

SUBTERRANEAN TERMITE DAMAGE REPAIR AND RETREATMENT SERVICE CONTRACT

This agreement made this 28th day of JUNE, in the year of 2019, in the City of GAINESVILLE State of Florida by and between Florida Pest Control & Chemical Co., hereinafter called the First Party or Florida Pest or FPC and MR DAVID FLYNN of age and a resident of City FORT WHITE State of FL, who declares themselves to be the owner, and/or agent of the owner, of the below named property, hereinafter called Owner or the Second Party. Second Party hereby asserts, confirms and warrants that he/she/it has read, understood, and agreed to this contract, and is/are the owner(s) of the subject property and covered structure(s), and/or the authorized agent or representative of any and all said owners, with full power and authority to execute this contract and forever bind all owners and their principals, agents, heirs, representatives, successors, and assigns.

Witnesseth:

1. FPC agrees to treat the following specifically identified Structure(s): DWELLING at the address 226 SW ROADHOUSE CT (Street) FORT WHITE (City) FLORIDA for the control and/or

prevention of "ground-originating" subterranean termites, including Formosan Termites (*Coptotermes Formosanus*). This Contract does not cover detached garages, out buildings, fences, decks or other buildings, construction or improvements to the property located at the above address, unless specified in writing on this Contract. At no additional cost, other than the annual renewal fee, FPC will make visual re-inspections of the property yearly for as many years as the owner keeps this contract in force and FPC will give additional treatment at anytime during the life of this contract, if Subterranean Termite infestation is found. The inspection will be of readily accessible areas only. The inspection will not cover areas that are enclosed, inaccessible or concealed by wall coverings, floor coverings, furniture, equipment, stored articles, nor any portion of the Structure(s) in which the inspection would necessitate removing or defacing any part of Structure(s). FPC will not open any walls, remove any floor coverings or move any furniture, equipment or other obstructions during the inspection to access or inspect any portion of the Structure(s). Customer acknowledges and accepts that this visual inspection of the readily accessible areas of the Structure(s) is a reasonable inspection for purposes of this Contract. Customer understands and agrees that any inspection of Structure(s) undertaken by FPC, and any representations, statements or reports made by the inspector or FPC about the inspection of Structure(s) should not be construed as an opinion, guaranty, warranty or promise regarding the structural integrity or soundness of the Structure(s) nor as an opinion, guaranty, warranty or promise of the presence or absence of subterranean termites, or other wood destroying organisms or damage to any portion of the Structure(s). Owner also acknowledges FPC is not authorized, nor licensed to, and does not, and can not, inspect for mold, and FPC gives no treatment nor opinion on health related effects or indoor air quality related to any fungi, whatsoever.

2. Price: Second Party hereby agrees and binds themselves to pay FPC upon completion of the initial work, as compensation for labor, material and service herein contracted for, the sum of \$ PAID BY BUILDER dollars, plus sales tax, if required, to be paid as follows: Cash (), Check (), Credit Card (), Other (). This contract expires at the end of one year unless the option to renew is elected. At the expiration of this one-year contract, the Second Party may take advantage of the yearly termite service offered with this contract by paying FPC the annual renewal fee of \$ 210.00 dollars, plus sales tax, if required, each year NO LATER THAN 30 days after the Anniversary Date of this contract. FPC reserves the absolute right to adjust the annual renewal fee at the end of any contract year.

3. Finance Charge on Unpaid Balances: Any unpaid balance to bear interest at the rate of one and one-half (1-1/2) % per month, which is a FINANCE CHARGE, with an ANNUAL PERCENTAGE RATE of 18% on the unpaid balance.

THIS CONTRACT CONTAINS DISCLAIMERS, CONDITIONS, LIMITATIONS AND EXCLUSIONS.

4. Damage Repair Commitment/Limitation: This contract provides protection against NEW subterranean termite damage, as defined herein, up to \$250,000.00 for all claims over the life of this Contract, including renewals, but subject to a \$200.00 deductible for each new claim, beginning and effective upon the effective date of structural protection, as more particularly explained on the reverse side of this contract in paragraph 8.

5. Entire Agreement and Severability: This contract is the sole and entire agreement between the parties, and supersedes, replaces, and/or is an accord and satisfaction of any and all prior understandings, agreement(s), or contract(s) for the subject property (structures) or between the parties. Any and all modifications, changes, or waivers must be in writing and agreed upon by both parties. Customer agrees that if any part of this Contract is held to be invalid or unenforceable for any reason, the remaining terms and conditions of the Contract shall remain in full force and effect.

