

Building Examiners of Texas, Inc.  
515 Wesley Ridge Dr.  
Spicewood, Tx. 78669  
830-693-9523 phone  
830-214-2510 fax

**Inspection and Consulting Service Order Agreement**

THIS AGREEMENT LIMITS OUR LIABILITY AND IS INTENDED TO BE A LEGALLY BINDING CONTRACT, PLEASE READ IT CAREFULLY.

Subject Property: \_\_\_\_\_

Client(s) Name(s) and Address: \_\_\_\_\_

Realtor's Name and Address: \_\_\_\_\_

Seller's Name and Address: \_\_\_\_\_

Inspection Fee: \$      Describe: Structural, Electrical, HVAC, Plumbing and Appliances. Total Fee: \$

Client (named above) requests a limited visual inspection of the subject property to be conducted by Building Examiners of Texas, Inc; a licensed real estate inspection firm. The real estate inspector and the company and their agents, employees, and owners are jointly referred to herein as the "inspector". The purpose of the inspection is to inform the client of visually observable major deficiencies in the condition of the inspected systems and items at the time of the inspection. Client represents and warrants that client has secured all approvals necessary for inspector's entrance onto the subject property for the purpose of conducting the inspection. Client warrants that they will carefully read the entire written inspection report (herein called report) when they receive it and will promptly call the inspector with any questions they may have. Client and inspector understand that they are bound by all terms of this agreement.

**FEE:** Client agrees to pay the fee stated above for the performance of the inspection. This amount shall be paid in full prior to the completion of the inspection. Should client fail to timely pay the agreed upon fee, client shall be responsible for paying any and all fees associated with collection, including but not limited to attorney's fees and costs. The parties agree that the fee agree to herein is not contingent on the reporting of any specific, predetermined condition of the subject property. The inspector has not and will not accept a fee or other valuable consideration in this transaction from any person other than the client. The inspector has not and will not pay any portion of the fee received herein to any participant in the real estate transaction.

**SCOPE of INSPECTION:** The inspection to be performed for client is a non-invasive visual examination of the inspected systems and items of the subject property. Major visible defects as they exist on the date of the inspection will be noted on the report, which will be prepared by the inspector during and after the inspection. The inspection will be performed in accordance with the Standards of Practice of the

Texas Real Estate Commission (TREC) and the inspector will use the TREC Property Inspection Report to report the findings. The TREC Standards of Practice and Property Inspection Report define the scope of the inspection to be performed. Copies of the TREC Standards of Practice and Property Inspection Report will be provided upon request or client may view them at <http://www.trec.state.tx.us>. The inspection is not a warranty, guarantee, insurance policy, or substitute for real estate transfer disclosures, warranties, or Seller's Disclosure Statement which may be required by law.

**EXCLUSIONS:** This inspection is limited to the real property and does not include personal property unless so indicated in the report. Inspector will not inspect or report on systems and items that are not included or that are specifically excluded in the TREC Standards of Practice or Property Inspection Report unless otherwise agreed to in writing signed by the parties. Inspector is not required to inspect anything identified in the TREC Standards of Practice as limitations or exclusions specific to the systems and components inspected. No representation is made as to how long any equipment will continue to function. Maintenance conditions may be discussed, but they are not a part of this inspection. The inspection to be performed is a visual inspection only. Latent and concealed defects and deficiencies are excluded from this inspection. Building Examiners of Texas, Inc. assumes no liability for the cost of repairing or replacing any unreported defects or conditions, either current or arising in the future, or for any consequential damages, bodily injury or property damage of any nature. Inspector shall have no liability for conditions that are concealed from view or inaccessible to the inspector. A system or component is not accessible if inspection requires moving personal property, dismantling, destructive measures, or any action that will, in the opinion of the inspector, likely involve risk to persons or property. Anything not readily observable because it is concealed or inaccessible due to obstructions including (but not limited to) floor coverings, suspended ceiling tiles, insulation, furniture or other personal property, soil, vegetation, water, ice or snow cannot be inspected. Inspector is not required to move or disturb such items in order to diminish or eliminate obstruction.

**LICENSED INSPECTOR:** Inspector is licensed as a real estate inspector by the Texas Real Estate Commission, License number #1887. Client understands that the inspector is a generalist, knowledgeable in a variety of areas, but does not hold himself as an expert in any field. A preliminary generalist inspection and report is an unbiased opinion, based upon the experience of the individual inspector. Inspector is not an insurer or guarantor against defects in the systems and items inspected. If the inspector recommends consulting specialized experts for further evaluation or repair, it is up to the client, at the client's expense to proceed with further inspections or evaluations with experts as selected by the client. Client agrees to consult with an appropriate specialist on any item noted in need of repair, replacement or further evaluation prior to closing. Inspector may not perform repairs or maintenance in connection with the Inspection. The inspector is not a principal, broker or salesman in this real estate transaction.

**LIMITED WARRANTY: CLIENT ACKNOWLEDGES THAT THE INSPECTOR WARRANTS ONLY THAT ITS INSPECTION WILL BE PERFORMED IN ACCORDANCE WITH THE SCOPE HEREIN, THE INSPECTION REPORT, AND THE STANDARDS OF PRACTICE OF THE TEXAS REAL ESTATE COMMISSION. THIS IS A LIMITED AND NON-TRANSFERABLE WARRANTY AND IS THE ONLY WARRANTY GIVEN BY INSPECTOR. INSPECTOR MAKES AND CLIENT RECEIVES NO OTHER WARRANTY, EXPRESS OR IMPLIED. ALL OTHER WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND WAIVED BY CLIENT. THIS STATED EXPRESS LIMITED WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF INSPECTOR FOR DAMAGES ARISING OUT**

OF OR IN CONNECTION WITH THE PERFORMANCE OF THE INSPECTION AND ANY DELIVERY AND USE OF AND RELIANCE ON THE REPORT. CLIENT WAIVES ANY CLAIM FOR CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES.

