



**NISUS CORPORATION
BORA-CARE® WARRANTY MANAGEMENT SYSTEM
Registration and Limited Warranty Agreement**

Registration Instructions:

Please complete the fields below to register a new company.

Date

Pest Company Name

Pest Company Phone

Pest Company Address

Address/Street

City

State

ZIP

First Name

Last Name

Email Address

Please review these Terms and Conditions and scroll to the bottom to accept and sign:

LIMITED WARRANTY AGREEMENT

This LIMITED WARRANTY AGREEMENT (“Warranty”) is made and entered into immediately upon acceptance of its terms and conditions by you, or upon your registration of a Structure (as defined herein) as provided below, and is between you (“PMP”) and NISUS CORPORATION, 100 Nisus Drive Rockford, TN 37853 (“Manufacturer”). Manufacturer has developed and manufactures a product known as Bora-Care (“Product”) which Product has a label registered with the Environmental Protection Agency (“Label”). PMP is in the business of providing pest control services to residential customers. Manufacturer has agreed to provide certain warranties to PMP, but not to any end user

of the Product or to any other third party, subject to the terms and conditions of this Warranty. NOW, THEREFORE, FOR AND IN CONSIDERATION of the above premises, the mutual covenants hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Optional Limited Warranties. Subject to all terms and conditions of this Warranty, Manufacturer warrants to PMP, but to no other person or entity, as follows:

a. that, so long as the Product is applied to newly constructed single-family homes only ("Structure") by technicians who have successfully completed Manufacturer's online training program within the past twenty-four (24) months ("Trained Technicians") in accordance with all Label directions, including without limit Section VI of the Label, and at the Label rates, then the Product will protect (i) all wood boards and wood components within the Structure ("Protected Areas") from infestation by reticulitermes and heterotermes termites and (ii) all portions of wood boards and wood components actually treated with the Product ("Treated Components") from infestation by basidiomycetes fungus only;

b. that, if, in addition to treatment as provided in subsection (a) above, (i) PMP has Trained Technicians treat the entire Structure (all parts of all wood boards and wood components forming a part of the Structure) with the Product in accordance with all Label directions, including without limit Section V of the Label, and Label rates, and (ii) PMP notes such treatment on the registration required pursuant to paragraph 6.a. hereinafter, then the Product will protect all Treated Components from infestation by reticulitermes, heterotermes, coptotermes (Formosan), kalotermes (drywood), incisitermes (drywood), zootermopsis (dampwood), and neotermes (dampwood) termites, wood destroying beetles, basidiomycetes fungus only and carpenter ants.

2. Duration.

With respect to each Structure, the warranties specified herein are effective for a period beginning on the date of original treatment and ending on the earlier to occur of (i) thirty (30) years from the date of original treatment with the Product, or (ii) immediately upon PMP's failure to comply with any provision of this Warranty. These Warranties will automatically terminate without notice in the event PMP fails to comply with any provision hereof, and PMP waives any notice, demand or the like with respect to such termination, and agrees that Manufacturer's failure to give notice of termination does not constitute a waiver, and that this Warranty will be void. Further, Manufacturer may terminate this Warranty at any time upon five (5) days advance written notice to PMP, provided that such termination will only operate prospectively, and the warranty provided herein will continue to apply to all Structures registered with Manufacturer by PMP prior to the date of termination.

3. What this Warranty Covers; Dollar Limit.

In the event of a valid warranty claim with respect to infestation or damage to Protected Areas or Treated Components, as the case may be, Manufacturer will reimburse PMP for all actual out-of-pocket labor and material costs reasonably incurred in repairing damage to Protected Areas, or Treated Components, as the case may be, caused by a failure of the Product, and re-treatment with Product. With respect to retreatment, Manufacturer's liability will be limited to actual labor costs and Product cost for retreatment up to a maximum reimbursement of Five Hundred Dollars (\$500) or an amount equal to the fee charged by PMP for the original pretreatment, whichever is less. With respect to repairing damage to Protected Areas or Treated Components, as the case may be, Manufacturer's liability will be limited to labor and material costs for repairs to Protected Areas or Treated Components, as the case may be, only up to a maximum reimbursement of Two Thousand Five Hundred Dollars (\$2,500). Notwithstanding anything herein to the contrary, Manufacturer's total liability per Structure (for repair and/or re-treatment) will not exceed Two Thousand Five Hundred

Dollars (\$2,500) during the term of the applicable warranty for such Structure for any and all valid warranty claims with respect to such Structure.

