

King Home Inspection, LLC



HOME INSPECTION AUTHORIZATION, CONTRACT, AND SCOPE OF INSPECTION

Customer and Subject Property lines

THIS IS A LEGALLY BINDING DOCUMENT. IT CONTAINS LIMITATIONS ON THE SCOPE OF INSPECTION, REMEDIES, AND LIABILITY. PLEASE READ IT CAREFULLY. THIS CONTRACT SUPERSEDES ALL PREVIOUS COMMUNICATIONS.

AUTHORIZATION AND AGREEMENT

1. Customer hereby authorizes and contracts for King Home Inspection, LLC (Company) to perform a home inspection at the Subject Property. Customer agrees to the terms and conditions in this Contract. The Home Inspection Report and its contents are intended for the exclusive use of and are the nontransferable property of the Customer. The agreed Inspection Fee is payable on or before the time of the home inspection.

2. My signature below acknowledges that I have read, understand, and accept the terms, conditions, limitations, and exclusions as outlined in the Home Inspection Authorization, Contract, and Scope of Inspection and in the Description of Home Inspection Services.

I received and had the opportunity to read all four pages of the Home Inspection Authorization, Contract, and Scope of Inspection and both pages of the Description of Home Inspection Services and I DO NOT ELECT TO PAY AN ADDITIONAL FEE OF \$750.00 FOR THE REMOVAL OF THE LIMITATION OF LIABILITY AND LIQUIDATED DAMAGES AND INDEMNIFICATION described in paragraph 7 for this inspection and report.

THE TOTAL FEE FOR THIS INSPECTION IS: \$

Customer's Signature and Date lines

DO NOT SIGN AND DATE BELOW unless you agree to pay an additional \$750.00 for the removal of the limitation of liability and liquidated damages and indemnification.

I received and had the opportunity to read all four pages of the Home Inspection Authorization, Contract, and Scope of Inspection and both pages of the Description of Home Inspection Services and I ELECT TO PAY AN ADDITIONAL FEE OF \$750.00 FOR THE REMOVAL OF THE LIMITATION OF LIABILITY AND LIQUIDATED DAMAGES AND INDEMNIFICATION described in paragraph 7 for this inspection and report.

THE TOTAL FEE FOR THIS INSPECTION IS: \$

Customer's Signature and Date lines

Company is authorized to release copies of this home inspection report to:

Initial box and signature line

3. Unless otherwise modified in writing, the scope of this inspection is to perform a primarily visual, non-destructive, and non-technical examination (using normal operating controls where appropriate) of the applicable readily accessible portions of the structural, heating, cooling, plumbing, roofing, electrical systems and components of the primary residential dwelling building(s) and detached garages only at the Subject Property specified in this Contract and Inspection Report for adverse conditions. Kitchen appliances are specifically excluded unless the Company elects to include them in the inspection and report. The inspection is performed in accordance with the ASHI® *Standard of Practice for Home Inspections*® (available at: <http://www.homeinspector.org/Standards-of-Practice>) for conducting general, visual, non-technical home inspections as they apply to **the Scope of Inspection** unless otherwise noted and where conditions permit and except as modified by this Contract and the limits set forth in this Contract and the Inspection Report. **The Scope of Inspection** also includes the description of the scope and limitations of the inspection as set forth in the *Description of Home Inspection Services*. Only the visible and readily accessible portions of the items and components specified in the Inspection Report shall be inspected. **THE INSPECTOR IS NOT EXPECTED OR REQUIRED TO MOVE OR REMOVE ANY PERSONAL PROPERTY FROM OR AT THE SUBJECT PROPERTY IN ORDER TO CONDUCT THE INSPECTION.** No other systems, items, equipment, or appliances are included in this inspection. The inspection performed by Company is supplemental to any real estate transfer or seller's disclosure statement and shall not be used as a substitute for such disclosure statements or for a pre-closing walk through.

