

# Pre Engagement Agreement – Pest And Building Inspection

## THE AGREEMENT

### 1. Definitions

The relevant definitions listed in this Agreement are listed at the end of this Agreement.

### **The Client's Acknowledgements**

#### 2. The Client acknowledges that:

- a) The Inspector reserves the right to cancel the inspection and only the deposit, if any, will be reimbursed to the Client.
- b) The Inspector will inspect the Building Elements as outlined in Appendix C of AS4349.1-2007 except for Strata title properties where the inspection will be according to Appendix B of AS4349.1-2007. (AS Standards). Where a Termite Pest Inspection is ordered the Inspection Report will be drafted in accordance with and limited to: the purpose; scope; and the minimum requirements as set out in the Australian Standard Inspection of Buildings AS4349.3 2010 (AS Standards). A copy of the appropriate Standard with Appendices may be obtained from Standards Australia at your cost. The Client warrants that they have been given reasonable opportunity to peruse the relevant Australian Standards.
- c) The Scope of Inspection set out in this Agreement is only indicative as the Inspector is restricted by their ability to access any Area, which is subject to all safety considerations. The Client further acknowledges that the Inspector cannot breach the same to carry out an inspection. The Inspection Report is also limited by the Restrictions on an Inspection, as well as any rights held by an Inspector to ensure their own safety and/or any other limitations set out in the terms of this Agreement.
- d) It is implicit that the Inspection Report is a subjective visual inspection. The Inspector will carry out a visual and non-invasive inspection limited by access and restrictions. The Inspector is not liable for any Area not inspected due to Restrictions on an Inspection.
- e) That the Inspector is the only person who can determine, at the time of the inspection, what they are restricted by during an inspection.
- f) The Client will not rely on the report for valuation purposes or in their final decision to purchase the Property.
- g) The Inspection Report is for the Client's exclusive use and not to be given to a third party without the Inspector's written consent.
- h) Some Restrictions on an Inspection are foreseeable while others are only known at the time of inspection.
- i) That the Client has read all the terms and has not relied on any representations made by the Inspector or anyone else before entering this Agreement.
- j) That just because a defect or pest infestation is not visible at the time of the inspection does not guarantee that there is no defect or pest infestation affecting the Property.
- k) The Client will not hold the Inspector liable for any losses suffered on relying on the Inspection Report considering the acknowledgements above and the terms of this Agreement. And that any claim for loss is limited to the cost of the inspection.
- l) The Inspector does not report on latent defect in the property or in the title.
- m) That the Client acknowledges acceptance through confirming that the agreement and terms and conditions have read and understood by the client and / or as such ticking the appropriate check box when ordering on line.

### **Scope of Inspection and Report**

3. The report does not include an estimate of the cost for rectification of the Defects. The overall condition of this building has been compared to similarly constructed and reasonably maintained building of Approximate age. Areas for Inspection shall only cover what is deemed safe and accessible areas by the inspector.

4. The inspection will be a visual assessment of the items listed in Appendix C to AS4349.1-2007 or AS 4349.3-2010 for the structures within 30 metres of the building and within the site boundaries including fences.

5. Subject to this entire Agreement, if a Timber Pest Inspection has been ordered, this is a Standard Non Invasive, Visual Timber Pest Inspection. Non standard Inspections are Unless specified in this Agreement the Inspector by the Client. Unless otherwise and implicitly stated in this Agreement the Inspector will produce a Standard Timber Pest Inspection Report. (Visual And Non Invasive)

6. Subject to safe and reasonable access the Inspection will report on the condition of each of the following Areas and as follows:

The Inspector will inspect (subject to the minimum requirements and the Restrictions on an Inspection) the accessible "Area":

- a) The Interior of the Property;
- b) The Roof Space of the Property;
- c) The Exterior of the Property;
- d) The Sub-Floor Space of the Property;
- e) The Roof Exterior (subject to height and weather restrictions) of the Property; and
- f) The Property within 30m of the Building relevant to the Inspection.

### **Restrictions on an Inspection**

7. The Inspector is restricted by certain foreseeable and unforeseeable limitations during an inspection.

8. The Inspector's foremost consideration is safety and reasonable access to an Area. Therefore the Inspector is restricted from inspecting any Area where it is unsafe to do so or cannot be reasonably accessed.

9. The Inspector cannot move any furniture or any other chattel or thing in order to access an Area.

10. The Inspector cannot conduct an inspection that is invasive and therefore cannot inspect: the inside of walls; between floors; behind any kitchen joinery/cupboards/wardrobes/chattels; inside flat roofing; and/or inside any eaves. This is not an exhaustive list.

