

An Introduction to and Explanation of the Property Inspection Contract

We have provided the following information in the form of answers to the questions which most often surface when it comes time for you, the client, to read over and sign the Contract which covers our inspection services. If, after you have read over all of this information and the Property Inspection Contract, you still have specific questions which we did not anticipate, feel free to ask your inspector who will be glad to answer them to the best of his/her ability.

Why do you have a written contract to cover your inspection services?

The inspection, testing, and consulting services that we provide are the best available in our area, and are of professional caliber. Nevertheless, we, just like any other professional, must operate within certain legal, ethical, environmental, and logistical parameters. We have a written contract in order to spell out those parameters for the benefit of our clients so that our performance and that of our clients will be defined in a clear manner. This way, we can plan and schedule our resources most efficiently to serve you, our client, and you can formulate reasonable expectations as to the extent and nature of our services.

Isn't your Contract just a poorly disguised list of "disclaimers" designed to "get the Inspector off the hook?"

Not hardly! Read the Limited Warranty presented in Paragraph 5 of the Contract. Through that Paragraph, we are warranting that we will do as thorough and as conscientious an inspection as we possibly can, given the legal, ethical, environmental and logistical constraints under which *all* home inspectors have to work. The dictionary defines the word "disclaim" as follows, "to repudiate or deny interest in or connection with," and, "to renounce or repudiate a legal claim or right." Nowhere in our Contract will you find us renouncing or repudiating your legal rights. Our Contract sets forth, very clearly, exactly what we *are* going to do and those few things we aren't going to do. In addition, it states clearly how all of the parties to the Contract have agreed to conduct themselves should a disagreement surface at any time during our relationship.

What do you mean when you mention "legal, ethical, environmental and logistical constraints?"

The "Contract to Buy and Sell Real Estate" which you signed when you began the purchase of this property customarily gives you the right to conduct whatever physical inspections of the property and inclusions that you might desire – at *your* expense. This "Inspection Clause" and your directions to us are our authority to arrange for and conduct a home inspection (and other related inspection services, if ordered) on your behalf. However, another sentence usually found in that same Inspection Clause escapes the notice of Purchasers with alarming regularity. This sentence usually reads something like this, "**Purchaser is responsible and shall pay for any damage which occurs to the Property and Inclusions as a result of such inspection.**" Remember that you (our client) are the "Purchaser" to whom this paragraph refers! Therefore, it is for *your* protection that, for example, we refrain from ripping the vegetation off of exterior walls in order to get a closer look, or why we don't cut holes in walls, ceilings or floors or in ductwork or pipes in order to see "what's going on inside," or why we don't operate systems or components to failure in order to test their endurance.

The ethical parameters to which we subscribe go beyond recognized fundamental business ethics to include the Code of Ethics of the American Society of Home Inspectors. Environmental parameters include such conditions as the weather at the time of the inspection. This may prevent our walking a roof surface due to inadequate traction or snow cover, or hostile conditions in an underbuilding crawl space such as excessive water or carbon monoxide that will logically preclude entry by all but the most foolish novice.

Logistical parameters will dictate the scope and conduct of our inspection services, since we are neither equipped nor licensed to conduct teardown inspections of components such as furnaces, boilers, and appliances. We commonly exclude inspection of specialty items such as wells, septic systems, solar systems, hot tubs, etc. To conduct a thorough and competent inspection of such items requires a substantial amount of time, specialized expertise, and additional tools over and above those commonly carried by a well-equipped home inspector. Because we must budget our time and resources very carefully in order to assure you, our client, of the most useful and comprehensive coverage of your potential purchase, we must follow a pre-planned format when conducting your inspection so that we can be certain to "cover all of the important bases" during our limited time at the property.

Finally, the information and advice contained in the RecallChek® Report we have offered is compiled by an independent organization not in any way associated with or under the control of 20/20 Home Inspections, Inc, thus we cannot be responsible for errors or omissions in their report not the *direct result* of our failure to accurately report appliance data.

