

PROPERTY INSPECTION AGREEMENT

Client - \_\_\_\_\_

Property Street Address - \_\_\_\_\_

In consideration of the inspection fee of \$ \_\_\_\_\_ paid by Client to Inspector, the receipt and sufficiency of which is hereby acknowledged by Inspector, and pursuant to this Property Inspection Agreement (this "Agreement"), Texan Inspection Services, L.L.P. (the "Inspector"), agrees to conduct an inspection for the purpose of informing Client of major deficiencies in the condition of certain improvements located on the Property described above. The written report produced by the Inspector regarding the Property is the confidential property of the Inspector and Client and shall not be copied, reproduced, used by, transferred to, or relied upon by any other person or company without both the Inspector's and Client's prior written consent.

1. **PURPOSE AND SCOPE OF INSPECTION.** The purpose of this one-time inspection is to identify and disclose visually observable major deficiencies of the inspected systems and items at the time of the inspection only. A system or component has a major defect if it is unsafe or not functioning and cannot be replaced or rendered safe or functional for less than \$1,000. The following items are **not** covered in the scope of the inspection: Any area that is not exposed to view, is concealed, or is inaccessible because of soil, walls, wall coverings, floors, floor coverings, ceilings, insulation, furnishings, stored items, built-in cabinets or shelves, etc., or those areas/items that have been excluded by the TREC standards, as well as detached buildings, fences and gates, landscaping, elevators, lifts, dumbwaiters, media equipment, telephone equipment, security equipment, intercoms, water treatment devices, thermostatic or time clock controls, radiant heat systems, solar heating systems, furnace heat exchangers, alarm systems, draperies, blinds, shutters, hardware, formica, marble, tile floors, wall coverings, air conditioning systems when outside temperature is below sixty (60) degrees, refrigerant and condensate leaks, drains, sprinkler systems in automatic mode or when outside temperature is below thirty-two (32) degrees, landscape lighting, sewer lines, septic systems, water wells, solar heating systems, water conditioning systems, and low voltage lighting. Regarding pools, hot tubs, saunas, steam baths, ponds, and fountains, only above-ground portions of such improvements are inspected, **provided, however,** that freeze protection equipment and anti-siphon equipment are not inspected. The inspection and report do not address, and are not intended to address, code and regulation compliance (all code references are for educational purposes only), the possible presence of or danger from asbestos, radon gas, lead paint, urea formaldehyde, soil contamination, microwave radiation, electromagnetic fields, microbiological organisms and other indoor and outdoor substances, mold, underground storage tanks, proximity to toxic wastes, zoning ordinances, flood plain location, geological stability of soils, wood destroying insects, dry rot, fungus, or household pests. Client is urged to contact a competent specialist if information, identification, or testing of the above is desired. Many homes have excessive moisture issues that might lead to mold growth, but the ability to detect the presence of mold is beyond the scope of this inspection. If you are concerned about the presence of mold, you are strongly urged to consult with a qualified professional microbiologist or mold inspector prior to purchasing the Property. Inspector is not required to inspect areas which may contain, in Inspector's sole discretion, materials hazardous to the health and/or safety of the Inspector's personnel.

2. **NO WARRANTIES OR GUARANTIES.** This inspection is not intended to be technically exhaustive, nor is it considered to be a guarantee or warranty, expressed or implied, regarding the conditions of the property, items and systems inspected, and it should not be relied on as such. The inspection may include the use of infrared camera/digital camcorders, which can capture infrared and digital images. The use of this additional advanced equipment is for the benefit of the Client; provided, however, that latent and concealed defects and deficiencies are excluded from the inspection, and Inspector in no way purports to perform any service beyond the standard "visual inspection" of the Property. **CLIENT IS HEREBY NOTIFIED THAT THE INSPECTOR HAS NOT MADE, DOES NOT MAKE, AND HEREBY DISCLAIMS ANY WARRANTIES OR GUARANTEES, EXPRESSED OR IMPLIED, REGARDING THE ADEQUACY, PERFORMANCE, OR CONDITION OF ANY STRUCTURE, ITEM, COMPONENT, OR SYSTEM INSPECTED, SPECIFICALLY INCLUDING (BUT NOT LIMITED TO), ANY IMPLIED WARRANTIES OF FITNESS, MERCHANTABILITY, HABITABILITY AND GOOD AND WORKMANLIKE CONDUCT.** Client is advised that property owner warranties are available through third-party providers if warranties are desired. The price of the inspection does not include any such warranties, and none are offered or available through the Inspector. The Inspector shall not be held responsible or liable for any repairs or replacements with regard to the Property or the systems, components, or contents therein. Since the inspection procedure is visual only and is not intended or designed to be diagnostically and/or technically exhaustive, an inherent risk remains that undiscovered problems exist and/or future problems will develop. Client acknowledges that the Inspector is not an insurer and it is not the intent and/or purpose of this inspection procedure to provide client with a risk free purchase or usage of the Property.