11. The Inspector cannot cut access holes or remove screws and bolts (or any other fastenings) to access covers.

12. The Inspector cannot inspect an Area if the inspector determines that his access is obstructed. The Extent of Reporting is limited to a subjective visual and non invasive inspection only. Further more, the Inspector will not include anything that is beyond the Extent of Reporting including, but not limited to, cost of rectification of any defects.

13. The Inspector cannot carry out an inspection for:

- a) Any non-structural element;
- b) Any part of the Property that cannot be seen or that requires testing;
- c) Serviceability damp defects;
- d) Asbestos;
- e) Magnesite;
- f) Mould;
- g) Anything listed on Appendix D of AS 4349.1-2007 attached to this document and marked Annexure 'A'; and

- h) No Inspection or comment will be made on any and not limited to plumbing conditions or any Electrical Wiring, Switches, Power Points or Electrical Appliances Including Air Conditioning Units, Heaters, or fire places. We strongly recommend You engage a suitably qualified tradesperson to inspect the above.
- i) Any cost or plan to rectify any defects and/or repair work;
- j) Comment on the appropriateness of: any structural design or construction; electrical works; swimming pools; or any electrical appliances;
- k) Whether fireplaces or chimneys are functional;
- l) Any biological risks such as toxic mould;
- m) Compliance with any relevant building code or Act;
- n) Comment on any latent structural defect; and provide a comment on any risk of flooding, earthquake and/or any other singularity cause by nature that may affect the structural integrity of the Property.
- o) This report is not a Swimming pool Safety report and the report will not include comment on Swimming Pools, Spas including pumps and equipment, septic systems or ponds etc
- p) Drywood termites as colonies may be too small to detect by visual assessment; and
- q) Early stages of borer activity for European House Borer (*Hyloterpes bajulus*) as borer damage may not be apparent on the surface of the timber and cannot be detected by visual assessment.
- r) The inspection will not cover or report on the following conditions; Neighbourhood usage such as pests, closeness to mines, public transport, hotels, sewer drainage, storm water drains, public entertainment venues etc. Environmental matters such as aspect, sunlight, privacy, streetscape, views etc. Proximity to railways, flight paths or busy road traffic etc. Document analysis e.g. plans and diagrams, surveys, building approvals, compliance etc. Heritage or security matters, including unauthorised or illegal plumbing or electrical work. Unauthorised or illegal building work. The durability of exposed finish materials. Where the property is a strata or similar title, the inspector will only inspect the interior and immediate exterior of the particular unit inspected. Health or safety conditions such as the presence of asbestos, lead, radon, urea formaldehyde or toxic soils etc.

14. As outlined in Clause c4.2 (d) of As4349.1-2007. The inspection and report WILL NOT report on any defects which may not be apparent due to prevailing weather conditions at the time of the inspection including detection of rising damp and leaks. Such defects may only become apparent in differing weather conditions.

15. The Inspector may cease an Inspection or not inspect an Area, upon encountering asbestos, mould, Magnesite or heavy timber damage in general or caused by a pest infestation, which causes the Inspector to have safety concerns.

16. The Inspection Report will be limited to the Extent of Reporting and will therefore only include information in relation to:

- a) The Area(s) inspected and/or not inspected with reasons;
- b) Any major defects being defined as defects that need to be rectified to avoid unsafe conditions and/or a defect that is a safety hazard or will likely be a safety hazard and/or an urgent and serious safety hazard;
- c) Where a Termite Pest Inspection has been ordered; Timber pest activity and/or damage, a visual appraisal of whether wood decay, rot or fungi was/was not found and a general impression regarding the extent of any damage caused by any pest infestations.
- d) A general impression regarding the extent of minor defects; and a conclusion, which will address the incidence of major and minor, defects, relative to the average condition of a property similar to the Property being the subject of the inspection. The conclusion will only comment on the overall condition of the Property.

17. The Extent of Reporting is limited to a subjective Visual Inspection only. Accordingly the Report IS NOT AND WILL NOT guarantee that an infestation and/or damage does not exist in any inaccessible or partly inaccessible areas or sections of the property. Nor can it guarantee that a future infestation of Termite Pests will not occur or be found.