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What do you mean by the term “Random Sampling?”

Certain components are *randomly sampled* or checked, such as: electrical switches and outlets, interior door function and latches, cabinet mounts, window function and condition, etc. When the Inspector randomly samples, s/he will check at least one of each component per room or per space – see also the definition of “Representative Number “ in the Glossary of the Standards of Practice of the American Society of Home Inspectors.

Also, the Inspector does not crawl every square inch of the underbuilding crawl space, and the Inspector does not normally enter and crawl around in the attic past the access opening, because the potential for damaging the ceilings far outweighs the possible benefits from any additional information gained.

What if the Report mentions instances of Moisture Staining?

When moisture staining or efflorescence on walls, ceilings, floors, or other surfaces is noted either verbally or in the Property Inspection Report, the client should understand that it cannot be determined whether the conditions contributing to or causing the staining have been corrected or are still present. Therefore, we recommend that the client take steps to monitor these areas on a periodic basis for the possible recurrence of moisture at some future time.

Will you tell the Seller “what he/she should fix?”

No, we will not convey any of the information contained in our Property Inspection Report to anyone but you, our client (and your Real Estate Professional, with your permission and at your direction). Obviously, all actions based upon the recommendations of the Inspector, which may be taken subsequent to the inspection, are subject to negotiation between the Buyer and Seller – usually through their respective Real Estate Professionals. The details and nature of these negotiations are not our business.

Who will inspect the repairs that another party has made or has agreed to have made?

We strongly recommend that qualified individuals, who are licensed where applicable, perform all repairs or corrective actions, and that all work should conform to all applicable governmental codes, ordinances and regulations.

The Inspector will not inspect completed work that has been done by or under the direct supervision of the Seller or any other third party. Likewise, we will not inspect the work of qualified trades’ persons such as licensed plumbers or electricians, heating or air conditioning technicians, licensed roofers, etc. The primary reason for this policy is that truly qualified technicians who work in their field of expertise every day are usually quite able to evaluate problems in their specialty and make the appropriate corrections. Furthermore, when the work has been completed, often important parts are once again concealed. Without being constantly on site to observe each of the steps that were taken, no one can ascertain, after the fact, that all of the work was done properly and in conformance with generally accepted industry standards.

What can you tell us about Building Permits and other Public Records?

The Inspector does not have the resources for determining if any permits were required or obtained for any work performed on the property. If there is evidence (or you find out) that additional work has been done on the property after the completion of the initial construction, or if you are uncertain as to whether a Building Permit was ever obtained to cover the initial construction of the house, you should investigate, through the local Building Department having jurisdiction, as to whether Permits have been obtained and whether all required inspections have been made and the Permit(s) have been properly closed out – usually through the issuance of a “Certificate of Occupancy.”

The legal status of the property and its present use; condition of title, boundaries and easements; compliance with local codes, ordinances, regulations or covenants, and possible location in earthquake or hazard zones will not be addressed in your Property Inspection Report. If desired, you can obtain most of this information from the appropriate public records.

20/20 Home Inspections, Inc

, Office - 530-759-9434 Fax - 530-302-4024

Property Inspection Contract

This Contract ("Agreement") is made and entered into on ___/___/___ between 20/20 Home Inspections, Inc and _____ (the "Client"), with respect to the real property identified as _____, _____, CA (the "Subject Property").

