



7 S Post Ln.
Airmont, NY 10952
845 445 8234
www.KahnHomeInspectors.com
dov@kahnhomeinspectors.com

Commercial Inspection Agreement

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 CLIENT understands and agrees that the INSPECTOR will perform a PCA of the visible and accessible defects of the Inspected Property in accordance with ASTM E 2018-08, the Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process, which is available upon request. The PCA shall include, if applicable to the Inspected Property, a visual inspection of the following accessible systems and components as described in, and in the manner provided by, ASTM E 2018-08: site; structural frame and building envelope including roofing; mechanical and electrical systems including the plumbing, heating, air conditioning and ventilation; and interior elements. The CLIENT also understands that the INSPECTOR utilizes inspectors who are knowledgeable in a variety of areas. However, they are not "experts" in every field.
- 4. Inspection Report:** The CLIENT and the INSPECTOR agree that the INSPECTOR will prepare a written PCA Report which shall: (A) disclose those systems and components which are/were designated for inspection pursuant to ASTM E 2018-08 and are/were present in the above identified Inspected Property at the time of the inspection, as well as those systems and components which are/were present at the time of the inspection but are/were not inspected and the reason(s) they were not inspected; (b) describe the systems and components as defined in ASTM E 2018-08; (C) state and identify what defects were found in the previously described systems and components; (d) state the significance of the findings; and (e) provide recommendations regarding the need to repair, replace and/or monitor a system and/or component, or obtain examination and analysis by a qualified professional, tradesperson and/or service technician.
- 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 this Agreement. The INSPECTOR **IS NOT REQUIRED TO DETERMINE:** (a) the suitability of the Inspected Property for any use; (b) the market value of the Inspected Property or its marketability; (c) the insurability of the Inspected Property; (d) the advisability or inadvisability of the purchase of the Inspected Property; (e) the life expectancy of the Inspected Property or any components or systems therein; (f) property boundary lines or encroachments; (g) the condition of any component or system that is not readily accessible; (h) the service life expectancy of any component or system; (i) the size, capacity, BTU, performance or efficiency of any component or system; (j) the cause or reason of any condition; (k) the cause for the need of correction, repair or replacement of any system or component; (l) future conditions; (m) compliance with codes or regulations; (n) the presence of mold, mildew or fungus; (m) the presence of airborne hazards, including radon; (n) the air quality; (o) the existence of environmental hazards, including lead paint, asbestos or toxic drywall, or proximity to toxic waste sites or sites being monitored by any state or federal agency; (p) the existence of electromagnetic fields; (q) any hazardous waste conditions; (r) any manufacturers' recalls or conformance with manufacturer's installation guidelines, or any information included for consumer protection purposes; (s) acoustical properties; (t) correction, replacement or repair cost estimates; or (u) estimates of the cost to operate any given system. The INSPECTOR **IS NOT REQUIRED TO DETERMINE:** whether any system or component of the Inspected Property has been affected by the illegal manufacture, distribution, storage, possession or sale of any illicit drugs, products, or by-products, including, but not limited to, methamphetamines, and including all chemicals, tools, household fixtures or

appliances used to facilitate such illegal activities. The INSPECTOR is **NOT REQUIRED TO OPERATE:** (a) any system that is shut down; (b) any system that does not function properly; (c) or evaluate low-voltage electrical systems, such as, but not limited to: 1. phone lines; 2. cable lines; 3. satellite dishes; 4. antennae; 5. lights; or 6. remote controls; (d) any system that does not turn on with the use of normal operating controls; (e) any shut-off valves or manual stop valves; (f) any electrical disconnect or over-current protection devices; (g) any alarm systems; or (h) moisture meters, gas detectors or similar equipment. The INSPECTOR **IS NOT REQUIRED TO:** (a) move any personal items or other obstructions, such as, but not limited to: throw rugs, carpeting, wall coverings, furniture, ceiling tiles, window coverings, equipment, plants, ice, debris, snow, water, dirt, pets, or anything else that might restrict the visual inspection; (b) dismantle, open or uncover any system or component; (c) enter or access any area that may, in the INSPECTOR'S opinion, be unsafe; (d) enter crawlspaces or other areas that may be unsafe or not readily accessible; (e) inspect underground items, such as, but not limited to: lawn-irrigation systems, or underground storage tanks (or indications of their presence), whether abandoned or actively used; (f) do anything that may, in the INSPECTOR'S opinion, be unsafe or dangerous to the INSPECTOR or others, or damage property, such as, but not limited to: walking on roof surfaces, climbing ladders, entering attic spaces, or negotiating with pets; (g) inspect decorative items; (h) inspect common elements or areas in multi-unit housing; (i) inspect intercoms, speaker systems or security systems; (j) offer guarantees or warranties; (k) offer or perform any engineering services; (l) offer or perform any trade or professional service other than general home inspection; (m) research the history of the Inspected Property, or report on its potential for alteration, modification, extendibility or suitability for a specific or proposed use for occupancy; (n) determine the age of construction or installation of any system, structure or component of a building, or differentiate between original construction and subsequent additions, improvements, renovations or replacements; (o) determine the insurability of a property; or (p) perform or offer Phase 1 or environmental audits. 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.

6. Cost Estimates and Limitations: If the Inspection Report described above contains any estimates as to the costs associated with making any repairs, the CLIENT understands and agrees that said estimates are included solely as a guide and are not to be considered, understood, or utilized by the CLIENT as representing the actual costs associated with making any such repairs. The CLIENT further acknowledges and agrees to hold harmless the INSPECTOR in connection with any estimate(s) that may overstate or understate the actual cost of repair(s), even if said overstatement and/or understatement is due to the negligence of the INSPECTOR. Regardless of any such estimates, the CLIENT should obtain further qualification of any cost estimates from an appropriate contractor, tradesperson and/or professional.

7. 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 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. **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.

14. **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.

15. **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.

16. **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.

17. **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.

18. **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.

19. **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