3. **LIMITATION OF LIABILITY.** Since the inspection is primarily a visual inspection, it is not possible to eliminate all risks involved in the purchase and/or ownership of the Property. **CLIENT AGREES, TO THE FULLEST EXTENT PROVIDED BY LAW, THAT CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY AND ALL LOSSES OR DAMAGES SUSTAINED BY CLIENT RELATING TO THIS AGREEMENT OR THE INSPECTION OR REPORT PROVIDED PURSUANT HERETO, INCLUDING ATTORNEYS' FEES AND COSTS, AND EXPERT WITNESS FEES AND COSTS, IS LIMITED SO THAT THE TOTAL AGGREGATE LIABILITY OF THE INSPECTOR (OR INSPECTOR'S EMPLOYEES OR ASSIGNEES) SHALL NOT EXCEED THE AMOUNT OF THE FEE PAID BY CLIENT TO INSPECTOR FOR THE INSPECTION AND REPORT.** This limitation shall apply regardless of the cause or the legal theory pled or asserted specifically including, but not limited to, negligence and shall control the amount of any award against the Inspector. Unless Inspector is found to be grossly negligent, Inspector shall have no liability with respect to Inspector's obligations under this Agreement or otherwise for consequential, exemplary, special, incidental, or punitive damages even if Inspector has been advised of the possibility of such damages. Client further waives any rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Texas Business & Commerce Code, a law that gives consumers special rights and protections, for any claim. After consultation with an attorney of their own selection, or with reasonable opportunity to consult with an attorney, Client voluntarily consents to this waiver.

4. **TAINTED, CORROSIVE DRYWALL.** From approximately 1999 until today, some homes in Texas were reportedly built or renovated using tainted drywall imported from China ("Tainted, Corrosive Drywall"). Tainted, Corrosive Drywall may emit toxic levels of Hydrogen Sulfide (H<sub>2</sub>S), iron disulfide, strontium sulfide, carbon disulfide, carbonyl sulfide, formaldehyde, sulfur dioxide, and/or sulfur trioxide causing corrosion of copper and metal surfaces, including air conditioner coils, refrigerator coils, copper tubing, and electrical wiring, and it often creates noxious odors which may pose health risks. Tainted, Corrosive Drywall has most commonly been reported in houses built or renovated/remodeled after 2000 in 42 out of the nation's 50 states. Additional information concerning Tainted, Corrosive Drywall can be found at: <http://www.cpsc.gov/info/drywall/index.html>; <http://www.constructionguru.com>; and <http://chinesedrywallcomplaintcenter.com>. By signing this Agreement, Client acknowledges that this Inspection will not reveal the existence of Tainted, Corrosive Drywall and/or damages to the

Property which may have resulted from Tainted, Corrosive Drywall. In order to determine the existence of Tainted, Corrosive Drywall and related damages, it is recommended that an inspection be scheduled with a drywall specialist.