1. **Authorization; Presence of Client; Binding Effect:** Client hereby authorizes and contracts for 20/20 Home Inspections, Inc to perform a limited visual inspection of the Subject Property. The presence of the Client has been requested and encouraged during the inspection. The Client's participation shall be at his/her own risk for falls, injuries, property damage, etc. This Contract is binding upon Client, Client's spouse, heirs, guardians, legal representatives, successors and assigns. Client warrants that Client has read this Contract carefully, that Client understands that Client is bound by all of the terms of this Contract, and that Client will read the entire Property Inspection Report upon receipt and will promptly call 20/20 Home Inspections, Inc with any questions they may have.
2. **Scope of Inspection:**
 - 2.1 The Scope of this inspection is to examine *visually*, the safely and readily accessible portions of the structural, roofing, plumbing, electrical, heating, central cooling, and permanently attached kitchen appliance systems and components of the Subject Property specified in this Contract for conditions which are adversely affecting their normally intended function or operation within the limits set forth in this Contract and the Property Inspection Report. Only the visible, safely, and readily accessible portions of the systems and components specified in the Property Inspection Report shall be inspected. No other systems, items, components, or appliances are included in this inspection. The inspection performed by 20/20 Home Inspections, Inc is supplemental to any real estate transfer or Seller's Disclosure Statement and shall not be used as a substitute for such Disclosure Statements.
 - 2.2 The Inspector will not light pilot lights, activate (turn on) the main water, gas, or electrical controls or supplies, energize electrical circuits that are off, or operate any controls other than user controls that are normally operated by occupants. Client understands that in order to, (1) protect Client's own financial interests, (2) maintain the safety of those in attendance during the inspection, and (3) allow the inspector to perform the inspection in compliance with the Standards of Practice cited in Paragraph 2.3 below, the inspector will not perform any act that may damage the property, including, but not limited to, moving any appliances, furniture or stored personal items, or disturb finished surfaces by probing, remove floor coverings or insulation or disturb vapor barrier materials in underbuilding crawl spaces, or elsewhere in the building.
 - 2.3 This inspection will be conducted in compliance with the **Standards of Practice** of the **American Society of Home Inspectors** (Standards of Practice) unless otherwise noted, and where conditions permit. This is *not* an Engineering Inspection. Thus, no engineering tests or measurements (such as measuring the slope of floors) will be made. Client understands and acknowledges that detection (beyond limited *visual* observation) of, or testing for, environmental hazards including, but not limited to, allergens, asbestos, carbon monoxide or carbon dioxide gas, gypsum wallboard ("drywall") made in China, methane, propane, butane or any other flammable gases, lead based paint, molds and mildew, leakage of petroleum products from under or above-ground storage tanks, discharge of used automotive fluids into the soil, radon gas, toxins of any kind, urea formaldehyde foam, whether it/they be in the air, water, or soil is beyond the scope of any property inspection performed to these standards and **is specifically excluded** from this inspection and report. Because all property inspections are based upon *visual* observations made on one day during a limited time period, 20/20 Home Inspections, Inc cannot be responsible for any condition affecting any system or component that occurs *subsequent* to the inspection or is *intermittent and not detectable* during the inspection.
 - 2.4 Excluded is any information pertaining to manufacturers' recalls of any component or equipment outside of the information provided in the accompanying RecallChek[®] Report, as well as inspection of any systems or items not included in the Property Inspection Report, including but not limited to the following: swimming pools, saunas, spa, whirlpool, and hot tub systems, electrostatic precipitators or electronic air cleaners or filters, septic systems, private water systems or equipment, wells and well pumps, cisterns, ponds, fountains and other water features, water quality or volume, water conditioning systems, elevators, lifts, dumbwaiters, audio and video systems, central vacuum systems, fencing, landscaping, irrigation systems, active and passive solar systems, soils, security systems and wood destroying pests or organisms. Pool houses, cottages, barns, stables, outbuildings or other structures are not included in a standard home inspection but may be inspected upon request, in advance, for an additional fee. (Continued ➔)

3. **Property Inspection Report:** 20/20 Home Inspections, Inc agrees to prepare a Property Inspection Report as documentation of the inspector's observations resulting from her/his performance of the specified Scope of Inspection. The Property Inspection Report and its contents are intended for the exclusive use of, and are the non-transferable property of the Client. The Property Inspection Report is not to be considered an implied or express warranty on the Subject Property or its components concerning future use, operability, habitability, or suitability.

