRICE

- 9.1 The price payable for the services is the price or prices stated or otherwise set out in this booklet, our standard work order form or as otherwise notified to you in writing.

10 PAYMENT TERMS

- 10.1 Payment terms are strictly defined as:
- (a) **Residential properties** (houses, apartments, strata) – Unless covered by a separate agreement – payment is prior to installation service.
 - (b) **Commercial properties** – Thirty (30) days from the date of invoice
- 10.2 If payment is not made within payment terms, you will be in default under the contract and we may do any or all of the following:
- (a) decline to supply any further services to you;
 - (b) change the terms on which any future services are provided, including prepayments; and
 - (c) demand payment of all monies payable by you to us on any account whatsoever.

- 10.3 All other payment terms set out in the General terms will apply.

11 TIMBER PEST INSPECTION AND REPORT

- (a) If a timber pest inspection/report is required as part of your suggested property management plan you acknowledge that:
- (b) The inspection report does not include the inspection and assessment of matters outside the scope of the requested inspection and report.
- (c) 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.

- (d) 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.
- (e) The inspection and report is 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.
- (f) The inspection and report is indicative of the condition of the subject building and site at the date and time of the inspection only and is not to be constituted as an express or implied warranty or guarantee against latent, concealed, or future infestation or defects.
- (g) 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.

12 DELAYS

- 12.1 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 labour 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.

13 RISK AND TITLE

- 13.1 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 has been paid to us in full.
- 13.2 Until the specified time, you are only a bailee of any goods or materials for us and you will:
- 13.3 Hold the goods or materials until the specified time as to enable them always readily to be identified as our property; and
- 13.4 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.
- 13.5 Any goods and materials are at our risk until the time they are delivered to you, when risk passes to you.

14 DAMAGE

- 14.1 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.
- 14.2 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.
- 14.3 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.
- 14.4 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.
- 14.5 Although all care will be taken, we are not liable for damage caused by tests or treatment techniques that are a required as part of the selected property management plan.
- 14.6 You agree that neither Flick nor its representative conducting the Services 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 those Services or any inspection.
- 14.7 You must ensure that any area in which the Service is to be conducted 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 commencement of the Services. 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).
- 14.8 Timber pest treatment services 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).

15 CANCELLATION

- 15.1 Any request for cancellation of an order for services must be made in writing. Any request for cancellation is of no force or effect and is not binding on us unless and until the request for cancellation is accepted by us in writing.
- 15.2 Consent to a request for cancellation of any order for services is at our sole and absolute discretion.

16 WARRANTY SERVICE

- 16.1 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.
- 16.2 If you have a problem with our services or believe that you may have a services warranty claim in relation to our services: please contact our Branch who provided the services (or if this is not convenient call us at 13 14 40);
- (a) arrange for inspection of your premises and an assessment of the effectiveness of the services may be carried out by us, at our expense.
 - (b) if a warranty period applies under clause 16.1, you must allow us access to your premises at all reasonable times as required by us to undertake any warranty work.

17 WAIVER

- 17.1 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.

18 SEVERABILITY

- 18.1 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.

19 NOTICES

- 19.1 Any notice to be given or an invoice to be issued by us under these terms may be given or issued by:
- 19.2 leaving it at, or posting it to, your address last notified in writing to us; or
- 19.3 faxing it to your last fax number, last notified in writing to us.
- 19.4 Any notice posted to you will be deemed to have been received by you three business days after the date on which the notice was posted.
- 19.5 Any notice emailed to you will be deemed to have been received by you when transmitted to you and we have received a successful facsimile transmission report.

20 INTERPRETATION

- 20.1 In these terms, unless the context otherwise requires:
- 20.2 if you, the client comprises more than one person, any promise or agreement by you, the client binds each person individually and all of them jointly;
- 20.3 a reference to the you, the client includes your legal personal representatives, administrators and successors;
- 20.4 a reference to legislation includes any amendment to that legislation, any consolidation or replacement of it and any subordinate legislation made under it;
- 20.5 Words employing the singular number or plural number will be deemed to include the plural number and the singular number respectively;
- 20.6 any words importing any gender will include every gender

21 DEFINITIONS

- 21.1 In this agreement unless the context requires otherwise the following expressions shall have the following meanings respectively;
- (a) **"Company us, our, we and Flick"** means Flick Anticimex Pty Ltd ABN 85 000 059 665 of Unit 9, 145 Arthur Street, Homebush West NSW 2140 and any of our related bodies corporate.
 - (b) **"Contract"** means all those documents comprising the agreed terms of sale of services by us to you including but not limited to purchase orders, invoices, these terms and such other our written material relating to the services and which is issued to or brought to the notice of you and any writing of the client issued to us and accepted by us in writing as constituting a term or condition of the contract.
 - (c) **"Client"** means you, the client who requires the Services.
 - (d) **"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.
 - (e) **"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:
 - (i) 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.
 - (ii) Roof Exterior – Only areas accessible from a 3.6-metre-high ladder will be inspected.
 - (iii) 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.
 - (f) **"Services"** means the timber pest eradication or management services (including any reticulation services) provided by Flick.