18. The Inspector is restricted by the following dimensions in relation to determining if an opening or height can be reasonably accessed:

AREA	ACCESS HOLE	CRAWL SPACE	HEIGHT
Roof Interior	400 mm x 500 mm	Min 600mm x 600mm	From a 3.6m ladder off a level platform and only if it is safe to do so
Roof Exterior	—	—	From a 3.6m ladder off a level platform and only if it is safe to do so
Subfloor	Subject to Inspector's discretion as to safe and reasonable access	Subject to Inspector's discretion as to safe and reasonable access	Subject to Inspector's discretion as to safe and reasonable access

### Limitations And Exclusions

19. The Inspector will conduct a non invasive visual inspection which will be limited to those accessible areas and sections of the property to which Safe and Reasonable Access is both available and permitted on the date and time of the inspection. Areas where reasonable entry is denied to the inspector, or where safe and reasonable access is not available, are excluded from and do not form part of, the inspection. Those areas may be the subject of an additional inspection upon request subject to another pre-inspection agreement on the same terms herein.

20. The Inspection WILL NOT involve any invasive inspection including cutting, breaking apart, dismantling, removing or moving objects including, but not limited to, roofing, wall and ceiling sheeting, ducting, foliage, mouldings, debris, roof insulation, sarking, sisalation, floor or wall coverings, sidings, fixtures, floors, pavers, furnishings, appliances ,or personal possessions.

a) **Showder Recesses:** Taps will be turned on in accord with AS4349.1-2007 to detect apparent leaks (if water is connected). The tests may not reveal leaks or show incorrect waterproofing if silicone liquid or masonry sealant has been applied prior to the inspection. Floor grading and fall ratios do not form part of this inspection and will not be reported on. **We strongly recommend** you have this checked by a suitably qualified tradesperson prior to a decision to purchase.

21. Any stored or scattered goods, stored items including boxes, parked cars and bikes, boats, trailers, A/C units and ducting and any external covering foliage, plants, vines, stored fire wood and timbers, vines clinging to external wall surfaces, trees covering areas will hinder the inspection process.

22. The Report is not a certificate of compliance that the property complies with the requirements of any Act, regulation, ordinance, local law or by-law, or as a warranty or an insurance policy against problems developing with the building in the future.

### **Warranties and quality**

23. The Inspector warrants that they will do everything reasonable to inspect the above Areas thoroughly and responsibly subject to the requirements of the AS Standard and any foreseeable or unforeseeable restrictions.

24. The Client warrants that they will not hold the Inspector liable for any Area that the Inspector could not reasonably inspect due access and restrictions on an inspection.

25. The Client warrants that they will not rely on this report after a period of 7 days as this is a visual inspection condition may change between the day of inspection and the day of any defect being apparent such as, but not limited to, different weather conditions, removal of furniture, damage done by occupants, settling of the land, extreme weather damages or anything that could cause the visual effect of a defect to become known.

### **Indemnity**

26. The Client indemnifies the Inspector:

- a) Against any third party losses or claims for use of the Inspection Report.
- b) Against any claim as a result of purchasing a property that was not accurately valued.
- c) Against any major and/or minor defect that was not evident by visual assessment at the time of the inspection.
- d) Termination of this Agreement by the Inspector pursuant to Item 28 of this Agreement.

### **COMPLAINTS PROCEDURE**

27. In the event of any dispute or claim arising out of, or relating to the Inspection or the Report, You must notify Us as soon as possible of the dispute or claim by email or mail. You must allow Us (which includes persons nominated by Us) to visit the property (which visit must occur within twenty eight (28) days of your notification to Us) and give Us full access in order that We 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. If You are not satisfied with our response You must within twenty one (21) days of Your receipt of Our written response refer the matter to a Mediator nominated by Us from the Institute of Arbitrators and Mediators of Australia. The cost of the Mediator will be borne equally by both parties or as agreed as part of the mediated settlement.

In the event You do not comply with the above Complaints Procedure and commence litigation against Us then You agree to fully indemnify Us against any awards, costs, legal fees and expenses incurred by Us in having your litigation set aside or adjourned to permit the foregoing Complaints Procedure to complete.

### **Third party disclaimer**

28. The Report will be made solely for the use and benefit of the Client. No liability or responsibility whatsoever, in contract or tort, is accepted to any third party who may rely on the report wholly or in part. Any third parties acting or relying on the report, in whole or in part will do so at their own risk.

### **Default and Termination**

29. The Inspector reserves the exclusive right to terminate this Agreement on 1 days' notice due to weather constraints, non-payment of the Inspector's Fee or any other safety concern. Only the Inspector may terminate the Agreement.

30. If the Inspector's fee is refunded for any reason whatsoever then the Inspection Report provided (if any) will be deemed invalid and annulled.

### **Severability**

31. Any term within this Agreement that is deemed invalid in any jurisdiction is only invalid to the extent specified by the jurisdiction in that specific jurisdiction. It does not invalidate any other term of this Agreement. Furthermore if a term or terms are found to be invalid and thereby severed from this Agreement the Agreement and its surviving terms are not invalidated.