4. Unless this Contract is modified in writing and any such written modification is agreed upon and initialed by both the Company and the Customer, specifically excluded is the performance of any work and the performance of any inspection of any systems, components, or items which are not specifically included in or which are specifically excluded in this Contract, in the Description of Services, in the Inspection Report, and in the scope of inspection (as referenced in paragraph 3. above). In the event that the Inspection Report or oral statements made by the Inspector supply any information about any systems, components, or items which are not specifically included or which are specifically excluded in this Contract, in the Description of Services, in the Inspection Report, and in the scope of inspection, this information shall be deemed to be informational only and supplied as a courtesy to the Customer, and shall not be deemed to be an amendment to or waiver of the exclusions in the *Home Inspection Authorization, Contract, and Scope of Inspection* and *Description of Home Inspection Services* documents and shall not be deemed to acknowledge or create any duty not otherwise expressly specified in this Contract.

5. This is not a technical inspection and is, therefore, not technically exhaustive. No engineering tests will be made. Excluded is the performance of any inspection to determine conformance to or compliance with any manufacturer's specifications or installation or use instructions, or to determine or calculate the strength, adequacy, or efficiency of any system or component or any effect of any condition on the value, desirability, or safety of the subject property or of any system or component at the subject property. No examination will be made to determine compliance with any governmental ordinances, regulations, acts, protocols, or codes (notwithstanding any reference in the Inspection Report to any code provision). The Inspection Report is not to be considered an implied or express warranty or insurance on the Subject Property or its components concerning future use, safety, operability, habitability, or suitability. Company is not responsible for any condition affecting any system or component which occurs subsequent to the inspection or is intermittent and/or otherwise not detectable for any reason during the inspection. Customer has no expectation of being notified of all conditions, and waives any claim to conditions which are not reported.

6. CUSTOMER ACKNOWLEDGES THAT COMPANY WARRANTS THAT ITS INSPECTION SERVICES WILL BE PERFORMED IN ACCORDANCE WITH THE SCOPE OF INSPECTION AND THE INSPECTION REPORT ONLY. THIS IS A LIMITED AND NON-TRANSFERABLE WARRANTY AND IS THE ONLY WARRANTY GIVEN BY COMPANY. COMPANY MAKES AND CUSTOMER RECEIVES NO OTHER WARRANTY, EXPRESS OR IMPLIED. ALL OTHER WARRANTIES INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. THIS STATED EXPRESS WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF COMPANY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE INSPECTION AND DELIVERY AND USE OF AND RELIANCE ON THE INSPECTION REPORT. COMPANY DOES NOT GUARANTEE THAT THE STRUCTURE INSPECTED WILL BE FREE FROM FAULTS OR DEFECTS. CUSTOMER WAIVES ANY CLAIM FOR CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER EXPRESSLY INTENDS AND AGREES THAT THE INSPECTOR AND COMPANY HAVE NO OBLIGATION OR DUTY TO CUSTOMER EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT.

7. IN THE EVENT OF A BREACH OR FAILURE OF THE FOREGOING WARRANTY, CUSTOMER AGREES THAT THE LIABILITY OF COMPANY AND OF ITS AGENTS, EMPLOYEES, AND INSPECTORS FOR CLAIMS OR DAMAGES, COSTS OF DEFENSE AND SUIT, ATTORNEYS' FEES, OR 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 ALL AMOUNTS PAID FOR THE INSPECTION TO COMPANY BY CUSTOMER. Customer and Company acknowledge the liquidated damages are not intended as a penalty but are intended (i) to reflect the fact actual damages other than the full contract amount may be difficult and impractical to ascertain; (ii) to allocate risk among Company and Customer; (iii) to reflect the reasonably anticipated amount of damage which Customer would suffer; and (iv) to enable Company to perform the inspection at the stated inspection fee. **IN THE EVENT OF THE TENDER BY COMPANY OF A REFUND OF THE INSPECTION FEE, SUCH REFUND SHALL BE FULL AND FINAL SETTLEMENT OF ALL PRESENT AND FUTURE CLAIMS AND CAUSES OF ACTION (EXCLUDING WILLFUL MISCONDUCT) AND COMPANY, ITS AGENTS, EMPLOYEES, AND INSPECTOR(S) SHALL BE THEREUPON GENERALLY AND FULLY RELEASED. THIS FINAL SETTLEMENT EXPRESSLY INCLUDES CUSTOMER'S COVENANT AND OBLIGATION TO NOT POST, AND TO REMOVE FROM ALL POSTINGS, ANY NEGATIVE OR DISPARAGING INFORMATION OR RATINGS OR POST ANY DISPARAGING REMARKS OR COMMENTS REGARDING THE COMPANY OR ITS INSPECTORS ON ANY ONLINE SOCIAL MEDIA WEBSITES OR OTHER ONLINE WEBSITES. THE FORGOING RELEASE OF CLAIMS AND COVENANT OF NON-DISPARAGEMENT SHALL BE ENFORCEABLE BY AN ACTION FOR SPECIFIC PERFORMANCE AND MONETARY DAMAGES.**

