



**Pre purchase structural inspection agreement and Terms and Conditions  
Rotaru Building Consultants**

**ABN 65 448 639 498**

**Terms and Conditions**

**A. DEFINED TERMS**

For the purposes of these terms and conditions:

**Building Consultant** means Rotaru Building Consultants ABN 65 448 639 498;

**Building & Site** means the inspection of the Property together with the relevant features including any car accommodation, detached laundry, ablution facilities and garden sheds, retaining walls more than 700 mm high, paths and driveways, steps, fencing, earth, embankments, surface water drainage and storm run-off within 30 m of the building, but within the Property boundaries;

**Client** means, in relation to a Report, the person who instructed the Building Consultant to prepare a Report;

**Major Defect** means a defect of significant magnitude where rectification has to be carried out in order to avoid unsafe conditions, loss of utility or further deterioration of the Property;

**Minor Defect** means a defect other than a Major Defect;

**Property** means, in relation to a Report, the property to which the Report relates;

**Readily Accessible Areas** means areas which can be easily and safely inspected without injury to person or property, are up to 3.6 metres above ground or floor levels, in roof spaces where the minimum area of accessibility is not less than 600 mm high by 600 mm wide and subfloor spaces where the minimum area of accessibility is not less than 600 mm high by 600 mm wide, providing the spaces or areas permit entry. Or where clearances are not available, areas within the Building Consultant's unobstructed line of sight and within arm's length; and

**Report** has the meaning given in Section B below.

**B. SCOPE OF INSPECTION**



The Building Consultant will carry out a visual assessment of the Property to identify major defects, urgent and serious safety hazards and to form an opinion regarding the general condition of the Property at the time of inspection (pre purchase building inspection). The Building Consultant will report his findings in a written report addressed to the Client (the **Report**).

The inspection is limited to Readily Accessible Areas of the Building & Site and is based on a visual examination of surface work (excluding furniture and stored items).

The Client shall arrange right of entry, facilitate physical entry and supply necessary information to enable the Building Consultant to undertake the inspection and prepare the Report. Where reasonable access or entry is denied those areas are excluded from and do not form part of the inspection.

The inspection assumes that the existing use of the Property will continue. The inspection will not assess the fitness of the Property for any intended purpose. Any proposed change in use should be verified with the relevant authorities.

The Report is not a certificate of compliance for the Property within the requirements of any applicable law (including any regulation, ordinance or local by-law).

### **C. ACCEPTANCE CRITERIA**

The client, upon making the booking for a property inspection or other Building Report, acknowledges having been given the opportunity to read our Terms & Conditions of service. The client is deemed to have accepted Rotaru Building Consultants Terms and Conditions of Service upon the Inspector arriving at the property or site.

The report is subject to Rotaru Building Consultants Terms and Conditions of Service, which forms the basis of the agreement between Rotaru Building Consultants and the client.

The client accepts that if any money remains unpaid after the due date, the client shall:

- a) Pay 15% per annum simple interest on the overdue amounts unpaid after the expiry of 7 days after the payment date.
- b) If invoices are unpaid for 7 days after the payment date, we have the right to engage debt collection services for the collection of unpaid and undisputed debt, and the right to commence legal proceedings for any outstanding amounts owed to us.
- c) You are liable for and will pay all costs including debt collection, commission, solicitor's fees and any out of pocket expense. You indemnify us for the full amount of our legal and debt recovery costs.



The Property was compared with a property that was constructed in accordance with the generally accepted practice at the time of construction and which has been maintained such that there has been no significant loss of strength and serviceability.

The Report only records the observations and conclusions of the Building Consultant about the readily observable state of the Property at the time of inspection. The Report, therefore, cannot and does not deal with:

- a. possible concealment of defects, including but not limited to, defects concealed by lack of accessibility, obstructions such as furniture, wall linings and floor coverings, or by applied finishes such as render and paint; and
- b. undetectable or latent defects, including but not limited to, defects that may not be apparent at the time of inspection due to seasonal changes, recent or prevailing weather conditions.

