The Property Inspectors Pty Ltd – Terms & Conditions of Trade

1. Definitions

1.1 "Consultant" means The Property Inspectors Pty Ltd (as trustee for Property Inspectors Trust) T/A The Property Inspectors Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of The Property Inspectors Pty Ltd (as trustee for Property Inspectors Trust) T/A The Property Inspectors Pty Ltd.

1.2 "Client" means the person/s requesting the Consultant to provide the Services as specified in any invoice, document or order, and if there more than one person requesting the Services is a reference to each person jointly and severally.

1.3 "Services" means all Services provided by the Consultant to the Client at the Client's request from time to time, and includes any Documentation provided as part of the Services.

1.4 "Documentation" means any documents, designs, drawings, details, specifications or other materials provided, utilised or created incidentally by the Consultant in the course of it conducting, or providing to the Client, any Services.

1.5 "Proposal" means the letters or other documents prepared by the Consultant and submitted to the Client to describe the scope of Services to be provided, the personnel and equipment proposed to be utilized, and the amount or method of calculation of the Fee and reimbursable expenses.

1.6 "Fee" means the price payable for the Services as agreed between the Consultant and the Client in accordance with clause 6 of this contract.

1.7 "Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this agreement, either party's Intellectual Property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information and pricing details.

2. The Commonwealth Competition and Consumer Act 2010 ("CCA") and Fair Trading Acts ("FTA")

2.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the CCA or the FTA in each of the States and Territories of Australia (including any substitute to those Acts or re-enactment thereof), except to the extent permitted by those Acts where applicable.

3. Acceptance

3.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for, or accepts Services provided by the Consultant.

3.2 These terms and conditions may only be amended with the Consultant's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and the Consultant.

3.3 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

4. Change in Control

4.1 The Client shall give the Consultant not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by the Consultant as a result of the Client's failure to comply with this clause.

5. Client's Responsibilities

5.1 The Client shall (at their own cost) as soon as practicable:valid

(a) make available to the Consultant all relevant information, documents, drawings, certificates of title, plans, survey information and other particulars relating to the Client's requirements for the Services, and the Consultant is entitled to rely thereon. The Consultant shall not be liable whatsoever for any errors in the Services that are caused by incorrect or inaccurate information being supplied by the Client;

(b) make arrangements to enable the Consultant to enter upon the intended site (and other premises as necessary) to enable the Consultant to provide the Services.

5.2 The Client acknowledges and agrees that they will use their best endeavours to respond promptly to any request or query from the Consultant.

5.3 If the Client becomes aware of any matter which may change the scope or timing of the Services then the Client will give written notice of same to the Consultant.

6. Fee and Payment

6.1 At the Consultant's sole discretion the Fee shall be either:

(a) as indicated on any invoice furnished by the Consultant to the Client for Services provided; or

(b) the Consultant's Fee at the date of provision of the Services, calculated on the Consultant's current labour rates; or

(c) the Consultant's estimated price (subject to clause 6.2) which will be valid for the period stated in the Proposal or otherwise for a period of thirty (30) days and (unless otherwise specified in writing) excludes Reimbursable Expenses.

6.2 The Consultant reserves the right to change the Fee:

(a) to include any Reimbursable Expenses as per clause 7;

(b) if a variation to the Services (including any variation to the Client's brief/specifications) is required or requested;

(c) where additional costs are incurred by the Consultant due to unexpected delays, or receipt of approvals or permits, additional inspections, access to an assessment area not being available as was agreed or when pre-arranged; and

(d) variations will be charged in fifteen (15) minute increments at the Consultant's current hourly rate of $300 + GST.