8. EXCEPT AS EXPRESSLY PROVIDED HEREIN, CUSTOMER AGREES TO INDEMNIFY AND HOLD COMPANY AND ITS INSPECTOR(S) HARMLESS (INCLUDING COSTS OF DEFENSE AND ATTORNEYS' FEES) FROM AND AGAINST ANY BREACH OF COVENANTS IN SECTIONS 7 AND 9, AND ALL LIABILITY, CLAIMS, CAUSES OF ACTION, DAMAGES AND ACTIONS, INCLUDING THE COMPANY'S BREACH OF CONTRACT, MISREPRESENTATION AND NEGLIGENCE, AND INCLUDING COSTS AND ATTORNEYS FEES, RELATED TO OR ARISING FROM THE CONDUCT OF THE INSPECTION OR THE DELIVERY OF THE INSPECTION REPORT WHICH ARE THE SUBJECT OF THIS CONTRACT (EXCLUDING ONLY WILLFUL MISCONDUCT).

9. CUSTOMER HEREBY EXPRESSLY WAIVES AND RELEASES ANY CLAIMS AND CAUSE OF ACTION AGAINST THE INSPECTOR PERSONALLY, EXCLUDING ONLY WILLFUL MISCONDUCT, AND AGREES TO LOOK SOLELY TO COMPANY FOR ANY AND ALL LIABILITY RELATED TO THE INSPECTION INCLUDING THE NEGLIGENCE OF THE INSPECTOR(S). CUSTOMER HEREBY AGREES TO INDEMNIFY THE INSPECTOR(S) PERSONALLY FOR ANY AND ALL CAUSES OF ACTION, INCLUDING COSTS OF DEFENSE AND ATTORNEYS' FEES, RELATED TO OR ARISING FROM ANY CLAIM BROUGHT BY CUSTOMER AGAINST THE INSPECTOR(S).

10. IN THE EVENT CUSTOMER HAS A CLAIM OF A BREACH OR FAILURE OF WARRANTY, MISREPRESENTATION, OR NEGLIGENT INSPECTION, CUSTOMER SHALL NOTIFY COMPANY IN WRITING WITHIN SEVEN DAYS OF DISCOVERY OF THE CONDITION WHICH FORMS THE BASIS OF THE CLAIM AND PROVIDE COMPANY WITH THREE WORKING DAYS TO RE-INSPECT THE COMPONENT OR ITEM BEFORE CUSTOMER REPAIRS OR REPLACES THE COMPONENT OR ITEM (unless the repair or replacement is of an urgent nature, in which case Customer shall notify Company within three (3) business days and retain all parts and materials for inspection by Company within 30 days). This right of re-inspection is to protect Company and Customer from the business practices of some contractors who base their recommendations to repair or replace components on incorrect, false, or misleading information. **IF CUSTOMER FAILS TO COMPLY WITH THIS NOTIFICATION REQUIREMENT OR TO HONOR COMPANY'S RIGHT TO RE-INSPECT, CUSTOMER WAIVES ANY CLAIM AGAINST COMPANY WITH RESPECT TO THE COMPONENT OR ITEM.**

