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InterNACHI Home Inspection Agreement - NY

Rev 8-18-21

Inspected Property:

Inspection Date:

Inspection Time:

() AM () PM

Client(s) Name:

Client(s) Present Address:

Inspected By:

License No.:

Inspection Fee:

THIS AGREEMENT made this ____ day of _____, 20__, by and between _____ (hereinafter "INSPECTOR") and the undersigned ("CLIENT"), collectively referred to herein as "the Parties." The Parties understand and voluntarily agree as follows:

- 1. Permission to Enter Property:** The CLIENT is responsible for ensuring that the INSPECTOR has permission to enter the Inspected Property to perform the home inspection on the date scheduled. The INSPECTOR is not responsible for any disruption in the inspection process caused by construction, renovations, painting, cleaning, or any other activity occurring at the Inspected Property at the time of the inspection.
- 2. Assumption of Risk of Injury:** The INSPECTOR has no knowledge or information concerning the conditions of the Inspected Property and will not see any conditions until the time of the home inspection. The CLIENT is encouraged to attend the home inspection but assumes all risks and responsibility for any injury (including, but not limited to, personal injury, bodily injury, disability, and death), illness, damage, loss, claim, liability, or expense, of any kind, that CLIENT may experience or incur in connection with attending the home inspection. CLIENT releases, discharges, and holds harmless INSPECTOR, its employees, agents, and representatives, of and from any such claims, including all liabilities, claims, actions, damages, costs, or expenses of any kind arising out of or relating to attending the home inspection.
- 3. Scope of Services:** The home inspection is the process by which the INSPECTOR observes and provides a written report of the observable systems and components of a residential building including, but not limited to, the heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components or any other related residential building component as recommended or required by regulation to provide the CLIENT with objective information about the condition of the Inspected Property. Home inspectors are licensed by the NY Department of State. Home inspectors may only report on readily accessible and observed conditions as outlined in this Agreement, Article 12 B of the Real Property Law and the regulations promulgated thereunder including, but not limited to, the Code of Ethics and Regulations and the Standards of Practice, 19 NYCRR § 197-5.1, et seq. ("NY Standards"). Home inspectors are not permitted to provide engineering or architectural services. Home inspectors cannot determine the Inspected Property's boundary lines or encroachments, easements, or any limitations of use of the Inspected Property. Home inspectors cannot determine compliance with regulations, codes, laws, or ordinances. Home inspectors cannot determine the market value of the Inspected Property or its marketability. **If immediate threats to health or safety are observed during the course of the inspection, the CLIENT hereby consents to allow the INSPECTOR to disclose such immediate threats to health or safety to the Inspected Property's owner and/or occupants of the Inspected Property.** The inspection is based on the observations made on the date of the inspection, and not a prediction of future conditions.
- 4. Home Inspection Report:** The CLIENT and the INSPECTOR agree that the INSPECTOR will prepare a home inspection report that shall: (a) clearly identify which systems or components of the residential building were observed; (b) identify those systems and components observed that, in the professional opinion of the INSPECTOR, are deficient, not functioning properly and/or unsafe; (c) disclose those systems and components which are/were designated for inspection pursuant to the NY Standards and are/were present in the Inspected Property at the time of the inspection but are/were not inspected and the reason(s) they were not inspected; and (d) recommend further evaluation by a qualified professional, tradesperson, or service technician beyond that provided by the INSPECTOR where necessary.
- 5. General Exclusions:** An inspection **IS NOT** technically exhaustive. An inspection **WILL NOT** identify concealed or latent defects, deal with aesthetic concerns or what could be deemed matters of taste, cosmetic defects, etc. An inspection **DOES NOT** include items not permanently installed. The inspection services **DO NOT INCLUDE** any action, system or component specifically excluded from the scope of work in any provision of the New York Standards. The INSPECTOR **IS NOT REQUIRED TO:** (a) observe any item that is concealed or not readily accessible to the INSPECTOR, move furniture, personal or stored items, lift floor coverings, move attached wall or ceiling coverings or panels, or perform any test or procedure which could damage or destroy the item being