(e) All invoices submitted are on the basis of payment being made via cash or EFT, in the event that this invoice is settled via credit card, a surcharge of 2.2% will be applied on top of the invoiced amount for administration and merchant fees combined

(f) All variations to this agreement will be settled via credit card and payment taken prior to any works commencing and prior to the release of any design, reports or documents. The client approves The Property Inspectors to charge their credit card to settle all variations at the time of the approval (verbal, text, email or any third-party related to this agreement)

(g) Should the client request for a complete or draft report to be modified, altered, updated or changed in any way after the report has been issued, The Property Inspectors will bill the card on file to amend, modify or update the report, and this will be treated as a variation to the initial engagement between the consumer and The Property Inspectors, and will be billed out a $300 per hour plus GST.

6.3 At the Consultant's sole discretion, a non-refundable deposit shall be required on request.

6.4 Time for payment for the Services being of the essence, the Fee will be payable by the Client on the date/s determined by the Consultant, which may be:

(a) on completion of the Services;

(b) by way of instalments/progress payments in accordance with the Consultant's payment schedule;

(c) seven (7) days following the end of the month in which a statement is posted to the Client's address or address for notices;

(d) the date specified on any invoice or other form as being the date for payment; or

(e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by the Consultant.

6.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to two point two percent for administration and merchant fees combined (2.2%) of the Fee), or by any other method as agreed to between the Client and the Consultant.

6.6 Unless otherwise stated the Fee does not include GST. In addition to the Fee the Client must pay to the Consultant an amount equal to any GST the Consultant must pay for any provision of Services by the Consultant to the Client under this or any other agreement. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Fee. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Fee except where they are expressly included in the Fee.

6.7 The Client acknowledges and agrees that the Client's obligations to the Consultant for the provision of the Services shall not cease (and where it is intended that any ownership of the Documentation shall pass, it shall not pass) until:

(a) the Client has paid the Consultant all amounts owing for the particular Services; and

(b) the Client has met all other obligations due by the Client to the Consultant in respect of all contracts between the parties.

6.8 Receipt by the Consultant of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Consultant's ownership or rights in respect of the Services, and this agreement, shall continue.

7. Reimbursable Expenses

7.1 The Consultant shall be reimbursed for all expenses reasonably and properly incurred in connection with the provision of the Services, except where such expenses are specifically stated in writing by the Consultant as being non-reimbursable. All reimbursable expenses (e.g. travelling costs, government and application fees, search fees, photocopies, advertisements and notices, air freight and courier services, rental of special equipment, parking and fares, accommodation, telephone, facsimile and other incidental costs and expenses, etc.) will be charged at the cost involved (excluding GST) to the Consultant, plus an administration fee of five percent (5%) thereof.

8. Provision of the Services

8.1 Both parties shall make all reasonable effort to ensure the Services are provided in accordance with this agreement and take all necessary reasonable steps to minimise any possible delay thereto. However, any time specified by the Consultant for provision of the Services is an estimate only, and the Consultant will not be liable for any loss or damage incurred by the Client as a result of any delay. In the event that the Consultant is unable to provide the Services as agreed solely due to any action or inaction of the Client, then the Client shall pay to the Consultant a reasonable sum of money to cover the consequential costs and expenses suffered by the Consultant as a result of the delay.

8.2 The commencement date will be put back and/or the duration of the Services extended by whatever time is reasonable in the event that the Consultant claims an extension of time (by giving the Client written notice as per clause 8.3) where provision the Services is delayed by an event beyond the Consultant's control, including but not limited to any event under clause 20.7, or any failure by the Client to:

(a) provide clear and adequate specifications and/or instructions to the Consultant; or

(b) have the intended site ready for the Services (including any delay caused by the non-completion of prerequisite work performed by third parties); or

(c) notify the Consultant that the intended site is ready.

8.3 Notwithstanding clause 8.2, if the Consultant becomes aware that they will be delayed in providing the Services in accordance with this agreement, the Consultant must immediately notify the Client in writing of the cause and nature of the delay. The Consultant is to detail in the notice the steps they will take to contain the delay and the anticipated duration of the delay.

8.4 All reports will be released within 14 business days from the date of inspection if all information is at hand, or 14 business days from the date of all supporting facts, collection of documents and research being concluded.