6. Specific Exclusions: This Agreement does not cover, and FPC and Owner specifically agree, FPC will not be responsible for:

- Damage of any kind to other than the covered Structure(s), such as, but not limited to, personal property and items in or around the covered structure.
- Personal Injury or damage of any kind which results/resulted in any way from moisture conditions created or caused by, and including, but not limited to, alteration(s) or structural modifications, construction defects, design defects, masonry failure, or grade alterations, whether visible or not; and/or fungus, mold, or wood rot, whether visible or not.
- Damage resulting from moisture or dampness problems associated with above ground moisture accumulation caused by any natural or man-made source, including, but not limited to, accumulation, condensation, or leaks from exterior walls, roofs, skylights, chimneys, gutters, down spouts, windows, doors, plumbing, plumbing fixtures, air conditioning and heating equipment and associated pipes, pans, and duct work, inadequate ventilation, poor drainage, soil washout, etc.
- Protection against and/or damage by Drywood Termites, any aerial (not from ground) infestation of subterranean termites; or any form or specie of insect, pest, or wood destroying organism, other than "ground originating" subterranean termites. Any termite infestation and resulting damage which does not occur by access from the soil (ground-originating) is excluded from this coverage.
- Damage of any and every kind resulting from a construction with stucco on wire lathe on frame and/or rigid foam board and/or expanded foam materials in contact with the soil or covering interior or exterior foundation walls in such a way as to provide termites with hidden and/or protected access to the structure, whether visible or not.
- Damage of any and every kind resulting where wood, such as, but not limited to, posts, form boards, form & grade stakes, lumber, trash, debris, etc. were/has been/are in direct contact with the soil, whether visible or not, and/or covered by or buried under the foundation, whether visible or not, or where open areas/spaces or cracks existed/exist in the foundation slab, whether visible or not.
- Any damage to, or repair/replacement of, the Structure(s), or its contents, that existed prior to the date of this Contract or the date of the preconstruction treatment, or the repair effective date, as defined herein, whichever occurs later, regardless whether or not such damage is noted on the initial graph. Customer agrees that the damage disclosed on the initial graph may not represent all the existing damage to the Structure(s). Customer further agrees that FPC does not represent or guarantee that the initial graph represents all existing damage to the Structure(s).
- FPC agrees to use all reasonable care when providing initial and subsequent termite treatment in order to avoid damage to shrubs, vegetation and other property, but under no circumstances or conditions will FPC be responsible for damages to shrubs, vegetation, sprinklers, plumbing, wiring, cable, well, etc., occurring during treatment and control work, other than that caused by negligence on the part of FPC.
- Costs & expenses to determine whether or not damage exists or existed, and/or to determine the extent of any damage.
- Personal expenses such as, but not limited to, lodging, meals, transportation, medical expenses, day care, moving and storage costs, etc. incurred as a result of treatment, retreatment and/or damage repair.
- Loss of rental/income or any type business opportunity because of treatment, retreatment or damage repair.

7. Disclaimer and Limitation: The terms herein constitute the entire agreement, and is expressly limited to and by the provisions set forth herein. All other obligations, promises, warranties, or guarantees, either expressed or implied, are hereby expressly disclaimed.

I/WE HAVE READ BOTH SIDES OF THIS CONTRACT IN ITS ENTIRETY AND FULLY UNDERSTAND AND ACCEPT ITS CONTENT, INCLUDING THE GENERAL TERMS AND CONDITIONS AND ANY EXCLUSIONS, DISCLAIMERS, LIMITATIONS, OR CONDITIONS CONTAINED WITHIN THIS CONTRACT.

Owner/Authorized Agent

Date:

By: Callen L. Bink

Florida Pest Control & Chemical Co.