4. What this Warranty Does Not Cover. This Warranty does not cover, and Manufacturer shall not be liable for:

- a. any infestation or damage to Protected Areas or Treated Components, as the case may be, where Product was not applied in accordance with Label directions and Label rates and/or not applied by a Trained Technician;
- b. any pre-existing damage to Protected Areas or Treated Components, as the case may be;
- c. the addition of any untreated lumber to the Structure;
- d. any damage to any Structure where Conducive Conditions exist (Conducive Conditions means any conditions in or around the Structure that would cause or allow to exist moisture levels in which fungi could grow, including, without limit, leaks, direct soil contact with wood, stucco and/or foam board, water intrusion, standing water in crawl spaces, less than 12 inch clearance between ground and ceiling of crawl space, inadequate ventilation, any construction material other than slab or foundation wall being below grade, mulch within six inches of the Structure, firewood within three feet of the Structure, faulty plumbing or drains or flooding or condensation); and
- e. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS WARRANTY DOES NOT COVER AND MANUFACTURER WILL NOT BE RESPONSIBLE FOR ANY HEALTH-RELATED CLAIMS, DAMAGES OR INJURIES.

5. How to Make a Claim.

All warranty claims must be made to Manufacturer in writing within thirty (30) days after discovery of infestation. Each claim shall be supplemented with any supporting documentation and samples of damaged materials that Manufacturer may reasonably request. At Manufacturer's request, Manufacturer and its representatives and agents shall be permitted to inspect and test the infested or damaged area to verify the warranty claim.

6. Other Obligations of PMP.

- a. Registration. PMP agrees to register each Structure via Manufacturer's online web-based registration system within thirty (30) days of treatment with the Product. Such registration will be pursuant to any form provided by Manufacturer from time to time, but will include, without limit, the physical address of the Structure, the date of Product application, the type of construction, the linear feet of wood in the Structure, the amount of Product used, a description of the areas treated with Product, and any other methods of termite protection utilized. Further, PMP will prepare and retain and a physical diagram of the Structure which identifies the Protected Areas or Treated Components, as the case may be and the portions of the Structure actually treated with Product and make the same available to Manufacturer upon request.
- b. Inspections. PMP agrees to make annual inspections of all Structures that are subject to this Warranty no later than forty- five (45) days after each anniversary date of the original treatment, and to fully complete Manufacturer's online web based annual inspection form for each annual inspection within thirty (30) days after the date of such annual inspection. PMP will keep all inspection data and internal reports on file and available for review by Manufacturer during the warranty period and continuing beyond the warranty period for any Structure for which there is an outstanding warranty claim.
- c. Trained Technicians. PMP agrees that only Trained Technicians will be permitted to apply the Product.
- d. Preserve Samples. With respect to any warranty claims, PMP will collect and preserve samples of the damaged area until the earlier of (i) the date Manufacturer advises PMP in writing that such

samples may be discarded, or (ii) sixty (60) days following the last date Manufacturer reimburses PMP with respect to a warranty claim.

7. No Implied Warranties; Liability and Time Limit.

THIS WARRANTY SETS FORTH MANUFACTURER'S SOLE AND EXCLUSIVE WARRANTY FOR THE PRODUCT AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. PMP'S RIGHTS AND REMEDIES ARE LIMITED TO THOSE SET FORTH IN THIS WARRANTY. MANUFACTURER DISCLAIMS ANY AND ALL OTHER EXPRESSED OR IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THIS WARRANTY IS GIVEN ONLY TO PMP, AND TO NO OTHER PARTY, INCLUDING BUT NOT LIMITED TO THE END-USER OF THE PRODUCT OR ANY OTHER THIRD PARTIES. EXCEPT AS EXPRESSLY SET FORTH HEREIN, MANUFACTURER WILL NOT BE LIABLE FOR DIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, EVEN IF MANUFACTURER IS AWARE OF THE POSSIBILITY OF THESE DAMAGES OCCURRING. No action may be commenced under this Warranty after the expiration of twelve (12) months from the date PMP becomes aware of, or should have become aware of, a warranty claim.

8. Representations and Warranties.

PMP represents and warrants that:

- a. If not an individual, it is an entity duly formed, and validly existing and in good standing under the laws of the jurisdiction of its formation and, as an individual or entity, it is duly qualified to do business in every jurisdiction where its ownership or leasing of property or the conduct of its business requires such qualification and is in good standing in each of such jurisdictions.
- b. It has the full right, power and authority to carry on its business as now conducted and to hold property and to enter into and perform its obligations under this Warranty.
- c. This Warranty has been duly authorized, executed and delivered by PMP and is enforceable in accordance with its respective terms.

9. Mediation/Arbitration.

In the event of any dispute under this Warranty, the parties hereto desire to avoid litigation. Accordingly, the aggrieved party will give notice of the dispute to the other party and both parties will attempt to settle the dispute during the thirty (30) day period following such notice. If such dispute remains unsettled, the parties agree to then submit such dispute to mediation. If the parties cannot agree on a mediator, each will select a mediator and the two chosen mediators will select a third mediator who shall alone hear the dispute. Such mediation will, if possible, be conducted during the sixty (60) day period following expiration of the thirty (30) day period. If such mediation fails to resolve the dispute, the parties agree such dispute will be submitted to final and binding arbitration in accordance with the rules of the American Arbitration Association. Unless otherwise directed by the arbitrator, such arbitration must be concluded within ninety (90) days of the expiration of the sixty (60) day period previously specified for mediation. If the parties cannot agree on a single arbitrator, each will select an arbitrator, and the two chosen arbitrators will select a third arbitrator who shall alone decide the dispute. Any mediation or arbitration conducted hereunder will be conducted in Knoxville, Tennessee. The costs of mediation (including the mediator's fees and expenses and costs directly related to the conduct of the mediation, but excluding each party's direct costs for transportation, attorneys, etc., for which each will be responsible) will be shared equally by the parties.

