

# FMC Million Dollar Warranty Certificate Conditions

## WARRANTY (Please read the important conditions overleaf)

**Limit of Warranty amount:** \$1,000,000 AUD in the aggregate

**What is covered:** Subject to the conditions overleaf, the protected structure/s of the site as detailed above are covered against any direct physical damage to structural and or decorative timbers caused by subterranean termites that occurs subsequent to the warranty commencement date above but prior to the warranty expiry date. This warranty does not include chattels of any nature (including without limitation carpets, floor coverings, antiques, heirlooms, artwork or painting furnishings and fittings); further, any pergolas, timber decking, wiring, outhouses - (unless Eflex system is applied as per detailed plan), fences, gates and garden structures are specifically EXCLUDED from this warranty.

## General Conditions applying to the FMC Million Dollar Warranty

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

This warranty is an additional warranty offered by FMC Australasia Pty Ltd and is not intended to exclude or limit your rights and remedies under the Australian Consumer Law or other laws. The expiry of this warranty does not affect those rights.

### WARRANTY ACTIVATION:

In the event of a subterranean termite infestation of the Building as a result of the failure of the installed Eflex termite barrier which failure is directly caused by the failure of the Eflex Products and results in damage by termites being caused to structural and/or decorative timbers of the Protected Structure during the Warranty Period then, subject to these general conditions of Warranty, FMC Australasia Pty Ltd (FMC Australasia) will, up to a maximum amount of \$1,000,000 per Site:

- a. Procure the elimination of the active subterranean termites within the Protected Structure(s).
- b. Cause the repair or replacement of the Eflex barrier to the Building.
- c. Repair or replace all structural and decorative timbers damaged by Termites.

### WARRANTY EXCLUSIONS:

This warranty shall be void and have no effect if any of the following circumstances occur at any time:

- The Property Owner/s fail to carry out any of the owners responsibilities specified in this Warranty

- The Property Owner/s fails to provide true and correct information to FMC Australasia or participates in misleading, deceptive or fraudulent conduct in connection with this Warranty.
- Termites enter the Eflex treated Building through any manner other than by a performance failure of the Eflex product
- The Eflex product is installed by a person that is not a Eflex Accredited Operator.
- If no active termites are found in the Protected Structure at the time of inspection of reported damage by an Eflex Accredited Operator

### **WARRANTY LIMITATIONS:**

This Eflex warranty DOES NOT cover:

- Any incidental damage not directly related to the effects of the Subterranean Termite activity (e.g., wood rot)
- Damage from pests other than the Subterranean Termite including without limitation Drywood or Dampwood Termites (Families: Kalotermitidae and Termopsidae)
- Damage to chattels of any nature (including without limitation carpets, floor coverings, antiques, heirlooms, artwork or paintings, furnishings and fittings.), any pergolas and timber decking, electrical wiring, outhouses (unless the Eflex system is applied as per a detailed plan), fences, gates and garden structures.
- Damage caused by any persons other than those authorised by FMC Australasia to investigate the presence of Subterranean Termites
- Repair of any item that does not comply with the Building Code of Australia..
- Any damage the Home Owner or persons other than those authorised by FMC Australasia may cause in investigating for the presence of Subterranean Termites.
- Any remedial treatments or repairs not authorised by FMC Australasia.

### **RESPONSIBILITIES OF PROPERTY OWNER/S**

- During the warranty period the Property Owners must at their own expense arrange for thorough and regular inspection(s) of the property for the presence of termites at intervals recommended by their Eflex Accredited Operator, but at intervals not exceeding 12 months.
- Must not make any alterations, renovations or additions to the Building or disturb any garden beds, soils or lawns next to the protected structure(s) until you notify your Eflex Accredited Operator who will advise on any works as to their impact (if any) on your warranty.
- You must notify your Eflex Accredited Operator if you believe you have disturbed your Eflex barrier
- You must immediately notify your Eflex Accredited Operator should you find active termites anywhere on the property – do not disturb any found termite activity or use any insecticides on the identified activity.
- You must comply with the Maintenance Program applicable to the Eflex Barrier, which shall apply from time to time during the Warranty Period

### **CONTINUATION OF YOUR WARRANTY:**

Your FMC Million Dollar Warranty will continue to operate during the Warranty Period for so long as you comply with the owner's obligations contained in this Warranty. This is subject to your Eflex Accredited Operator conducting a minimum annual termite inspection of the property with report at your expense. Your Eflex Accredited Operator will then issue a further 12 month

warranty certificate upon satisfaction of any recommendation/s (if any) in compliance with the maintenance program following the inspection being implemented at your expense.

### **WARRANTY CLAIM DISPUTES:**

In the event of any controversy or claim arising out of, or relating to this agreement it will be settled exclusively by arbitration, in the accordance with the rules of the institute of arbitrators Australia. Any judgment from such arbitration shall be binding upon both parties.

