

Your Company Name

Address, City, State, Zip

Phone

Lic. #

**SERVICE AND LIMITED REPAIR CONTRACT FOR *NATIVE SUBTERRANEAN TERMITES (*Reticulitermes*)
(EXCLUDES FORMOSAN TERMITES AND ANY AERIAL INFESTATION BY TERMITES)**

THIS CONTRACT PROVIDES FOR THE RETREATMENT OF THE INFESTED AREAS OF THE COVERED STRUCTURE(S) AND THE REPAIR OF DAMAGE CAUSED BY SUBTERRANEAN TERMITES ONLY WITHIN THE LIMITS AS STATED WITHIN THIS CONTRACT.

Date: _____ Account #: _____

Customer: _____

Mailing Address: _____

Work Phone: _____ Home Phone: _____

Treatment Address: _____

Structure(s) Treated: _____

GENERAL CONDITIONS

This Service and Limited Repair Contract for Native Subterranean Termites (*Reticulitermes*) (hereinafter "Contract") between Your Company Name and Customer named above (hereinafter "Customer") covers only the primary structure listed above. (No fences, detached garages, out-buildings, decks or other building or construction at the above address are covered unless specified in writing and shown on the diagram.) ***NOTE: All references to termites apply only to Native Subterranean Termites (*Reticulitermes*).** This Contract does not cover Formosan Termites (*Coptotermes Formosanus Shiraki*), or any aerial (above ground) infestation of any kind. This Contract does not provide for protection from or treatment for drywoods, dampwoods, or any other wood destroying organisms, such as powder post beetles, wood boring beetles, mold, fungus, insects or pests.

For the sum of \$ _____ Your Company Name will inspect and treat the identified structure(s) for a period of one (1) year and is effective _____ through _____. This Contract may be renewed annually after the first anniversary of the initial term on a year to year basis as specified in Paragraph 5, "Renewal Fee & Inspection", for an annual renewal fee of \$ _____. The renewal years will be for inspection only unless live termites are found. The annual renewal fee may be adjusted after the first anniversary date of this Contract, at the sole discretion of Your Company Name.

THIS CONTRACT IS VOID WITHOUT THE ATTACHED COMPLETED DIAGRAM OF THE STRUCTURE TREATED. PAYMENT TERMS:

The initial Contract price shall be payable as follows: _____

YOUR COMPANY NAME AND CUSTOMER AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

1. SELECTION OF TREATMENT. Your Company Name agrees to apply a standard stand-alone treatment of a liquid termiticide to the structure(s) listed above. Such treatment will be in accordance with the chemical manufacturer's instructions, U.S. EPA approved labels and the requirements of federal and state laws and regulations. Customers will cooperate with Your Company Name as to the application of the liquid termiticide. Customer will comply with ALL requirements of the manufacturer of the chemicals, as expressed on the labels of the chemicals, and federal and state laws and regulations of which Customer is deemed to be on notice.

2. PERFORMING THE WORK. Your Company Name will perform the work in a workman-like manner. Your Company Name will exercise reasonable care while performing any work hereunder to try to avoid damaging any part of the structure(s), plants or animals. Under no circumstances or conditions shall Your Company Name be responsible for damage caused by Your Company Name at the time the work is performed except those damages resulting from gross negligence on the part of Your Company Name.

3. BINDING ARBITRATION. In the event of a dispute between Your Company Name (including its employees), and Customer arising out of or relating to this Contract, or to the identified property in any way, whether by virtue of contract, tort, or otherwise, including but not limited to the interpretation of the terms and conditions of this Contract, the making of the Contract, or breach of any provision of this Contract, the parties hereby expressly agree to submit their dispute to binding arbitration. If the parties cannot agree on an arbitrator, they will use a court-appointed arbitrator. The parties expressly agree that the Federal Arbitration Act (FAA), 9 U.S.C. 1 et. seq., controls every dispute arising out of this contract. The

Alabama Rules of Civil Procedure and Alabama Rules of Evidence will also apply in all arbitration proceedings, including preliminary proceedings. The Arbitrator may limit discovery. The parties acknowledge and understand that by agreeing to submit their dispute to binding arbitration they are waiving their right to trial by jury as means of resolving disputes. Furthermore, the parties acknowledge that they desire to arbitrate any dispute arising from this Contract in an effort to resolve such dispute(s) quickly and avoid the costs of litigation. Judgement upon such arbitration award may be entered in any court having jurisdiction. Each party shall be responsible for paying any attorney's fees, expert witness fees and other expenses it incurs on its behalf in connection with the arbitration, plus one half of the arbitrator's fee and one half of any expenses incurred by the arbitrator, unless otherwise agreed by the parties, and the award shall assess the arbitrator's fee and expenses accordingly. The parties expressly agree and affirm that the subject matter of this contract involves a substantial impact upon interstate commerce, both in the individual transaction and in its aggregate impact. No additional initials are required to make this arbitration provision enforceable.