- (g) **"Termite Management Plan"** means the proposed timber pest and termite treatment plan provided by the COMPANY to the Client, to address the timber pest risks identified in your Timber Pest Inspection, as detailed in the customised proposal and agreement provided to the Client.
- (h) **"Termites"** means subterranean and dampwood termites (white ants) and does not include dry wood termites.
- (i) **"Terms"** means these Terms and Conditions.
- (j) **"Timber Pests"** means subterranean and dampwood termites (white ants), borers of seasoned timber, wood decay fungi (rot) present and, for the avoidance of any doubt, specifically excludes dry wood termites (Family: Kalotermitidae) and European House Borer (*Hylotrupes bajulus* Linnaeus).
- (k) **"Timber Pest Inspection"** means an inspection for timber or timber pests conducted by the COMPANY, subject to the COMPANY's timber pest inspection report terms and conditions.

Part D CERTIFICATE OF TREATMENT TERMS AND CONDITIONS

1 EXPRESS LIMITATIONS AND CONDITIONS ON TREATMENTS AND SYSTEMS

- 1.1 By entering into a written agreement with Flick in relation to the installation of the treatment System for the Serviced Structure, you agree that these terms and conditions will apply in relation to the System. Subject to applicable law and regulatory requirements:
- (a) Flick disclaims any warranty or guarantee that is not expressly set out in these terms; and
 - (b) you acknowledge that the System may not perform adequately to prevent termites or the relevant pests unless the requirements or disclaimers set out in these terms are strictly followed and satisfied.
- 1.2 **Environmental Conditions:** For any pest management or treatment system installed by Flick (System) to work effectively, the Environmental Conditions under Part A General must be adhered to.
- To the extent that any of the aforementioned Environmental Conditions are not complied with:
- (a) you expressly acknowledge that the System may not properly function or provide adequate protection throughout the Cover Period for the Serviced Structure; and
 - (b) you agree to release Flick from any claims, liability, loss or damage arising from any failure or inadequate protection provided by the System to the extent that those claims, liabilities, losses or damages arise directly or indirectly from the failure to comply with the Environmental Conditions set out above.
- 1.3 **Australian Standards:** With reference to Australian Standards AS 3660 Part 1 and Part 2, a termite treated zone constructed in accordance with this standard cannot prevent termite attack as treated zones may be bridged or breached. Where termites bridge treated zones, the evidence may be detected during regular inspections. Flick does not provide any warranty or guarantee beyond what requirements of the aforementioned Australian Standard.
- 1.4 **Inspection – Frequency:** The building owner should ensure that regular inspections, at least every 12 months, of the building are carried out by a person competent in Unit 8 (Inspect for and report on timber pests) of the National Pest Management Competency Standards.
- 1.5 **Frequency of Inspections:** Regular, competent inspections should be carried out at least on an annual basis but more frequent inspections are strongly recommended. Additional inspections are recommended when bridging or breaching of a treated zone may have occurred, such as by home additions, alterations, earthworks or landscaping adjacent to buildings. Such routine inspections will not prevent termite attack but will allow evidence of further termite activity to be detected. Early detection will allow remedial treatment to be commenced sooner and damaged to be minimised.

2 TERMITICIDE IN THE SYSTEM

- 2.1 **Termiticide Period of Protection Details:** The termiticide applied to the areas marked on the plan of the Serviced Structure, has an expected protection period (life span in soil) as stated on the label and approved by the Australian National Registration Authority.
- Note the termiticide label states: The need for retreatment is to be determined as a result of at least annual inspection by a licensed pest control operator. More frequent inspections may be required in high-risk termite areas.
- Failure to implement the recommended regular inspections will void the application of any warranties relating to the System.
- 2.2 In determining the need for retreatment, factors such as local termite pressure, breaches of the treated zone and termiticide longevity should be considered.
- 2.3 Termites are on occasion capable of bridging treated zones and therefore regular inspections as detailed in the Australian Standard 4349.3 are required. Where regular inspections are not conducted in accordance with this standard, the System may not perform adequately.
- 2.4 Several factors contribute to the longevity of the termite treatment and must be considered when evaluating the need for retreatment.
- 2.5 The actual protection period will depend on the termite hazard, climate, soil conditions and rate/type of termiticide used.
- 2.6 Flick in no way guarantees or warrants the protection period as stated on termiticide labels used in the System.

3 DEFINITIONS

- 3.1 In these 'Certificate of Treatment' terms, unless the context requires otherwise:
- (a) **Cover Period** means the period during which the System and any applicable warranties pursuant to these terms continues to apply, pursuant to any other written agreement between Flick and you relating to the System and/or the Serviced Structure or otherwise as agreed in writing between Flick and you.
 - (b) **Serviced Structure** means the property structure (including surrounding structures, gardens, trees fences etc. up to (50) metres from the exterior walls of the main building but within the boundaries of the land on which the main building is erected) on which the System was installed, as detailed in the written agreement between you and Flick relating to the System.
 - (c) **System** means the pest management or treatment system installed by Flick on the Serviced Structure.