Note: Local practice may expect you to release a copy of the Client Advisory section of your Property Inspection Report to your Real Estate Agent. As an accommodation to you, we can print an additional copy for your use in this regard. If you would like us to provide this service to you, please read the "Third Party Indemnification" in the Standard Terms and Conditions on the next page, and then initial this box.



4. **Inspection Fee:** The Client agrees to pay the Inspection Fee of _____ at, or before, the time of the inspection. If such payment is not received by the time of the Inspection, Client agrees that 20/20 Home Inspections, Inc may choose not to release the Property Inspection Report until payment is received.
5. **Limited Warranty:** The Client acknowledges that 20/20 Home Inspections, Inc warrants that its inspection services will be performed in accordance with the Scope of the Inspection only. THIS IS A LIMITED AND NON-TRANSFERABLE WARRANTY AND IS THE ONLY WARRANTY GIVEN BY 20/20 Home Inspections, Inc. 20/20 Home Inspections, Inc MAKES AND CLIENT RECEIVES NO OTHER WARRANTY EXPRESS OR IMPLIED. ALL OTHER WARRANTIES INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. THIS STATED EXPRESS WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF 20/20 Home Inspections, Inc FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE INSPECTION AND DELIVERY AND USE OF AND RELIANCE UPON THE REPORT. 20/20 Home Inspections, Inc DOES NOT GUARANTEE THAT THE STRUCTURE INSPECTED WILL BE FREE FROM FAULTS OR DEFECTS. CLIENT WAIVES ANY CLAIM FOR CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES, EVEN IF 20/20 Home Inspections, Inc HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Dispute Resolution:** In the event any dispute arises regarding this Contract or the Property Inspection Report, it is agreed that all parties shall attempt, in good faith, to settle such disputes between themselves. In the event such attempts fail to resolve such disputes; any dispute, controversy, interpretation or claim including claims for, but not limited to, breach of contract, any form of negligence, fraud or misrepresentation arising out of, from or related to, this contract or arising out of, from or related to the inspection or inspection report shall be submitted first to a Non-Binding Mediation conference and absent a voluntary settlement through Non-Binding Mediation to be followed by final and Binding Arbitration, if necessary, as conducted by Construction Dispute Resolution Services, LLC or Resolute Systems, Inc. utilizing their respective Rules and Procedures. The decision of the Arbitrator appointed thereunder shall be final and binding, and judgment on the Award may be entered in any Court of competent jurisdiction. Client understands and agrees that in any such arbitration, all of the provisions of this Contract shall apply. **NOTICE:** You and we would have a right or opportunity to litigate disputes through a court and have a judge or jury decide the disputes, but **WE HAVE AGREED INSTEAD, TO RESOLVE ANY DISPUTES THROUGH MEDIATION AND BINDING ARBITRATION.**
7. **Standard Terms and Conditions:** The Standard Terms and Conditions printed on the page immediately following and attached to this Contract are a part of this Contract and are incorporated by reference. Together, these documents represent the entire Contract between the parties. No oral agreements, understandings or representations shall change, modify or amend any part of this Contract. In the event any provision is held to be unenforceable, it shall be severed from the contract document and the remaining provisions shall be fully enforced.

I acknowledge that I have read, understand, and accept the terms, conditions, and limitations as outlined in this Property Inspection Contract, including its Standard Terms and Conditions.

Client: _____ Date: _____

Agreed and accepted for 20/20 Home Inspections, Inc.

By: _____ Date: _____

STANDARD TERMS AND CONDITIONS OF THE PROPERTY INSPECTION CONTRACT

NOTE: These Standard Terms and Conditions are a part of the Property Inspection Contract and are incorporated by reference in Paragraph 7.

Inaccessibility and Non-Inspection: When inspection of any system or component is limited or is designated as not inspected due to inaccessibility or for any other reason, the Client must understand that conditions affecting the structure, systems, or components may be present. Therefore, we *strongly* recommend that the Client take additional measures to examine these areas or items.