4. SPECIFIC EXCLUSIONS. The Contract *does not* cover and Your Company Name will *not* be responsible for:

- 1. Damage resulting from moisture conditions, including but not limited to fungus or mold, whether visible or not;
- 2. Damage resulting from wood in direct contact with the soil, whether visible or not;
- 3. Damage resulting from stucco, synthetic stucco, EIFS and/or rigid foam board and/or expanded foam materials in contact with the soil and/or covering interior or exterior foundation walls in such a way as to provide

By signing this Contract, I, the Customer, certify that I have read and fully understand the provisions on the front and back of this Contract (specifically including the ARBITRATION CLAUSE contained in Paragraph 3 and SPECIFIC EXCLUSIONS contained in Paragraph 4) with all its terms and conditions without limitation, and it being specifically understood that Your Company Name and the undersigned are bound only by the terms and conditions of this Contract and not by any other representations oral or otherwise. No additional initials are required to make the Arbitration Provision, Specific Exclusions, or any other paragraph in this Contract enforceable. Customer may cancel this Contract at any time prior to midnight of the third (3rd) business day after execution of this Contract.

Date Customer

Date Customer

Date Your Company Name Representative

- termites with hidden or protected access to the structure, whether visible or not;
4. Damage resulting from masonry failure or grade alteration(s);
 5. Damage and/or treatment caused by infested wood and/or furniture introduced into the structure after initial treatment;
 6. Personal expenses such as lodging, meals, transportation, etc. incurred

The specific exclusions are in addition to the other exclusions contained in this Contract.

5. RENEWAL FEE & INSPECTION. Your Company Name will perform a visual inspection of readily accessible areas of the structure(s) annually for the renewal fee as set forth hereinabove. Your Company Name will not open walls, remove floor coverings or move furniture. After its initial one-year term, this agreement may be renewed year to year, unless either party gives notice in writing, at least thirty (30) days prior to any anniversary date, of its election not to renew the Contract. The annual renewal fee may be adjusted after the first anniversary date of this Contract, at the sole discretion of Your Company Name. Customer may terminate this Contract, notwithstanding the thirty (30) day notice requirement, upon receipt of Your Company Name's notice of increase in fees. However, if Customer does not cancel this Contract by the required time period by written notice, then this Contract will automatically renew for an additional one (1) year period and the Customer shall be responsible for paying the renewal fee as set forth in this paragraph.

6. CONDITIONS CONDUCIVE TO INFESTATION. Customer will fully cooperate with Your Company Name during the term of this Contract, and will maintain the area(s) treated free from any factors contributing to infestation, such as wood, trash, lumber, direct wood-soil contact, cellulose debris, or standing water under pier type structure. Customer will notify Your Company Name of and eliminate faulty plumbing, leaks, and dampness from drains, condensation or leaks from the roof or otherwise into, onto, or under the area(s) treated. Your Company Name may terminate this Contract if Customer fails to correct any condition, including, but not limited to the conditions listed above, which contribute or may contribute to infestation, and Your Company Name will be released from any further obligation under the contract upon notice of termination to Customer. Customer agrees that Your Company Name will not be held responsible for any damage caused to the structure(s) treated as a result of any said conditions. Customer must report any signs and/or evidence of termites or damage within fourteen (14) days of discovery of said infestation and/or damage. Failure of Your Company Name to notify Customer of any of the above conditions does not relieve Customer of the responsibility under this paragraph or waive Your Company Name's right to terminate this Contract. **YOUR COMPANY NAME IS NOT RESPONSIBLE FOR NOTIFYING CUSTOMER OF CONDUCIVE CONDITIONS.**

7. ADDITIONS OR ALTERATIONS. This Contract covers only the structure(s) identified herein. Prior to the structure(s) being modified, altered or otherwise changed, or removal or addition of soil around the foundation, Customer will notify Your Company Name in writing. Such additions may result in the need for additional treatment of the premises. Your Company Name reserves the right to terminate this Contract if Customer fails to notify Your Company Name of any modification, alteration or change to any structure(s) or soil around the foundation of any structure(s). Additional services because of any addition or alteration will be provided by Your Company Name at the Customer's expense and may require an adjustment in the annual renewal fee.

8. CHANGE IN LAW. This Contract shall be interpreted, regulated and adjudicated in accordance with applicable federal, state and local laws and regulations as they exist at the time this Contract is executed. Should any federal, state or local law contract regulation be changed regarding Your Company Name's services or treatment Your Company Name may take whatever steps are necessary to comply with said laws.

9. NON-PAYMENT. Customer will pay Your Company Name's invoice upon receipt. Your Company Name may terminate this Contract if payment is not received within thirty (30) days of the date of invoice. In the event legal action is necessary to collect any amount due Your Company Name, Your Company Name shall be entitled to recover from Customer all reasonable costs of collection, including reasonable attorney's fees and expenses, in addition to any outstanding amount due Your Company Name. In addition, interest at the rate of 1.5% per month, being 18% annually or the highest rate allowed by applicable law will be assessed on any past due amounts owed by Customer until paid. This Contract and any extension of its term will be effective only upon payment of the charges as provided herein.