Part E CERTIFICATE OF INSTALLATION (NEW CONSTRUCTIONS – AS3660.1) TERMS AND CONDITIONS

This certificate is required for and will apply to all new constructions, as well as any new 'additions' or 'extensions' to an existing building.

1 PURPOSE OF TERMITE MANAGEMENT SYSTEMS

- 1.1 **Disclaimer of Liability to Third Parties:** This certificate is made solely for the benefit of the owner/builder named on the face of the Agreement or this Certificate and no liability or responsibility whatsoever is accepted by Flick in respect of any third party who may rely on the Certificate either wholly or in part. Any third party acting or relying on this Certificate whether in whole or in part does so at their own risk.

2 LIMITATIONS

- 2.1 This Termite Management System is dependent upon the provision of a complete termite management system around the structure(s) on the Property.
- 2.2 With Pre-Construction treatment it is the responsibility of the builder/owner to ensure that the site is properly prepared in accordance with AS2870 and AS3600.1 and relevant Standard or National Construction Code before the treatment is commenced. Failure to ensure compliance with these Australian Standards may result in a failure of the Termite Management System performance.
- 2.3 The Installer and Manufacturer highly recommends that regular competent inspections take place minimum 12 monthly. Where the termite risk is high or the building type is susceptible to termite attack, more frequent competent inspection (3-6 months) must be undertaken, as recommended in AS 3660. Termites may build around barriers but they can be detected more readily during routine inspections.
- 2.4 Limited liability is accepted for any treatment failure in line with the Product Warranty Package.
- 2.5 This treatment only applies to the protection of the structure(s) as detailed on the face of this Certificate against attack by subterranean termites. It does not provide for protection against other pest(s). In particular it doesn't provide any protection against "drywood termites", Family Kalotermitidae.
- 2.6 Responsibility for timber damage is limited as per the Product Warranty Package.
- 2.7 This Termite Management System can be rendered ineffective due to building alterations, renovations, additions (including pergolas, awning, verandas, etc.) introducing infested materials, off cuts and formwork left on site, material stored against the building, disturbing external gardens, pathways, etc. adjacent to the areas protected and through establishing lawns and or garden beds adjacent to the protected areas. (Such changes to the property are likely to breach the Termite Management System). Where such changes occur further treatment is essential. Precautions must be taken to ensure that the Termite Management System is not damaged in any way.
- 2.8 With a concrete slab on ground structure it is important that the edge of the slab remains exposed and is not covered by garden materials e.g., soil, pine, and bark or similar, unless a full Termite Management System is installed about the perimeter of the structure. Also, air vents and or weep holes must never be blocked or covered.
- 2.9 Do not use untreated timbers for garden beds or retaining walls as they attract termites. Increased moisture or poor ventilation will also provide conditions for increased risk of termite attack.

VERY IMPORTANT:

The Certificate is in one part, a Certificate of Installation, Application and Completion. The Certificate does not in itself certify the Property has been protected in compliance with current version NCC Volume 1-10 and 2-9.

The Certificate of Installation, Application and Completion must be provided, in full, confirming that all elements for the Termite Management System program in accord with the National Construction Building Codes of Australia and or Australian Standards have been completed.

A Termite Management System is not complete unless it has a full system inclusive of all slab penetrations and services.

If you become aware of any breaches to the Termite Management System or changes to the Property such as those detailed above you should immediately contact your Flick Branch who installed the Termite Management System within 10 working days in writing or via electronic format. Failure to contact your Flick Branch in such period may result in damage or failure of the Termite Management System and require a new Termite Management System to be installed (in which case you may be required to incur additional fees and void any System Warranties).

It is your responsibility to ensure that the inspections set out as a condition of the warranty as per the recommendations of Australian Standard AS3660.1 and completed in accordance with AS3660 are performed. Please contact your Flick Installer for further details.

IMPORTANT INFORMATION:

The Australian Standard AS3660.1 Termite Management, New Building Works provides details for minimising the risk to buildings from termite attack, and methods for treatment to minimise termite infestations. The provision of a complete Termite Management System will impede and discourage termite entry into buildings. It cannot prevent termite attack. Termites can still bridge or breach barriers, but they can be detected more readily during routine inspections.

Regular Timber Pest Inspections in accordance with AS3660 should be undertaken in order to maintain the System Warranty and the integrity of your Termite Management System.

3 DEFINITIONS

3.1 In these 'Certificate of Installation' terms, unless the context requires otherwise:

- (a) **Agreement** means the written agreement between Flick and the owner or builder relating to the installation of the Termite Management System.
- (b) **Certificate** means the certificate of installation, application and completion provided by Flick to the owner or builder relating to the installation of the Termite Management System.
- (c) **Flick** means Flick Anticimex Pty Ltd.
- (d) **Property** means the property on which the Termite Management System was installed, as identified in the Agreement or the Certificate.
- (e) **System Warranty** means the warranties relating to the Termite Management System, as set out in the Warranty package You received at time of installation.
- (f) **Termite Management System** means the termite management system installed by Flick on the Property.