evaluated; (b) observe appliances, recreational facilities, alarm systems, intercoms, speaker systems, radio controlled devices, security devices and lawn irrigation systems; (c) determine the presence or absence of any suspected hazardous substance including, but not limited to, latent surface and/or subsurface volatile organic compounds, PCBs, asbestos, urea formaldehyde insulation, toxins, carcinogens, diseases, wood destroying organisms, mold, hazardous plants, illicit drugs or drug making equipment, lead paint, noise or contaminants in soil, water, air quality, wet lands or any other environmental hazard; (d) use special instruments or testing devices, such as amp meters, pressure gauges, moisture meters, gas detectors and similar equipment, except as otherwise necessary and required by the NY Standards; (e) report on real property, geological, environmental or hazardous waste conditions, manufacturer recalls or conformance of proper manufacturer installation of any component or system, or information contained in Consumer Protection Bulletins, and are not required to report on past or present violations of codes, ordinances or regulations; (f) provide an inspection of any condominium common component or system, or to evaluate condominium reserve accounts; (g) enter any residential building or area of the building that, in the opinion of the INSPECTOR, is dangerous to the safety of the INSPECTOR or others or that will result in damage to the Inspected Property, its systems or components; (h) enter any area or perform any procedure which, in the opinion of the INSPECTOR, may damage the Inspected Property or its components; (i) observe any system or component that is not included in the NY Standards; (j) perform a technically exhaustive inspection or to identify concealed conditions, latent defects or consequential damages. The INSPECTOR **IS NOT REQUIRED TO DETERMINE:** (a) conditions of systems or components that are not readily accessible; (b) the remaining life expectancy of any system or component; (c) the strength, adequacy, effectiveness or efficiency of any system or component; (d) the causes of any condition or deficiency; (e) the methods, materials or costs of corrections; (f) the future condition of a system or component including, but not limited to, the failure of the system and/or components; (g) the suitability of the Inspected Property for any specialized use; (h) the advisability of purchase of the Inspected Property; (i) the presence of potentially hazardous plants or animals including, but not limited to, wood destroying organisms or diseases harmful to humans including molds or mold-like substances; (j) the presence of any environmental hazard including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water and air; (k) the presence or effectiveness of any system installed or method utilized to control or remove suspected hazardous substances; (l) operating costs of systems or components; (m) acoustical properties of any system or component; and (n) soil conditions related to geo-technical or hydrologic specialties. The INSPECTOR **IS NOT REQUIRED TO OPERATE:** (a) any system or component that is shut down or otherwise inoperable; (b) any system or component that does not respond to normal operating controls and shall not be required to dismantle any system or component, except as explicitly required by the NY Standards; (c) shut off valves or manual stop valves; and (d) any system or component that, in the opinion of the INSPECTOR, is dangerous to the INSPECTOR or other persons, or will result in damage to the residential building, its systems or components. The INSPECTOR **IS NOT REQUIRED TO OBSERVE:** (a) concealed spaces or components or underground items including, but not limited to, underground storage tanks or other underground indications of their presence, whether abandoned or otherwise; (b) items that have not been installed; (c) installed decorative items; (d) items that are not entered in accordance with other provisions of the NY Standards; and (e) detached structures other than garages and carports. The INSPECTOR **SHALL NOT BE REQUIRED TO MOVE:** (a) personal property; (b) furniture; (c) equipment; (d) plants; (e) soil; (f) snow; (g) ice; or (h) debris. The CLIENT and the INSPECTOR agree that the scope of the inspection to be performed pursuant to this Agreement **DOES NOT INCLUDE** decay of the interior of logs in log walls, log foundations or roofs, or similar defects in log homes, log structures or similar log construction. The CLIENT and the INSPECTOR agree that the INSPECTOR **IS NOT REQUIRED TO PERFORM** any action or task specifically excluded from the scope of a home inspection as contained in the NY Standards, whether or not specifically identified herein.

6. **No Liability for Third-Party Service Providers:** The INSPECTOR may, where appropriate, recommend third-party service providers to supply goods and/or services to CLIENT in accordance with the home inspection services. CLIENT understands and agrees that the INSPECTOR bears no legal or contractual responsibility to the CLIENT for any actions or inactions of any such third-party service provider. No third-party service provider shall have the authority to incur or create any liability or obligation in the name of the INSPECTOR, or for which the INSPECTOR shall be liable to another.

7. **No Liability for Third-Party Reliance on Inspection Report:** The inspection and home inspection report are for the use of CLIENT only. INSPECTOR may also provide a copy of the home inspection report to the CLIENT'S real estate agent or attorney. INSPECTOR has permission to discuss observations with real estate agents, owners, repairpersons, and other interested parties only with written consent of CLIENT. CLIENT shall be the sole owner of the report and all rights to it. INSPECTOR accepts no responsibility for use or misinterpretation of the content of the report by third parties, and third parties who rely on it in any way do so at their own risk and release INSPECTOR from any liability whatsoever.

8. **Inspection Fee & Additional Fees:** The Inspection Fee identified above is due prior to or immediately upon completion of the physical inspection of the Inspected Property. If the Inspection Fee is not paid as required herein, the INSPECTOR has no obligation to release the home inspection report, or any other information concerning the inspection or the Inspected Property, until the Inspection Fee is paid in full. All expenses incurred in collecting any overdue payments or returned checks are the responsibility of the CLIENT. There is a \$50.00 service charge for returned checks. A finance charge of one and one-half percent (1.5%) per month, eighteen percent (18%) per year, will apply to all obligations not paid pursuant to the terms contained herein. CLIENT agrees that in addition to any service charges or interest, the CLIENT shall be responsible for all legal fees and costs incurred by the INSPECTOR to collect the fees due under this Agreement. The CLIENT agrees that the provisions of Paragraph 11 of this Agreement do not apply to any legal fees and costs incurred by the INSPECTOR to collect the fees due.