Treatment type: ☒ Pre-construction ☐ Post-construction

8. **Damage Repair Commitment Requirements and Conditions:** The effective date of "structural protection" is hereinafter called the "Repair Effective Date". If this agreement is for pre-construction treatment the Repair Effective Date will automatically begin with the initial treatment, provided that all necessary treatments have been made during construction of the covered structure. Where soil pre-treatment is used, the necessary treatment includes, but is not limited to, main body, porches, stoops, a/c pads, patios, driveway aprons, and any/all other abutting slabs. At the conclusion of the initial treatment, any subterranean termite damage shall be considered NEW, not old. If this agreement is for post construction treatment, the Repair Effective Date will begin 180 calendar days after the issue date on the face of this particular Contract. If NEW subterranean termite damage occurs after the Repair Effective Date, Second Party, for coverage under this contract, must promptly notify FPC in writing during or before the end of the current contract period. In event that such notice is not received by FPC before the contract terminates or ends, the parties mutually agree, covenant and warrant that any and all damaged woodwork/wood shall be conclusively presumed to have occurred subsequent to the termination of this contract, and Second Party further agrees and covenants that FPC is also thereby fully released from any and all liability possibly related thereto, and from any and all causes of action arising out of this contract. FPC must have a reasonable opportunity to investigate and verify any new damage claim submitted. Any damage repaired before FPC can investigate and verify a new damage claim, operates as a complete waiver and release of Second Party's right to raise such claim under this Contract, and such repair is conclusively deemed as old damage. After FPC inspects the damage and if it is NEW subterranean termite damage as defined, and limited herein, FPC will approve repairs of the confirmed new damage. Only contractors mutually approved by Second Party and FPC will be allowed to repair new damage to the Structure(s). After approval, Second Party IS solely responsible to hire and supervise said contractor, FPC will pay Owner, after submission of contractor's invoices, the entire cost of materials and labor up to the contract limit specified in Paragraph 4, less the stated deductible. Repairs not authorized, nor approved by FPC, will be the sole responsibility and cost of second party. Also, FPC will not be responsible for the contractor's inability or failure to match existing wall coverings, wall paper, floor coverings, custom moldings, paneling, tile, etc. NEW damage is defined as damage done by subterranean termites subsequent to the Repair Effective Date. This definition excludes damage existing on or before the Repair Effective Date. Unless FPC finds live subterranean termites in the damaged area, Second Party specifically agrees, concurs, covenants and warrants, that the damage discovered is, was, and shall conclusively be deemed, old damage and not covered under this agreement. Second Party acknowledges and understands that during the interval between initial treatment and achievement of structural protection, termite feeding within the structure and possibly structural damage, should be expected to occur, but FPC will not be responsible for any repair of any damage until after the Repair Effective Date.
9. **Duties of Owner:**
- Conducive Conditions:** Owner agrees to cooperate with FPC by avoiding, preventing, and eliminating those "conducive" conditions or factors that might create or contribute to a termite infestation, support an above-ground infestation, or disrupt the chemical barrier applied to the Structure(s) and/or applied to the soil. These conditions include, but are not to be limited to, those situations & circumstances described in Paragraphs 6.b, 6.c, 6.d, 6.e, & 6.f, herein. Where soil treatment is an essential part of the control of subterranean termites, owner agrees and covenants not to disturb the soil within 18 inches of either side of the building foundations, or either side of the structure which is in contact with the soil. Owner agrees to promptly notify FPC of any "conducive" condition in or around the Structure. If FPC gives either written or verbal notification that a conducive condition exists at, within, or adjacent to the Structure(s), Owner agrees to promptly eliminate such condition within thirty (30) days of such notice.
 - Structural Changes, Additions, Alterations:** This Agreement covers only the structure(s) identified in this service contract. Since changes create new termite hazards, in the event of any additions, alterations, modifications, and/or changes to the covered structure, or to the landscaping and lawn within 18 inches of the structure, and/or disruption of the chemical barrier, Owner must immediately notify FPC in writing of such things, and arrange with FPC for additional service, which may require additional service charges and/or adjustment in the annual renewal fee because of the increased risk caused by the changes.
 - Early Termination:** If Owner fails to comply with the above notice, elimination and prevention requirements, this Contract is voidable by FPC, and FPC has the absolute right to immediately cancel and terminate this Contract prior to the anniversary date. Owner agrees that FPC is not responsible for any damage to the Structure(s), or its contents, resulting from any conducive condition that caused, or contributed to, a termite infestation or damage, and owner will indemnify, protect, and hold FPC harmless from any related claims, causes, actions, judgments, costs, expenses and losses of every kind and character, whether direct or indirect, brought by owner or a third party.
10. **Transfer of Ownership:**