#### **D. LIMITATIONS OF THE PROPERTY INSPECTION AND REPORT CONTENT**

The Client acknowledges that:

- a. the Building Consultant will conduct a visual inspection only;
- b. this Report does not include the inspection and assessment of items or matters outside the scope of the requested inspection and Report. Other items or matters may be the subject of a special-purpose inspection report, which is adequately specified;
- c. this Report does not include the inspection and assessment of items or matters that do not fall within the Building Consultant's direct expertise;
- d. the inspection only covered the Readily Accessible Areas of the Property. The inspection did not include areas, which were inaccessible, not readily accessible or obstructed at the time of inspection (see section E. Accessibility below). Obstructions are defined as any condition or physical limitation which inhibits or prevents inspection and may include – but are not limited to – roofing, fixed ceilings, wall linings, floor coverings, fixtures, fittings, furniture, clothes, stored articles/materials, thermal insulation, sarking, pipe/duct work, builder's debris, vegetation, pavements or earth;
- e. the Report is prepared in accordance with Australian Standard AS4349.1-2007 (Inspection of Buildings, Part 1: Pre-Purchase Inspections – Residential Buildings), which recognises that a property inspection report is not a warranty against problems developing with the building in the future; and
- f. the Building Consultant is not liable for any reliance placed on this report by any third party.

#### **E. ACCESSIBILITY**

Unless specified in writing, the inspection only covered the Readily Accessible Areas of the Property. The inspection did not include areas, which were inaccessible, not readily accessible or obstructed at the time of inspection. Areas, which are not normally accessible, were not inspected and include – but not limited to – the interior of a flat roof or beneath a suspended floor filled with earth.



**Building Interior:** The Building Consultant did not move or remove any ceilings, wall coverings, floor coverings (including carpeting and wooden floorboards), furnishing, equipment, appliances, pictures or other household goods. In an occupied property, furnishings or household items may be concealing evidence of defects, which may only be revealed when the items are moved or removed.

NOTE. In the case of strata and company title properties or other Class 2 buildings or equivalent, if the inspection was limited to assessing the interior of a particular unit or lot, the Client may have additional liability for defects in the common property. This additional liability can only be addressed through the undertaking of a special-purpose inspection report, which is adequately specified.

**Building Exterior, Roof Exterior and Site:** the Building Consultant did not move or remove any obstructions such as wall cladding, awnings, trellis, earth, plants, bushes, foliage, stored materials, debris or rubbish, etc. Such items may be concealing defects, which may only be revealed when the items are moved or removed.

Roof Space Obstructions such as roofing, stored articles, thermal insulation, sarking and pipe/duct work may be concealing evidence of defects, which may only be revealed when the obstructions are moved or removed. Also, bodily access should be provided to the interior of all accessible roof spaces. In accordance with Australian Standard AS 4349 the minimum requirement is a 400 mm by 500 mm access manhole.

Subfloor Space Storage of materials in subfloor areas is not recommended as it reduces ventilation and makes inspection difficult. Obstructions may be concealing evidence of defects, which may only be revealed when the obstructions are moved or removed. Bodily access should be provided to all accessible subfloor areas. In accordance with Australian Standard AS 4349 the minimum requirement is a 500 mm x 400 mm access manhole. In the case of suspended floors, if the clearance between the ground and structural components is less than 400 mm, then the ground should be excavated to provide the required clearance, subject to maintaining adequate drainage and support to footings. If the subfloor has been sprayed for subterranean termites or if the area is susceptible to mould growth, appropriate health precautions must be followed before entering the area. Also, special care should be taken not to disturb the treated soil.

## **F. LIMITATIONS OF BUILDING CONSULTANT'S LIABILITY**

The limitations below apply to the maximum extent permitted by law.

The Building Consultant's liability to the Client shall be limited to (at the option of the Building Consultant):

- the provision of a new inspection and report; or
- the payment of the cost of a new inspection conducted by a third party



Without limiting the above, the Building Consultant is not liable to the Client for any of the following types of loss or damage, howsoever caused or arising:

- any loss of profit, loss of revenue or income, loss or denial of business opportunity or loss of anticipated savings, loss of bargain, loss of contract; or
- any special or punitive damages.