5. **NOTIFICATION OF DISPUTES REQUIRED/ARBITRATION OF DISPUTES.** Client shall notify Inspector in writing of any controversy or claim related to this Agreement, the inspection or the inspection report within ninety (90) days after the date of this Agreement, and all disputes not submitted to Inspector within such time shall be deemed waived by Client, and Client hereby releases, acquits, and forever discharges Inspector from such claims, and all related causes of action and damages, not submitted to Inspector within said ninety (90) day period. In order to provide Inspector with an opportunity to investigate and resolve any such claim, Client shall not commence any arbitration or other legal proceeding relating to such claim for a period of thirty (30) days after Inspector's receipt of written notice of the claim. If, with respect to a controversy or claim related to this Agreement, the inspection or the inspection report, Client and Inspector are unable to reach a mutually satisfactory resolution within said thirty (30) day period, such dispute shall be settled by binding arbitration administered by the American Arbitration Association under its construction industry arbitration rules; provided, however, that if such claim is made by Client, Client shall satisfy the requirements of Section 5 hereof prior to submitting such claim to arbitration. Only TREC licensed real estate inspectors will be eligible to serve as the arbitrator. Judgment upon the award rendered by an arbitrator may be entered in any court having jurisdiction thereof. In any arbitration or other legal action in which the Inspector is the prevailing party or is not found liable, Inspector shall recover from Client any attorney's fees and costs incurred by Inspector in defense of the proceeding. **NOTICE TO CONSUMERS AND SERVICE RECIPIENTS:** A recovery fund is available for aggrieved persons through the Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78871-2188, 800-250-8732 or 512-459-66544, <http://www.trec.state.tx.us>.

6. **CERTIFICATE OF MERIT.** Client shall make no claim, including without limitation any claim of professional negligence, against Inspector unless Client has first provided Inspector with a written certification executed by an independent Texas Licensed Professional Real Estate Inspector currently practicing in the field of residential inspections in the Greater Houston, Texas area for homebuyers. The certification shall: a) contain the name and license number of the certifier; b) specify the acts or omissions of the Inspector that the certifier contends are not in conformance with the standard of care for a Licensed Professional Real Estate Inspector performing a home inspection under similar circumstances; and c) state in detail the basis for the certifier's opinion that such acts or omissions do not conform to the standard of care. This certificate shall be provided to the Inspector not less than twenty (20) days prior to the presentation of any claim, or the institution of any arbitration or legal proceeding by Client. This certificate of merit requirement will take precedence over any existing state law in force at the time of the claim or demand for arbitration.

7. **INDEMNITY. CLIENT AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS INSPECTOR, ITS PARTNERS, OFFICERS, EMPLOYEES, ATTORNEYS, AND AGENTS, AND TO DEFEND ANY ACTION BROUGHT AGAINST ANY SUCH PARTIES, WITH RESPECT TO ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DEBTS OR LIABILITIES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER OR NOT RESULTING FROM THE NEGLIGENCE OF ANY PARTY SO INDEMNIFIED, UNLESS CAUSED BY THE GROSSLY NEGLIGENT ACTIONS OR INTENTIONAL MISCONDUCT OF INSPECTOR.**

8. **MISCELLANEOUS.** Any particular concern of Client regarding the Property shall be brought to the attention of the Inspector before the inspection begins. All written comments by the Inspector shall supersede oral comments. The inspection report is valid for the date and time of the inspection only. Re-inspections charges will apply for any additional trips to the Property. Client agrees that if he/she is not in receipt of the written inspection report on this Property within 48 hours of the date and time of the inspection, Client will contact the Inspector in writing to inform him that the inspection report has not been received. The invalidity, illegality, or unenforceability of any provision contained in this Agreement shall not affect any other provision hereof, and this Agreement shall be construed as is such invalid, illegal or unenforceable provision has never been contained herein. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY DISPUTE ARISING IN CONNECTION HERewith IS EXPRESSLY DECLARED TO BE IN HARRIS COUNTY, TEXAS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement. This Agreement may not be assigned by Client without Inspector's prior written consent. To the extent that the inspection report issued by the Inspector conflicts with the terms of this Agreement, the terms of this Agreement shall control. This Agreement shall be included as an addendum to the inspection report issued by the Inspector related to the Property. Any notice which is required or desired under this Agreement shall be given in writing and may be sent by personal delivery or by mail (either a. United States mail, postage prepaid, or b. Federal Express or similar generally recognized overnight carrier), addressed as follows (subject to the right to designate a different address by notice similarly given): if to Inspector, Texan Inspection Services, L.L.P., 1305 FM 359, Suite E, Richmond, Texas 77406; if to Client, to the address set forth herein below.

The undersigned Client hereby executes this Property Inspection Agreement on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

I would like a copy of the inspection report forwarded to my REALTOR. (Please check box, if applicable.)

I would like a copy of the inspection report forwarded to \_\_\_\_\_. (Please check box, if applicable.)

CLIENT:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Current Address)