8.5 By commissioning a Building & Pest or Strata Report with The Property Inspectors, you are approving the finished report to be on sold on our website. There will be no discounts or credits given to a commissioning party if The Property Inspectors on sell a report that you have commissioned.

8.6 The Client acknowledges and accepts that:

(a) the Consultant:

(i) will communicate electronically (email), unless otherwise instructed. The Client accepts this form of communication maybe subject to inherent hazards in electronic distribution and as such the Consultant cannot warrant against delays or errors in transmitting data between the Client and the Consultant, and you agree that to the maximum extent permitted by law, the Consultant will not be liable for any losses which the Client suffers as a result of internet interruptions beyond the Consultant's control that may cause delays or errors in transmitting instructions and/or confirmations;

(ii) will only carry out non-destructive tests. In the event the Client specifically requests the Consultant to carry out tests of a destructive nature, the Consultant shall require the Client, or their authorised representative, to authorise commencement of the Services in writing. The Consultant shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.

(b) the outcome of any inspection shall be as is at the date thereof. The Consultant shall not be liable for any further inspections in the event of any variation to the Client's brief as per clause 6.2(b), and any additional Services will be charged accordingly under clause 6.2.

9. Nominated Consultants

9.1 The Consultant may (if their consider it appropriate to do so) recommend the engagement of third-party consultants, who shall be engaged by the Client at the Client's own expense, and the Consultant does not warrant the accuracy or quality of the consultant's work, or warrant that the recommendations of the consultants are appropriate or adequate, or are fit for their purpose, or that they are not given negligently. The Client agrees that they shall not make any demand on the Consultant or commence any legal proceedings against the Consultant, and the Consultant shall have no liability, whether in negligence or otherwise, to the Client in relation to any services performed by the consultants.

10. Personal Property Securities Act 2009 ("PPSA")

10.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

10.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in:

(a) all Materials previously supplied by the Consultant to the Client;

(b) all Materials will be supplied in the future by the Consultant to the Client; and

(c) all the Client's present and after acquired property being a charge, including anything in respect of which the Client has at any time a sufficient right, interest or power to grant a security interest in for the purposes of securing repayment of all monetary obligations of the Client to the Consultant for Services – that have previously been provided and that will be provided in the future by the Consultant to the Client.

10.3 The Client undertakes to:

(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Consultant may reasonably require to;

(i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;

(ii) register any other document required to be registered by the PPSA; or

(iii) correct a defect in a statement referred to in clause 10.2(a)(i) or 10.2(a)(ii);

(b) indemnify, and upon demand reimburse, the Consultant for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any registration made thereby;

(c) not register a financing change statement in respect of a security interest without the prior written consent of the Consultant;

(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the registration in favour of a third party without the prior written consent of the Consultant.

10.4 The Consultant and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

10.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

10.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

10.7 Unless otherwise agreed to in writing by the Consultant, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.

10.8 The Client must unconditionally ratify any actions taken by the Consultant under clauses 10.2 to 10.5.

10.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

11. Security and Charge

11.1 In consideration of the Consultant agreeing to provide Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

11.2 The Client indemnifies the Consultant from and against all the Consultant's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Consultant's rights under this clause.

11.3 The Client irrevocably appoints the Consultant and each director of the Consultant as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf.

12. Intellectual Property

12.1 The Consultant shall retain ownership of the copyright to all Documentation and know-how produced by the Consultant during the course of the Services. The Consultant grants to the Client a non-exclusive, royalty-free and irrevocable licence to use the Documentation arising out of the provision of the Services, but only for the site for which it was intended. The Client shall not use or make copies of any Intellectual Property without the prior written consent of the Consultant.

12.2 The Client warrants that all designs, specifications, information and instructions to the Consultant will not cause the Consultant to infringe any patent, registered design or trademark in the execution of the Client's order. Furthermore, the Client agrees to indemnify, defend, and hold the Consultant harmless from all loss incurred or suffered by the Consultant arising from any claims (including third party claims) or demands against them where such loss was caused by any infringement or alleged infringement of any person's Intellectual Property rights by the Client during its use of the Services.