**LIMITATION OF LIABILITY:** In the event the inspector fails to fulfill the obligations under the agreement, **Client's exclusive remedy at law or in equity against the inspector is limited to a maximum recovery of damages equal to the inspection fee paid herein.** This limitation of liability applies to anyone, including client, who is damaged or has to pay expenses of any kind, including attorney fees and costs, because of his mistakes or omissions by inspector in the inspection or report. Client assumes the risk of losses greater than the refund of the fee paid herein. Client acknowledges that this limitation of liability is reasonable in view of the relatively small fee that inspector charges for making the inspection when compared with the potential of exposure that inspector might otherwise incur in the absence of such limitation of liability.

**CONFIDENTIALITY OF REPORT:** The report is confidential and is for the sole and exclusive private use of the client. It is not to be copied or disseminated to any other party without the express written consent of the inspector. Use of all information contained in the report is specifically restricted to the transaction for which the inspection was performed. Use of or reliance upon the report by other parties, or for other transactions, is strictly prohibited. No third party shall have any right arising from the contract or the report and may not rely on the report. In consideration of the furnishing of the report, the client agrees to indemnify, defend, and hold harmless inspector for all costs, expenses, legal fees, awards, settlements, and judgments in any legal proceeding brought by any third party who claims that he/she relied on representations made in such report and was damaged thereby. Client's request that inspector release copies of this report to any third party or client's release of copies of the report to any third party shall be at client's risk with respect to the contents of this paragraph.

**DISCLOSURE:** Client requests and authorizes inspector to disclose information and provide a copy of the report to real estate agents, sellers, lenders, attorneys, and other parties intimate to this transaction. Inspector authorizes client to provide a copy of the report to the seller, the lender, and the real estate agents in this transaction.

**DISPUTE RESOLUTION: Notice:** Client understands and agrees that any claim for failure to accurately report the major visible defects of the subject property, as limited herein, shall be made in writing and reported to the Inspector **within 10 business days of discovery.** Inspector agrees to respond promptly to any legitimate complaint and re-inspect the portion of the property relating to the claimed condition by requesting permission to do so within 15 days of client's written notice of claimed condition. Client further agrees that client and its agents, employees or independent contractors will make no alterations, repairs or replacements to the claimed condition prior to re-inspection by the inspector. **Client understands and agrees that any failure to timely notify inspector and allow adequate time to investigate and re-inspect as stated above shall constitute a complete bar and waiver of any and all claims client may have against inspector related to alleged act, omission, or claimed condition.**

**MEDIATION:** Client agrees that if a dispute or claim arises from this agreement, the inspection, or the report, and if the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation before resorting to arbitration. If the mediation does not result in

a settlement of the dispute, than any unresolved controversy shall be submitted to arbitration, as set forth below. The parties shall share equally the costs of the mediator.

**ARBITRATION:** Any and all disputes, not resolved by direct discussions or mediation, concerning the interpretation of this agreement or arising from the inspection and report shall be resolved by final, binding, non-appealable arbitration conducted in Burnet County, Texas in accordance with the rules of the American Arbitration Association, expect that the parties shall mutually agree upon an Arbitrator who is familiar with the real estate inspection industry and the TREC Standards of Practice. At the arbitration the parties may adjudicate all claims and issues, as provided for or limited herein, that could have been raised before a court of law, including but not limited to, lawful attorney's fees and costs, where provided by statute. The decision of the Arbitrator shall be final and binding. The parties shall share equally the costs of the arbitrator. Either party may demand arbitration by written notice to the other. Such demand for arbitration must be made less than one year after the date of inspection.

**STATUTE OF LIMITATIONS:** The parties agree that no claim, demand, or action, whether sounding in contract or in tort, may be brought to recover damages against the inspector, or its officers, agents, or employees **more than one year after the date of the inspection. Time is expressly of the essence herein.** Client understands that this time period may be shorter than otherwise provided by law.

**ACCEPTANCE OF REPORT:** If the client has not signed this agreement then acceptance of the report shall constitute agreement with all the terms of this agreement. The report to be prepared by inspector shall be considered the final and exclusive findings of the inspector regarding the inspection of the property. Client shall not rely on any oral statements made by the inspector prior to issuance of the printed report.

**SEVERALABILITY:** If any portion of this agreement is found to be invalid or unenforceable by any court or arbitrator, the remaining terms shall remain in force and effect between the parties to the fullest extent possible.

**CHOICE OF LAW AND VENUE:** This agreement shall be construed and enforced in accordance with the laws of the state of Texas, and venue shall be in Burnet County, Texas.

**ACCEPTANCE OF THIS AGREEMENT:** This agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors, assigns, agents, and representatives of any kind whatsoever. If client is married, client represents that this obligation is a family obligation incurred in the interest of family. With regard to words used herein, the singular shall include the plural and the plural shall include the singular where appropriate. This agreement constitutes the entire integrated agreement between the parties pertaining to the subject matter hereof and may be modified only by a written agreement signed by all of the parties. This agreement supersedes any and all representations or discussions, whether oral or written, if any, among the parties relating to the subject matter of this agreement. No oral agreements, understandings, or representations shall change, modify, or amend any part of this agreement.

**I/WE HAVE READ, UNDERSTAND AND AGREE TO ALL OF THE ABOVE TERMS AND CONDITIONS.**

**CLIENT (S)**\_\_\_\_\_ **DATE**\_\_\_\_\_

\_\_\_\_\_ **DATE**\_\_\_\_\_

**INSPECTOR**\_\_\_\_\_ **DATE**\_\_\_\_\_

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