10. Attorney Fees and Other Arbitration Expenses.

If any party hereto resorts to arbitration to remedy a breach of this Warranty, the prevailing party in the arbitration, in addition to any other remedies available under this Warranty or by law, may collect

all or a portion of its reasonable attorney fees and other costs and expenses of arbitration at the discretion of the arbitrator, who shall consider both the reasonableness of the attorney fees and other costs and the relative merits of each party's position. It is the intent of all parties hereto to avoid arbitration without preventing a party from seeking redress for a valid dispute. To that end, all parties express their intent and agreement that unreasonable attorney fees and costs not be awarded, and that all or a portion of reasonable attorney fees and costs be awarded when in the arbitrator's opinion the party against whom such fees and costs are awarded has maintained position(s) which have significantly less merit compared to the prevailing party's position(s). Further, it is all parties' intent that any party seeking redress through litigation or in any tribunal other than the mediation or arbitration specified herein, despite the fact that mediation and arbitration are required by this Warranty, shall not be entitled to recover any attorney fees or costs for such litigation or in any subsequent arbitration, regardless of the outcome of such litigation or subsequent arbitration.

11. No Assignment, Sale.

The rights and obligations hereunder are not assignable, and shall not be assigned, transferred, pledged or hypothecated in any way, and shall not be subject to execution, attachment or similar process. Any prohibited attempted assignment, transfer, pledge or hypothecation, or other disposition of this Warranty or of such rights, interests, and benefits contrary to the foregoing provision, or the levy of any attachment or similar process thereupon, shall be null and void and without effect, and shall constitute a material breach hereof. Further, this Warranty will automatically terminate and become void if, during any eighteen (18) month period, in any transaction or series of transactions, PMP sells substantially all its assets, or sells ownership interests representing in excess of thirty percent (30%) of the total ownership in PMP as of the date hereof. Provided however, PMP may request in writing that Manufacturer allow such a sale of assets or ownership, and this Warranty will not terminate if Manufacturer approves such transaction(s) in Manufacturer's sole and absolute discretion.

12. Miscellaneous.

- a. No right, obligation or benefit under this Warranty may be assigned or transferred in whole or in part by any party hereto.
- b. Captions, paragraph headings or table of contents are for convenience only and in no way limit or modify in any manner this Warranty.
- c. This Warranty constitutes the final and entire understanding between the parties and supersedes any prior agreements, written or oral, between the parties. There are no other agreements between them, written or oral. Neither party has made any representation, warranty, or covenant not contained in this Warranty.
- d. No amendment, modification, waiver of, or supplement to this Warranty shall be effective, unless it is in writing and signed by each party. The agreements made herein may not be modified, supplemented, or changed in whole or in part by any waiver (other than a written waiver signed by the parties), or a representation, or course of dealing.
- e. All notices or demands hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or when sent by registered or certified mail, return receipt requested, to any party hereto at the addresses set forth above or at such other addresses as any party shall subsequently designate in writing.
- f. Each of the undersigned individuals for themselves represents and warrants that they have full power and authority to execute this Warranty on behalf of the party designated below.
- g. No waiver by any party to this Warranty of any breach of any term, provision or condition of this Warranty by the other party shall be deemed a waiver of a similar or dissimilar term, provision or condition at the same time, or any prior or subsequent time.

h. The introductory paragraphs of this Warranty are hereby incorporated into this Warranty by reference.

13. Termination of Prior Agreement.

To the extent Manufacturer and PMP have previously executed any agreement of any kind related to the provision of any warranty with respect to Product, then, except as specifically stated in this paragraph 13, execution of this Warranty hereby terminates and supercedes all such prior agreement(s). With respect to any Structures covered by any prior warranty which has a duration shorter than the duration specified in this Warranty, all Structures registered under such prior warranty will be covered for the original duration specified in the prior warranty only.

BY CLICKING "I ACCEPT" AND SIGNING BELOW, YOU ARE REPRESENTING TO MANUFACTURER THAT YOU HAVE FULLY READ AND UNDERSTAND ALL OF THE TERMS AND CONDITIONS OF THIS WARRANTY AND AGREE TO ABIDE BY ALL SUCH TERMS AND CONDITIONS.

You must enter your full name above to accept this agreement, and by doing so you hereby individually represent and warrant that you have full power and authority to accept this Warranty and bind Pest Company to the terms of this Agreement.

I ACCEPT

Signature

Name (printed)

E-MAIL YOUR COMPLETED FORM TO: info@nisuscorp.com

SUBJECT: Attn: Bora-Care Warranty