- General:** Second Party agrees to immediately notify FPC of any pending transfer of ownership of the property and provide FPC with the name(s) of the purchasers and closing agent, and date of closing. Annual renewal fees will not be refunded.
 - Post-Construction Treatment:** If FPC treated the covered structure after its construction, then, at its sole option and discretion, FPC reserves the absolute right to transfer, or not transfer, the service agreement to the new Owner upon execution of a new service agreement, at FPC's then current contract rate. In the event, the request for transfer of the service agreement is not received in writing within 30-days before change of ownership, this service agreement will terminate automatically as of the date of change of ownership. Effective the day of title transfer, this contract is terminated and Second Party instantly loses any and all rights under this contract.
 - Pre-Construction Treatment:** If FPC pre-treated the Structure(s) prior to construction of the covered structure(s), then for the first five (5) years of this contract, provided this contract is timely renewed and remains continuously in force, this specific contract cannot be otherwise canceled and shall automatically transfer to, and inure to the benefit of, any purchaser of the covered structure. However, after five (5) years and beginning the sixth (6th) year, all provisions of Paragraph 10.b. above and Paragraph 11 below, apply, just as if this was a post-construction treatment contract, and FPC then has the sole and absolute right to transfer or not transfer, or to cancel or not cancel, this contract.
11. **Cancellation Clause:** With the sole exception of the first five (5) years of a pre-construction and pre-treated structure as provided in Paragraph 10.c. above, this contract may be canceled for any reason, within 30-days before or after the anniversary date of this contract by either party in writing, effective the day the then current contract period ends.
12. **Change in Law:** This Contract shall be interpreted, regulated and adjudicated in accordance with applicable federal, state (Florida) and local laws and regulations, as they existed at the time this Contract is executed. Should any federal, state or local law or regulation change regarding FPC's services or treatment, FPC is authorized to take whatever steps are necessary to be in compliance with said laws. If FPC cannot modify its services or treatment to comply with such a change in the law, then FPC reserves the right to immediately terminate this Contract before the anniversary date.
13. **Force Majeure (Circumstances beyond FPC's control):** FPC's obligations under this Agreement shall be cancelled if FPC cannot perform its responsibilities because of strikes, acts of war, failure of supplies from ordinary sources and Acts of God, including, earthquakes, storms, fires, floods and hurricanes.
14. **Arbitration Agreement:** Second Party and FPC hereby specifically agree and covenant that any and all controversies or claims between them, their principals, agents, representatives, successors, or assigns, arising in any way out of, or relating to, this agreement, and/or the subject property, and/or the subject structure(s), and/or the termite treatment, shall be settled solely and exclusively by arbitration. Such arbitration shall be conducted in the Florida County where the servicing FPC office for this agreement is located at that time, using the substantive law of Florida, and in accordance with the Commercial Arbitration Rules then in force of the American Arbitration Association. The arbitrator shall be independent, mutually agreed upon, and to the greatest extent possible, be well versed in Florida law, and qualified in termite control and building construction matters, both by education, experience, licensing and training to deal with the issues. The decision of the arbitrator shall be a final and binding resolution of the disagreement, which may be entered as a judgment by any court of Competent jurisdiction. Neither party shall sue the other where the basis of the suit is in any way this agreement, or arises out of this agreement, other than for (1) enforcement of the arbitrator's decision, or (2) appointment of an arbitrator if one cannot be mutually agreed upon. The parties specifically agree that the sole and exclusive venue of any suit shall be Alachua County, Florida. In no event shall either party be liable to the other for indirect, special, consequential, or punitive damages; loss of anticipated or actual profits, income or business opportunities; or living expenses of any kind (e.g. room, board, medical, gas, utilities, etc.). All costs, expenses, and fees of arbitration and settling a controversy shall be borne equally by the parties. This arbitration provision shall survive cancellation, expiration, or termination of this contract.
15. **CHEMICAL SENSITIVITY:** If Owner, or other occupants (including invitees and licensees) of the Structure(s), believe he/she may be sensitive to pesticides, Owner must immediately notify FPC in writing and in advance of FPC's treatment, including whether Owner or occupants have consulted with a medical doctor regarding such sensitivity. Owner agrees to inform all occupants that FPC will apply pesticides in conjunction with its treatment of the Structure(s). FPC reserves the right, upon receipt of such notification, to deny or terminate service. Failure to provide notification represents Owner's and occupants' assumption of the risk and waiver of any claims against FPC related to/with such sensitivity. Customer further agrees to indemnify, protect and hold harmless FPC from any and all chemical sensitivity claims, causes, actions, judgments, costs, attorney's fees, expenses and losses of every kind and character, whether direct or indirect, brought by Owner or other occupants (including invitees and licensees) of the Structure(s).

Treatment notice posted: BY ELECTRICAL PANEL