10. EXISTING DAMAGE. Your Company Name is not responsible for the repairs of either visible termite damage (noted on the attached diagram) or hidden damage existing as of the date of the Contract. The diagram covers only those areas that were visible, accessible and unobstructed at the time of inspection and does not cover areas such as, but not limited to, areas enclosed or inaccessible, concealed by wall coverings, floor coverings, ceilings, furniture, equipment, appliances or stored articles, or any area in which inspection would necessitate removing or defacing any part of the structure. Because damage may be present in areas, which are inaccessible to a visual inspection. Your Company Name does not guarantee that the damage disclosed on the diagram represents all of the existing damage as of the date of this Contract. The diagram is not drawn to scale.

11. DAMAGE. Your Company Name is not responsible for: (1) any past or existing damage to the structure(s) or its contents at the date of this Contract caused by any wood-destroying organisms or insects, including termites whether visible or hidden, or (2) any costs or expenses incurred by Customer as a result of such damage, or (3) any damage caused by or related to any of the conditions described in Paragraph 4. If at any time during the term of this Contract, Native Subterranean Termites (*Reticulitermes*) appear and infest the structure(s), Your Company Name agrees to repair any and all new termite damage to the treated structure(s) (i.e., damage where live termites are found by a Your Company Name representative) at the expense and direction of Your Company Name. Your Company Name's obligation to perform under this paragraph shall arise only if all the conditions herein are met. **YOUR COMPANY NAME'S TOTAL REPAIR OBLIGATION IS LIMITED TO \$250,000. YOUR COMPANY NAME WILL NOT REPAIR ANY DAMAGE DISCOVERED AFTER CONTRACT DATE UNLESS LIVE ACTIVE INFESTATION IS FOUND.** Your Company Name will not repair any existing damage identified on the diagram attached hereto.

12. ENTIRE CONTRACT. This Contract, together with attachment(s), if any, constitutes the entire Contract between parties. No other representation or statements, whether oral or written, are binding upon the parties.

13. NOTICE OF CLAIMS, ACCESS TO PROPERTY. Any claim under the terms of the Contract must be made immediately in writing to Your Company Name. Your Company Name is only obligated to perform under this Contract if the Customer allows Your Company Name access to the identified structure for the purpose contemplated by the Contract, including but not limited to re-inspection, whether the inspection was requested or considered necessary by the Customer or required by the Contract and requested or considered necessary by Your Company Name.

14. SEVERABILITY. If any part of this Contract is held to be invalid or unenforceable for any reason, the remaining terms and conditions of this Contract will remain in full force and effect.

15. DISCLAIMER. (A) Your Company Name's liability under this Contract will terminate if Your Company Name is prevented from fulfilling its responsibilities under this Contract by circumstances or causes beyond the control of Your Company Name. (B) This Contract only provides treatment for Native Subterranean Termites (*Reticulitermes*). (C) Your Company Name disclaims any liability for special, incidental or consequential damage. **YOUR COMPANY NAME MAKES NO GUARANTIES OR WARRANTIES, EXPRESSED OR IMPLIED, EXCEPT THOSE SPECIFICALLY STATE HEREIN. YOUR COMPANY NAME EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OF FITNESS FOR A PARTICULAR PURPOSE.** The use of the word "will" in connection with an action by Your Company Name or Customer, expresses a contractual obligation to perform such action and does not constitute a warranty by either party regarding the performance of such action.

16. TRANSFERABILITY. This Contract will terminate upon transfer of ownership of the described structure(s). However, Your Company Name, at its discretion, may transfer the contract to a new purchaser provided the new purchaser signs a transfer addendum, as purchaser, and signs a graph showing the condition of the structure(s) at transfer, pays a fee to cover administrative cost of transfer, and pays a renewal fee as established by Your Company Name.

17. TERMINATION. Your Company Name's liability under this Contract will terminate Contract should (1) Customer allow another pest control operator and/or company to treat the subject structure(s) during any term hereof, (2) Customer utilize any home remedy products, "do-it-yourself" products, over-the-counter products or any chemicals to eradicate termites that could cause a negative resolution or chemical reaction, or (3) Your Company Name be prevented or delayed from fulfilling its responsibilities under the terms of this Contract by reasons or circumstances reasonable beyond Your Company Name's control, including, but not limited to, acts of war, whether declared or undeclared, acts of any duly constituted government authority, strikes, acts of God or refusal of Customer to allow Your Company Name access to the structure(s) for the purpose of treatment or carrying out the terms and conditions of this Contract.

18. CHEMICAL SENSITIVITY. If Customer or other occupants of the structure(s), or adjacent buildings, believe they are or may be sensitive to pesticides/termiticides or their odors, or if Customer or other occupants have consulted with a medical doctor, or other healthcare provider, regarding such sensitivity, Customer must notify Your Company Name in writing, in advance of treatment of the structure(s). Your Company Name reserves the right, upon receipt of such notification, to deny or terminate service. Failure to provide such notification represents Customer's assumption of risk and waiver of any claims against Your Company Name in connection with such sensitivity. Chemicals should not be used near a well or cistern, therefore; it is the responsibility of the Customer to notify Your Company Name in writing, in advance of treatment, if there is a well or cistern in the vicinity.

19. CHOICE OF LAW. This Contract shall be constructed and enforced in accordance with the laws of the State of Alabama.