11. In the event any dispute arises regarding this Contract or the contents of the Inspection Report, it is agreed that Customer shall provide Company with a detailed written statement of the dispute and thereafter all parties shall attempt, in good faith, to settle such disputes between themselves. In the event such attempts fail to resolve such disputes, prior to the filing of any legal action by the Customer, the Customer shall submit to Company written notification and Customer's intent to file a legal action, and Company shall have thirty (30) days to submit the dispute to binding arbitration in Lorain, Ohio. Such arbitration shall be conducted in accordance with the Construction Industry Rules of the American Arbitration Association (or other appropriate entity), except for the rules pertaining to the arbitrator selection. The parties submitting the dispute shall appoint an arbitrator by mutual agreement who is knowledgeable in and familiar with the home inspection industry and who will follow substantive rules of law. Each party further agrees to pay its own arbitration costs. Any award made by the arbitration shall be enforceable as a judgment in any court of competent jurisdiction. **IN THE EVENT OF ANY JUDICIAL PROCEEDINGS, THE PARTIES KNOWINGLY AND VOLUNTARILY, AND HAVING HAD AN OPPORTUNITY TO CONSULT WITH COUNSEL, WAIVE ALL RIGHTS TO TRIAL BY JURY, AND AGREE THAT ANY AND ALL MATTERS SHALL BE DECIDED BY A JUDGE WITHOUT A JURY TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW.**

12. The Inspection Report is not intended for use by anyone other than the Customer. No third party shall have any right arising from this Contract or the Inspection Report. In consideration for the furnishing of the Inspection Report, the Customer agrees to indemnify and hold harmless 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 Inspection Report and was damaged thereby. If Customer releases or requests that Company release copies of the Inspection Report to any third party, such release shall be at Customer's risk with respect to the contents of this paragraph.

13. The inherent degradation of the systems and components of the Subject Property as a result of normal use and the passage of time makes it impossible to make a precise determination of conditions which were in existence at the time of the inspection. Therefore, Customer agrees that no action, regardless of the legal theory under which the action is brought (expressly including negligence and negligent misrepresentation but excluding willful misconduct), shall be brought against Company or the inspector beyond the earlier of one year following the date of the Inspection Report or 120 days after discovery by Customer of the condition which forms the basis of the action.

14. If a claim is made against Company for any alleged error or omission or other act arising out of the performance of this inspection, whether in court or in arbitration, and if Customer fails to prove such claim, Customer agrees to pay all costs and attorneys' fees incurred by Company, its inspectors, employees, agents, inspectors, directors, shareholders, successors and assigns.

15. **CUSTOMER ADDITIONALLY AGREES THAT UNLESS CUSTOMER HAS ELECTED ON THE FIRST PAGE OF THIS CONTRACT TO REMOVE THE LIMITATION OF LIABILITY AND LIQUIDATED DAMAGES, CUSTOMER ASSUMES AND ACCEPTS ALL RISK OF OWNER CONCEALMENT OR MISREPRESENTATION. IN THE ABSENCE OF SUCH AN ELECTION BY CUSTOMER, IF CUSTOMER MAKES A DEMAND OR BRINGS AN ACTION AGAINST OWNERS, SELLERS, OR AGENTS FOR FRAUD, CONCEALMENT, OR MISREPRESENTATION REGARDING A CONDITION OR COMPONENT OF THE SUBJECT PROPERTY, CUSTOMER HEREBY WAIVES AND RELEASES ANY AND ALL CLAIMS OR LIABILITY AGAINST INSPECTION COMPANY AND INSPECTOR(S) FOR DAMAGES RELATED TO THE CONDITION OR COMPONENT FOR WHICH THE DEMAND OR CLAIM IS MADE AGAINST OWNERS, SELLERS, OR AGENTS.**