13. Confidentiality

13.1 Subject to clause 13.2, each party agrees to treat as confidential the other party's Confidential Information, and agree not to divulge it to any third party, without the other party's written consent.

13.2 Confidential Information excludes information:

(a) generally available in the public domain (without unauthorised disclosure under this agreement);

(b) received from a third party entitled to disclose it or by the written consent of the other party;

(c) that is independently developed;

(d) is required to be disclosed by law, regulations or administrative order.

14. Default and Consequences of Default

14.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of three and a half percent (3.5%) per calendar month (and at the Consultant's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

14.2 If the Client owes the Consultant any money the Client shall indemnify the Consultant from and against all costs and disbursements incurred by the Consultant in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Consultant's collection agency costs, and bank dishonour fees).

14.3 Further to any other rights or remedies the Consultant may have under this agreement, if the Client has made payment to the Consultant by credit card, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Consultant under this clause 14 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.

14.4 Without prejudice to any other remedies the Consultant may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Consultant may suspend or terminate the provision of Services to the Client. The Consultant will not be liable to the Client for any loss or damage the Client suffers because the Consultant has exercised its rights under this clause.

14.5 Without prejudice to the Consultant's other remedies at law the Consultant shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Consultant shall, whether or not due for payment, become immediately payable if:

(a) any money payable to the Consultant becomes overdue, or in the Consultant's opinion the Client will be unable to make a payment when it falls due;

(b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

15. Termination

15.1 Either party may suspend or terminate this agreement by giving the other party no less than fourteen (14) days prior written notice of their intention to do so, and in this case:

(a) the Client shall pay to the Consultant all amounts owing to the Consultant for Services provided up to the date of termination; or

(b) the Consultant shall not be obligated to refund any deposit paid by the Client to the Consultant for the Services prior to the termination of this agreement; and

(c) the Consultant shall not be liable for any loss or damage whatsoever arising from such termination.

(d) the Consultant will retain a $1,200 + GST fee for all jobs if the job is cancelled, delayed or rescheduled within three business days of the originally scheduled appointment, if the invoiced amount for the job is less than $1,200 + GST an additional fee of 50% of the originally invoiced amount will be billed to the client to be settled immediately.

(e) If a project has been quoted/invoiced and accepted that is less than the value of $1200 + GST, NO REFUND WILL BE MADE BY THE CONSULTANT TO THE CLIENT, if no payment has been made by the client, an invoice will be generated by TPI and paid by the client, totalling $1200 + GST for the cancelled, rescheduled or delayed appointment, and the client will not dispute this charge.

(f) Should the Consultant be engaged to carry out works for a client subject to a payment being received prior to site attendance, and the payment is not made, the Consultant will not attend site and the client will be liable for a $1,200 + GST fee, for the cancellation and/or rescheduling of the original appointment due to the client not making the original pre-organised payment.

(g) Should the commissioning party terminate this agreement whilst our consultant is travelling to site, or booked to attend site on that day, or whilst on site, or post site inspection, and prior to the report or services being commenced or completed, and payment has already been made, no refund will be owed by the consultant to the commissioning party.

(h) Should the commissioning party terminate this agreement whilst our consultant is travelling to site, or booked to attend site on that day, or whilst on site, or post site inspection, and prior to the report or services being commenced or completed, and full payment of the services/total contract sum has not yet been made, the commissioning party will still be liable for the full contract sum on the date of the termination notice being supplied to the consultants office in writing.

15.2 Either party may terminate this agreement by written notice to the other party if the other party:

(a) commits a material breach of any of its obligations under this agreement, and if such breach is capable of remedy, defaulting party does not remedy the breach;

(b) within twenty-eight (28) days after the date on which written notice of the breach is provided by the other party (or such other period as is agreed between the parties);

(c) where any event under clause 14.5 applies.