Failure of Client to Sign Property Inspection Contract: Client understands and agrees that if they are not present at the time of the inspection, and therefore do not sign this Agreement, that the Inspection Company may elect to retain the Property Inspection Report and not release it until this Agreement is signed by the Client. Client further agrees that whether or not they have signed this Agreement, it is an integral part of the Property Inspection Report and acceptance of the Property Inspection Report by Client shall constitute acceptance of all of the terms and conditions of this Agreement.

Re-inspection Right: In the event that the Client believes that they have a claim of a breach or failure of warranty, or for negligent inspection of any component or item in the inspection, the Client shall provide the Inspection Company with three (3) working days in which to re-inspect the component or item before the Client repairs or replaces the component or item. This right of re-inspection is to protect the Inspection Company *and* the Client from the business practices of some contractors who base their recommendations to repair or replace components on false or misleading information. **If the Client fails to allow the Inspection Company to re-inspect, the Client waives any claim against the Inspection Company with respect to the component or item.**

Time Limit for Action: No action, whether in contract or tort, shall be brought against the Inspection Company in arbitration or a court of law beyond the earlier of six (6) months following the date of the Property Inspection Report or 120 calendar days after discovery by Client of the condition which forms the basis of the action. This time period may be shorter than otherwise provided for by law.

Attorneys' Fees and Costs: If a claim is made against the Inspection Company for any alleged error, omission or other act arising out of the performance of this inspection, and if Client is not awarded damages in an amount greater than the highest amount offered in settlement by the Inspection Company, Client agrees to pay all costs, attorneys' fees, arbitrator's fees and legal expenses incurred by the Inspection Company and its employees, agents, inspectors, directors, shareholders, successors and assigns in the defense of the claim.

Liability Limitation: Should a breach or failure of the foregoing warranty, or negligent inspection by the Inspection Company (excluding gross negligence or willful misconduct) be alleged, Client agrees that the liability of the Inspection Company, and of its agents, employees and inspectors, for claims or damages, costs of defense and suit, attorneys' fees, and expenses and payments arising out of or in any way connected with errors or omissions in the inspection or the inspection report shall be limited to liquidated damages in an amount equal to two times the amount paid for the inspection by the Client or one thousand dollars (\$1000) whichever is less. Client and Inspection Company acknowledge that the liquidated damages are not intended as a penalty but are intended, (1) to reflect the fact that actual damages may be difficult and impractical to ascertain; (2) to allocate risk among Inspection Company and Client; and (3) to enable Inspection Company to perform the inspection at the stated fee. In the event of the tender by Inspection Company of any payment, such payment shall be full and final settlement of all present and future claims and causes of action and Inspection Company shall be thereupon generally and fully released.

Third Party Indemnification: The Property Inspection Report is not intended for use by anyone other than the Client. No third party shall have any right arising from this Contract or the Property Inspection Report. In consideration for the furnishing of the Property Inspection Report, the Client agrees to indemnify and hold harmless the Inspection Company, its agents, employees, inspectors, directors, officers, shareholders, successors and assigns, for all costs, expenses, legal fees, awards, settlements, judgments, and any other payments of any kind whatsoever incurred and arising out of a law suit, cross-complaint, countersuit, arbitration, administrative proceeding, or any other legal proceeding brought by any third party who claims that he/she relied on representations made in such Property Inspection Report and was damaged thereby. Client's request that the Inspection Company release copies of the Property Inspection Report shall be at Client's risk with respect to the contents of this paragraph.

Pre-closing Walk-through: The Client acknowledges receipt of instructions and a checklist for conducting their own Walk-through immediately prior to closing on their purchase. Client agrees to personally (or through their designated representative) carry out such Pre-closing Walk-through within 36 hours before closing. Client further agrees that neither the Inspector nor the Company shall be held responsible for costs of correcting alleged defects or repairing/replacing non-functional components, if such conditions could have reasonably been detected by a lay-person in the course of a diligent Pre-closing Walk-through.