### **Bar on claims**

32. The Client is barred from making a claim against the Inspector by virtue of the Client's Acknowledgements.

### **Acknowledgement**

33. You agree to contact the Inspector once You have read the report.

By agreeing to this agreement you confirm that You will read this Inspection Report in its entirety prior to making decisions regarding the property and agree to call, Text, SMS or email the Inspector if you have any further questions about this report.

### **DEFINITIONS**

- 1) Acknowledgement: means a thing that a person is intimately aware of and has taken full consideration of and accepts that piece of information unconditionally.
- 2) Access hole: An opening or cut out allowing entry to carry out an inspection.
- 3) Active: The presence of live timber pests at the time of inspection
- 4) Area: means the area and/or areas listed in clause 5 only.
- 5) AS Standards: means AS 4349.1 2007 in this Agreement and/or AS4349.3 2010 (unless specifically stated that AS 3660.2 also applies) in this Agreement.
- 6) Client: means the person detailed as the same on the first page of this agreement only.
- 7) Client's acknowledgements: means the items listed in paragraph 2 that the Client is intimately aware of and has taken full consideration of and accepts that piece of information unconditionally.
- 8) Defect means a fault or deviation from the intended condition of the material, assembly or component.
- 9) Drywood Termites: Termites that do not require a water source other than the atmosphere and the moisture within the timber in which they occur.
- 10) Excessive Moisture Conditions: Presence of moisture conducive to timber pest activity.
- 11) High Moisture Readings: Higher than normal moisture levels as detected by electronic testing equipment.
- 12) Inspection: reasonable and careful visual appraisal of the Property in order to comment on the visually detectable defects.
- 13) Inspector: means the organisation detailed as the same on the first page of this agreement only.
- 14) Limitation means any factor that prevents full achievement of the purpose of the inspection
- 15) Major defect: a defect that is significant enough to require rectification work in order to avoid unsafe conditions, loss of utility or cause further damage to overall quality of the Property.
- 16) Minor defect: any defect not classified as a major defect.
- 17) Property: means the property details listed in this Agreement.
- 18) Readily Accessible Areas means areas which can be easily and safely inspected without injury to person or property as defined in the clearance table listed in clause 18. Or where these

clearances are not available, areas within the consultant's unobstructed line of sight and within arm's length.

19) Report: means the document and any attachments issued to the Client by the Inspector subject to the whole of this Agreement.

20) Restrictions on an Inspection: means paragraphs 7 to 18 of this Agreement.

21) Safe and Reasonable Access does not include the use of destructive or invasive inspection methods or moving furniture or stored goods. The Standard AS4349.1-2007 provides information concerning safe and reasonable access:

Note: Only areas where reasonable and safe access is available will be inspected. No Inspection will be carried out where there are safety concerns, or obstructions, or the space available is less than outlined and tabled in Clause 18 of this agreement.

22) Timber pest damage: visual damage caused by Timber Pests.

23) Timber pest activity: visual signs of Timber Pests.

24) Timber Pests: Subterranean and dampwood termites, and specific wood destroying agents being: chemical delignification (damage of timber by chemical reaction); fungal decay (damage to timber caused by soft rot and decay fungi); wood borers (wood damaging pests of the genus Coleoptera); and termites (wood damaging pests of the genus Isoptera)

### **Very Important**

**WHEN ORDERING A BUILDING INSPECTION ONLY IN ACCORDANCE WITH AS 4349.1 – 2007, PLEASE NOTE THAT NO TIMBER TESTING, TAPPING, PROBING OF ALL VISIBLE ACCESSIBLE TIMBERS WILL BE CONDUCTED. MOISTURE DETECTION EQUIPMENT WILL ONLY BE USED TO DETECT MOISTURE LEVELS WHICH INDICATE RISING DAMP OR LEAKS AND NOT FOR THE PURPOSE OF DETECTING TERMITES, TERMITE NESTS OR ANY TERMITE INFESTATION. WE STRONGLY RECOMMEND YOU ORDER TIMBER PEST INSPECTION AND REPORT IN ACCORDANCE WITH 4349.3 – 2010.**

**IN ACCEPTING THIS AGREEMENT FOR A BUILDING INSPECTION ONLY YOU AGREE THAT WE CAN NOT AND WILL NOT BE HELD LIABLE FOR ANY TERMITE INFESTATION OR DAMAGE SUBSEQUENTLY LOCATED AT THE PROPERTY.**

**If there is anything in this agreement that you do not understand, then prior to the commencement of the inspection, you must contact us by phone or in person and have us explain and clarify the matter to your satisfaction. Your failure to contact us means that you have read this agreement and do fully understand the contents.**