16. Acceptance of the Inspection Report by any party shall constitute acceptance of the terms and conditions of this Contract as if signed by that party and shall constitute authorization to any person signing as Customer to act as an agent in agreeing to the terms and conditions. This Contract is binding on Customer, Customer's spouse, heirs, distributees, guardians, legal representative, successors and assigns.
17. The Customer's presence at the inspection is requested. If Customer is not present at the time of the inspection or for any other reason is unable to sign this Contract at the time of inspection, acceptance of the Inspection Report shall constitute acceptance of the terms and conditions of the Contract as if signed by Customer.
18. Company reserves the right to modify the written Inspection Report by a written addendum within a period of forty-eight (48) hours after the Inspection Report has been delivered to the Customer. If Company exercises this right to modify the written report within the time as specified above, Company shall provide telephone, fax, or email notification of the need for such addendum to the Customer or Customer's authorized agent and Customer agrees that the Inspection Report is not complete until receipt of the written addendum. Any such written addendum shall be mailed, emailed, faxed to the Customer, or made available for pickup by Customer within two (2) business days of the date of the Inspection Report.
19. The Inspection Report, any addenda, and the Home Inspection Report Glossary along with the *Home Inspection Authorization, Contract, and Scope of Inspection* and the *Description of Home Inspection Services* documents collectively constitute the Contract document. In the event any provision is held to be unenforceable, it shall be severed from the Contract and the remaining provisions shall be fully enforced.
20. Customer acknowledges that neither the Company nor the inspector have any interest in the Subject Property, have no independent, prior or existing knowledge of the Subject Property (in the event the Company has previously inspected the Subject Property, due to the potential of changing conditions, the inspector will inspect the Subject Property as if it were an original inspection), and will have only a limited opportunity to observe the Subject Property. Accordingly, Customer acknowledges and agrees that Customer will receive only a summary of visual observations. Customer acknowledges, agrees and warrants that Customer will not receive, and neither the Company nor the inspector can or will make, (a) representations as to the characteristics, ingredients, uses, benefits, alterations, or qualities of the Subject Property, (b) representations that the Subject Property is of a particular standard, quality, or grade, or of a particular style or model; or (c) statements which are not of the inspector's own knowledge. Customer agrees that to protect Company and the inspector from false claims of fraud, Customer shall make no claim for fraud and hereby stipulates to the dismissal without prejudice of any claim for fraud unless Customer can attach to such claim credible documentary or sworn evidence demonstrating first-hand knowledge that the inspector knowingly conspired with a third party with the intent to defraud Customer as to a specific material fact regarding the Subject Property (with "material" stipulated as having a value of more than \$5,000.00). Customer agrees to indemnify the Company and the inspector for any breach by Customer of the forgoing agreement and warranty.
21. Customer acknowledges and agrees that it is the Customer's intention to use the inspection and report for the purpose of becoming better informed regarding some of the conditions of the subject property and not for the purpose of negotiating other contracts. Customer further acknowledges and agrees that the Company is not a party to any contracts, negotiations, or agreements between the Customer and any third parties including, but not limited to, sellers, lessors, lenders, appraisers, title companies, surveyors, insurers, attorneys, or real estate agents and that Company, its agents, employees, and inspectors cannot and will not provide any advice or direction pertaining to the use or timeliness of use of any information contained in the Inspection Report with regard to any such contracts, negotiations, or agreements. The Customer also agrees that any decisions regarding consulting with any representatives or other parties are solely the responsibility of the Customer and to indemnify and hold harmless Company, its agents, employees, inspectors, directors, officers, shareholders, successors and assigns with regard to the Customer's decisions pertaining to the use of any of the information contained in the Inspection Report.
22. Company reserves the right to terminate the inspection on site and to return the inspection fee, in its discretion, for any reason or for no reason, and at any time prior to delivery of the Inspection Report. Such termination and refund shall terminate all contractual relationships between Company and Customer with regard to the home inspection, and Customer agrees that Company owes no duty whatsoever to Customer and Customer will not use or rely on any information obtained during the course of the inspection.
23. To reduce the potential for distracting the inspector and for interruption of the inspection process, video and/or audio recording of the inspection are expressly prohibited in any manner whatsoever without prior written permission from the Company.
24. If the terms and conditions of this *Home Inspection Authorization, Contract, and Scope of Inspection* and the *Description of Home Inspection Services* are not acceptable to the Customer, the Customer agrees to notify Company or Company's representatives prior to the inspection and the inspection shall be canceled, no fee charged, and the Customer shall be free to seek inspection services elsewhere.