### **DISCLAIMER AND RELEASE**

- a. The limited warranties provided herein are the exclusive warranties given by FMC Australasia and supersede any prior, contrary or additional representations, whether oral or written.
- b. TO THE EXTENT PERMITTED BY LAW ANY IMPLIED CONDITIONS OR WARRANTIES, THAT APPLY TO THE EFLEX BARRIER OR ANY PART OF IT ARE LIMITED IN DURATION TO THE WARRANTY PERIOD GIVEN IN THIS WARRANTY AND FMC AUSTRALASIA DISCLAIMS AND EXCLUDES THOSE WARRANTIES AFTER THE WARRANTY PERIOD.
- c. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation might not apply. This warranty gives you specific legal rights, and you may also have other rights, which vary from state to state.
- d. TO THE EXTENT PERMITTED BY LAW, FMC AUSTRALASIA DISCLAIMS AND EXCLUDES ALL OTHER OBLIGATIONS OR LIABILITIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY NON-CONFORMANCE OR DEFECT IN THE EFLEX BARRIER OR ANY OTHER PRODUCT SUPPLIED BY FMC AUSTRALASIA, INCLUDING BUT NOT LIMITED TO: (A) ANY OBLIGATION, LIABILITY RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF FMC AUSTRALASIA OR ITS SUPPLIERS (WHETHER ACTIVE, PASSIVE OR IMPUTED); AND (B) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY FOR LOSS OF OR DAMAGE TO ANY EQUIPMENT. This disclaimer and release shall apply even if the express warranty set forth above fails of its essential purpose.
- e. TO THE EXTENT PERMITTED BY LAW, FMC AUSTRALASIA AND OR ITS SUPPLIERS SHALL HAVE NO OBLIGATION OR LIABILITY, WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT (INCLUDING ACTIVE, PASSIVE, OR IMPUTED NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR DAMAGE TO THE EFLEX BARRIER, PROPERTY DAMAGE, LOSS OF USE, REVENUE OR PROFIT, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, ADDITIONAL COST INCURRED BY THE WARRANTY HOLDER (BY WAY OF CORRECTION OR OTHERWISE) OR ANY OTHER INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER RESULTING FROM THE USE, MISUSE OR FAILURE OF THE EFLEX BARRIER EXCEPT AS EXPRESSLY CONTAINED IN THIS WARRANTY. This exclusion applies even if the above warranty fails of its essential purpose and regardless of whether such damages are sought for breach of warranty, breach of contract, negligence, or strict liability in tort or under any other legal theory.

### **ASSIGNMENT**

The Warranty Holder may assign the Warranty Holder's rights under this Warranty to another person provided that only if: the Warranty Holder sells all of its interest in the Site to such

assignee; the Warranty Holder gives written notice of the sale of the Site and assignment of Warranty to FMC; and the assignee agrees with FMC to be bound by all terms and conditions of this Warranty.

## **DEFINITIONS:**

**Buildings:** The residential or commercial building(s) (as the context requires) where an Eflex product has been installed.

**Eflex:** Specific range of Termite Solutions.

**Eflex Products:** those products sold by FMC Australasia used in Eflex termite barriers;

**Eflex Accredited Operator:** Means an operator accredited annually by FMC Australasia Pty Ltd to issue the Eflex Million Dollar Warranty Program.

**Property Owner:** Means registered proprietor(s) of the building.

**Termites:** Subterranean Termites (Drywood Family: Kalotermitidae and Dampwood Termites Family: Termopsidae) are specifically excluded from the terms of this warranty contract.

## **PRIVACY STATEMENT**

At all times, FMC Australasia will maintain your personal information in accordance with its then current Privacy Policy accessible at [www.fmcaustralasia.com.au](http://www.fmcaustralasia.com.au).

## **MAKING A CLAIM:**

You should first contact your Eflex Accredited Operator to inspect your problem, they will arrange any remedial action required minimizing the damage occurring. FMC Australasia will cover the cost of this initial inspection unless your warranty claim is found to be invalid, in which case FMC Australasia will seek reimbursement of the inspection costs.

If you require further advice or wish to make a claim, then you must contact FMC Australasia Pty Ltd within 14 days of you contacting your Eflex Accredited Operator.

**Address:** The Warranty Manager  
FMC Australasia Pty Ltd  
PO BOX 526  
Cannon Hill QLD 4170

**Telephone:** 1800 066 355

**Fax:** 1800 355 896

**Email:** [warranty@fmc.com](mailto:warranty@fmc.com)

**Web:** [www.fmcaustralasia.com.au](http://www.fmcaustralasia.com.au)

Supply FMC Australasia Pty Ltd details of your Eflex Warranty, including your warranty contract number and the name of your Eflex Accredited Operator. Your full contact details including

Phone, Email, Postal Address. FMC Australasia Pty Ltd will contact you within 48 hours of receiving your correspondence.

Repairs and or treatments must be approved by FMC Australasia Pty Ltd in writing. Approved damaged timber repairs by an FMC Australasia Pty Ltd approved repairer will not commence until current reported termite activity is eliminated.