9. **Responsibility for Return Inspections:** The CLIENT understands that if any systems and/or components of the Inspected Property cannot be inspected due to unforeseen circumstances during the inspection it is the CLIENT'S duty to contact the INSPECTOR should the CLIENT want the INSPECTOR to return to the Inspected Property later to inspect those systems and/or components. Any systems and/or components not inspected due to unforeseen circumstances will be identified in the report.

10. **Severability:** If any portion of this Agreement is found to be invalid or unenforceable by any court the remaining terms shall remain in force between the Parties. The indemnities and assumptions of liabilities and obligations herein shall continue in full force and effect after and notwithstanding the termination of this Agreement.

11. **LIQUIDATED DAMAGES & LIMITATION OF LIABILITY:** INSPECTOR assumes no liability for the cost of repair or replacement of unreported defects or deficiencies either current or arising in the future. CLIENT acknowledges that the liability of INSPECTOR, its agents and/or employees, for any claims against the INSPECTOR, including claims for, but not limited to, breach of contract, negligence, fraud or misrepresentation, and/or any violation of any law, statute, regulation, ordinance, or any other theory of liability arising out of, from or related to this Agreement or arising out of, from or related to the inspection or the

home inspection report, shall be limited to liquidated damages in an amount equal to the fee paid to the INSPECTOR, and this liability shall be exclusive. CLIENT waives any claim for consequential, exemplary, special, or incidental damages or for the loss of the use of any portion of the Inspected Property. The Parties acknowledge that the liquidated damages are not intended as a penalty but are intended (i) to reflect the fact that actual damages may be difficult and impractical to ascertain; (ii) to allocate risk among the INSPECTOR and CLIENT; and (iii) to enable the INSPECTOR to perform the inspection at the stated fee. The CLIENT understands that he/she/they is/are free to consult with another professional if the Client does not agree to this provision.

12. **Disclaimer of Warranties:** Unless specified in this Agreement, all express or implied conditions, representations, and warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement are disclaimed, except to the extent that these disclaimers are held to be legally invalid.

13. **Notice of Claims:** The CLIENT agrees that any claim for failure of the INSPECTOR to fulfill its obligations under this Agreement shall be made in writing to the INSPECTOR upon discovery. The CLIENT also agrees to allow the INSPECTOR ten (10) days to come to the Inspected Property to observe, photograph, inspect and evaluate any condition complained of by the CLIENT to the INSPECTOR and not to make, or allow others to make, any alteration to the claimed condition until the INSPECTOR has had the opportunity to inspect and evaluate the claimed condition.

14. **Governing Law & Jurisdiction:** All issues and questions concerning the construction, validity, enforcement, and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the state where the Inspected Property is situated, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the state where the Inspected Property is located. The parties agree that any litigation arising out of this Agreement, or any services provided by the INSPECTOR shall be filed only in the court having jurisdiction in the county in which the INSPECTOR has its principal place of business.

15. **LIMITATION ON TIME TO INITIATE ANY LEGAL ACTION:** Any legal action, dispute, controversy, interpretation, or claim, including claims for, but not limited to, breach of contract, any form of negligence, fraud or misrepresentation, and/or any violation of any law, statute, regulation, ordinance, or any other theory of liability arising out of, from or related to this Agreement or arising out of, from or related to the inspection or the home inspection report must be initiated within one (1) year from the date of the delivery of the home inspection report to the CLIENT, regardless of when the CLIENT first discovers the facts supporting such possible claims as identified herein. Failure to initiate said action within one (1) year of the date of services shall be a complete bar to any such action a full and complete waiver of any rights, actions or causes of actions that may have arisen thereon. This period may be shorter than otherwise provided by state law.

16. **No Assignments Permitted:** CLIENT may not assign all or any portion of his/her/their rights or obligations under this Agreement. Subject to the preceding, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties hereto and their respective heirs, legal representatives, successors, and assigns. This Agreement does not create and shall not be construed or deemed to create any rights or benefits enforceable by or for the benefit of any person or entity other than the Parties hereto and their respective heirs, legal representatives, successors, and assigns.

17. **Entire Agreement:** This Agreement represents the entire agreement between the parties. No oral agreements, understandings, or representations shall change, modify, or amend any part of this Agreement. No change or modification shall be enforceable against any party unless such change or modification is in writing and signed by the parties and supported by valid consideration. This Agreement shall be binding upon and inure to the parties hereto and their spouses, heirs, executors, administrators, successors, assigns, and representatives of any kind whatsoever.

18. **Acceptance of Terms:** CLIENT agrees that he/she/they have read, understand, and agree to all the terms and conditions on all pages of this Agreement, including the limitations and exclusions, and agree(s) to pay the fee shown according to the terms stated herein. The CLIENT can consult with legal counsel, or any other person or entity, before signing this Agreement. CLIENT acknowledges that if CLIENT does not agree with any of the terms of this Agreement, CLIENT has the option to retain another inspection company.

CLIENT'S Signature: _____ Date: _____

CLIENT'S Name: _____
Please Print

INSPECTOR'S Signature: _____ Date: _____

INSPECTOR'S Name: _____
Please Print