The Building Consultant accepts no liability with respect to work carried out by other trades, including consultants or practitioners referred by the Building Consultant. It is the Client's responsibility to make appropriate contractual arrangements with such persons.

The Building Consultant's liability arising out of or in connection with the Report terminates on the date that is 6 months after the date of the Report.

If the Client becomes aware of any matter or circumstance that may give rise to a claim against the Building Consultant arising out of or in connection with the Report, the Building Consultant is not liable in respect of the claim unless the Client gives notice to the Building Consultant within 30 days after the Client becomes aware of that matter or circumstance.

#### **G. EXCLUSIONS FROM THE REPORT**

The Client acknowledges that the Report does not cover or deal with any of the following:

- a. any individual Minor Defect;
- b. solving or providing costs for any rectification or repair work;
- c. the structural design or adequacy of any element of construction of the property;
- d. detection of wood destroying insects such as termites and wood borers;
- e. the operation of fireplaces and chimneys;
- f. any services including building, engineering (electronic), mechanical, fire and smoke detection;
- g. lighting or energy efficiency;
- h. any swimming pools and associated pool equipment or spa baths and spa equipment or the like;
- i. any appliances such as dishwashers, incinerators, ovens, stoves and ducted vacuum systems;
- j. a review of occupational, health or safety issues such as asbestos content, the provision of safety glass or the use of lead based paints;
- k. a review of environmental or health or biological risks such as toxic mould;
- l. whether the Property complies with the provisions of any building Act, code, regulation(s) or by-laws;
- m. whether the ground on which the Property rests has been filled, is liable to subside, swell or shrink, is subject to landslip or tidal inundation, or if it is flood prone; or
- n. in the case of strata and company title properties, the inspection of common property areas or strata/company records, footings below ground, concealed damp proof course, electrical installations, concealed plumbing, adequacy of roof drainage, gas fittings and fixtures, air-conditioning, automatic garage doors, flues and solid fuel heaters, alarm



and intercom systems, soft floor coverings, appliances, paint coating, health hazards, timber and metal framing size and adequacy, concealed tie downs and bracing, other mechanical or electrical equipment such as soil conditions, control joints, sustainable development provisions, concealed timber frames, landscaping, rubbish, floor coverings, furniture and accessories, stored items, insulation, environmental matters or lighting and energy efficiency.

Any of the above matters may be the subject of a special-purpose inspection report, which is adequately specified and undertaken by an appropriately qualified inspector.

#### **H. CLIENT TO RELY ONLY ON THE REPORT**

The Report as issued by the Building Consultant takes precedence over any oral advice or draft reports, to the extent of any inconsistencies. The Client acknowledges and agrees that it will rely only on the information and recommendations set out in the Report and will not rely on any express or implied representation made by or on behalf of the Building Consultant.

#### **I. COMPLAINTS PROCEDURE**

If the Client is dissatisfied in any way with the Report then, before taking any remedial action or incurring any costs, the Client agrees to:

- promptly give the Building Consultant written notice within 30 days of the date of the Report, specifying the matters about which the Client is dissatisfied; and
- allow the Building Consultant the opportunity to resolve the complaint within 30 days of receipt by the Building Consultant of that written notice.

#### **J. ENTIRE AGREEMENT**

These terms and conditions constitute the entire agreement between the Building Consultant and the Client relating to the inspection and the Report and supersede all previous agreements, whether oral or in writing, between the Building Consultant and the Client relating to the inspection or the Report. Except as required by any applicable law, no terms must be implied into these terms and conditions.

The Client acknowledges that it has not relied on any express or implied information, representation, warranty or other assurance made by or on behalf of the Building Consultant.

#### **K. GOVERNING LAW**

These terms and conditions are governed by the law applying in Western Australia. The courts having jurisdiction in Western Australia have non-exclusive jurisdiction to settle any dispute arising out of or in connection with these terms and conditions and the Client and



the Building Consultant irrevocably submit to the non-exclusive jurisdiction of the courts having jurisdiction in Western Australia.