15.3 If this agreement is terminated for any reason then termination however caused does not affect any accrued rights or remedies in which the non-defaulting party possesses pursuant to the term of this agreement, at law or pursuant to any applicable legislation.

15.4 If a party terminates this agreement in accordance with clause 15.3 then the defaulting party is liable for and indemnifies the non-defaulting party against any loss of whatever nature incurred by the non-defaulting party.

16. Privacy Act 1988

16.1 The Client agrees for the Consultant to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by the Consultant.

16.2 The Client agrees that the Consultant may exchange information about the Client with those credit providers and with related body corporates for the following purposes:

(a) to assess an application by the Client; and/or

(b) to notify other credit providers of a default by the Client; and/or

(c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or

(d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.

16.3 The Consultant consents to the Consultant being given a consumer credit report to collect overdue payment on commercial credit.

16.4 The Client agrees that personal credit information provided may be used and retained by the Consultant for the following purposes (and for other agreed purposes or required by):

(a) the provision of Services; and/or

(b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or

(c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or

(d) enabling the collection of amounts outstanding in relation to the Services.

16.5 The Consultant may give information about the Client to a CRB for the following purposes:

(a) to obtain a consumer credit report;

(b) allow the CRB to create or maintain a credit information file about the Client including credit history.

16.6 The information given to the CRB may include:

(a) personal information as outlined in 16.1 above;

(b) name of the credit provider and that the Consultant is a current credit provider to the Client;

(c) whether the credit provider is a licensee;

(d) type of consumer credit;

(e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);

(f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and the Consultant has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);

(g) information that, in the opinion of the Consultant, the Client has committed a serious credit infringement;

(h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars ($150).

16.7 The Client shall have the right to request (by e-mail) from the Consultant:

(a) a copy of the information about the Client retained by the Consultant and the right to request that the Consultant correct any incorrect information; and

(b) that the Consultant does not disclose any personal information about the Client for the purpose of direct marketing.

16.8 The Consultant will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.

16.9 The Client can make a privacy complaint by contacting the Consultant via e-mail. The Consultant will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

17. Building and Construction Industry Security of Payments Act 1999

17.1 At the Consultant's sole discretion, if there are any disputes or claims for unpaid Services then the provisions of the Building and Construction Industry Security of Payments Act 1999 may apply.

17.2 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payments Act 1999 of New South Wales, except to the extent permitted by the Act where applicable.

18. Limitation of Liability

18.1 The Consultant undertakes to act in all professional matters as a faithful consultant to the Client, whose interests will be watched over with skill and care. Notwithstanding, the Consultant shall only be liable to the Client for the consequences of any negligent act, omission or statement of the Consultant, and then only to the extent and limitations referred to in clause 18.2.

18.2 Subject to clause 2:

(a) the loss and damage for which the Consultant is so liable, and the recompense to be made by the Consultant to a Client for such liability as specified in clause 18.1, shall be limited in aggregate to the amount specified in the Proposal in respect of any single act, omission or statement, but shall not under any circumstances exceed the cost of rectifying the Services.

(b) the liability of the Consultant shall cover only direct loss or damage in respect of the Services, or other matters arising directly from the scope of the Services agreed in the Proposal, and then only to the maximum limit specified as per sub-clause (a). All references herein to loss or damage shall be deemed to exclude loss or damage sustained by any third party in respect of which the Client is liable and responsible (as between the Client and the third party) whether by statute, contract tort or otherwise.

18.3 The liability of the Consultant to the Client shall expire 30 days from the date of the report being carried out, unless in the meantime the Client has made a claim in writing to the Consultant, specifying a negligent act, omission or statement said to have caused alleged loss or damage sustained or sustainable.

18.4 Notwithstanding clauses 18.1 to 18.3, the Consultant shall not be liable for any loss or damage sustained or sustainable by a Client in relation to:

(a) errors occurring in plans, designs or specifications not created or prepared by the Consultant;

(b) errors occurring during the course of any services which are not provided by, nor the responsibility of, the Consultant;

(c) the use of any Documentation or other information of advice without the approval of the Consultant.

19. Dispute Resolution

19.1 If a dispute arises between the parties to this contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:

(a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and

(b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

20. General

20.1 The failure by the Consultant to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Consultant's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

20.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales, the state in which the Consultant has its principal place of business, and are subject to the jurisdiction of the Sydney CBD court in that state.

20.3 Subject to clauses 2 and 18, the Consultant shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Consultant of these terms and conditions (alternatively the Consultant's liability shall be limited to damages which under no circumstances shall exceed the Fee).

20.4 The Client shall not be entitled to set off against, or deduct from the Fee, any sums owed or claimed to be owed to the Client by the Consultant nor to withhold payment of any invoice because part of that invoice is in dispute.

20.5 The Property Inspectors may license or sub-contract all or any part of its rights and obligations without the Client's consent.

20.6 The Client agrees that the Consultant may amend these terms and conditions at any time. If the Consultant makes a change to these terms and conditions, then that change will take effect from the date on which the Consultant notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for the Consultant to provide Services to the Client.

20.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

20.8 The obligations of clauses 12 and 13 shall survive termination or cancellation of this agreement.

20.9 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.

20.10 All Reports are valid for a period of no more than 7 days from the date the inspection was carried out, unless stated otherwise within the report

20.11 The Property Inspectors uses third-party consultants to fulfil their obligations with their clients, without obtaining further consent from the client, should the Terms & Conditions be agreed upon or payment made towards the invoice. For example, TPI uses subcontractors for all their structural engineering projects, pool compliance reports, pest inspections and site treatments as well as loose fill asbestos inspections/reports

20.12 The Property Inspectors may send out a building inspector to assess and obtain site conditions and to collect field notes/data for their third-party consultants, for example engineers, pool compliance officers, pest inspectors and loose fill asbestos contractors

20.13 This contract allows for a total of 1-hour travel time to and from site, should there be additional time required to travel to and from site, you will be invoiced at the rate of $300 per hour + GST, covering our consultants time and motor vehicle expenses. Should you have settled this account via credit card, the credit card on file will be used to settle this additional travel time. Should you have paid the initial inspection via EFT, you will be invoiced, and payment will be required prior to the release of the report.

20.14 Should you choose to order a report, and the report is not available at the time of you placing your order, the report will be released to you the moment it is complete. Should you lose interest in the property or should the delay in obtaining the report alter your want or need for this report, our company will NOT offer a refund or discount against the original order as long our office releases the report within 7 business days from your online order being confirmed. No refunds are applicable for a report being released within 7 days from your online order. Should our office not supply you a report within 7 business days of placing your order of an existing Pre-Purchase Building & Pest or Pre-Purchase Strata Report, a 50% refund of the initial order will be refunded if requested.

20.15 All reports or documents will be provided in electronic format only, via email or shared Dropbox link, a hardcopy of the documents can be provided though they will attract additional fees for administration, printing and postage.

20.16 Regarding Existing Building & Pest or Existing Strata Reports for sale on our website: In some cases, we may have not completed a report at the time of posting a product on our website, or we are updating the current report that we have posted within our website for sale. All reports will be released to the vendor and/or purchasers within a maximum period of 72 hours from the date and time we were on site, or from when a buyer has chosen to download a copy of the report from our website. No refunds are applicable once you have commissioned a report, or if you have chosen to download a report from our website

20.17 Should the consumer make payment over the phone via card at the time of confirming the booking and/or order, and then subsequently read and decline our Terms & Conditions and choose not to proceed with the order, a 100% refund will be applicable subject to our office receiving the cancellation of the order within an email prior to 2pm on the day before the inspection was due to be carried out.

Please note that a larger print version of these terms and conditions is available from the Consultant on request.

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