



THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE UNIFORM ARBITRATION ACT, S.C. CODE § 15-48-10, ET SEQ.

Inspection Agreement

Inspector Name: Angus D. McPhaul SC State License #: RBI 2362
Company: McPhaul Home Inspections P.O. Box 597, Drayton, SC 29333
Email: dmcphaul@charter.net Phone: (864) 706-8337

THIS INSPECTION AGREEMENT IS A LEGALLY BINDING CONTRACT. PLEASE READ IT CAREFULLY.

Client Name: _____
Property Address: _____
Inspection Fee: _____ (Unless otherwise specified, Payment due upon delivery of report)

This professional services agreement (“Agreement”) is made by and between McPhaul Home Inspections, a division of Angus D. McPhaul Enterprises, LLC, (“Inspector” or “MHI”) and the undersigned client (“Client”).

- 1. **TYPE OF INSPECTION:** Inspector shall perform a limited visual inspection of the property located at the address written above (“Property”) and produce a written report consistent with the terms and conditions set forth in this Agreement (“Inspection”).
- 2. **PAYMENT:** Client shall pay a fee for the Inspection in the amount written above. Payment is due upon delivery of the written report. Client agrees to pay all costs involved in collecting unpaid fees including, but not limited to, attorney fees and expenses, court and arbitration expenses, collection agency costs, travel expenses, and other expenses.
- 3. **SCOPE OF INSPECTION:** The Parties agree that the scope of the Inspection, including any duties, limitations, and exclusions, shall be defined by the The Standard of Practice for Home Inspections of the American Society of Home Inspectors (“ASHI Standards”), as adopted by the State of South Carolina. The ASHI Standards are incorporated by reference herein and a copy of the ASHI Standards shall be provided to the Client upon request.

Pursuant to the ASHI Standards, Inspector shall perform a limited visual inspection of the residential structure at the Property and provide Client with a written report as to the apparent general condition of the inspected systems and components, including identification of observable deficiencies as they exist at the time of the inspection. The Inspection is limited to areas of the Property that are visible and readily accessible at the time of the Inspection. The Inspector cannot examine what cannot be seen by a non-invasive, visual examination. The Inspection is not technically exhaustive and will not reveal all defects including concealed and latent defects. No removal of materials or dismantling of systems shall be performed during the Inspection. The Inspector is not required to, nor will Inspector, move furniture, floor coverings, insulation, stored materials, personal belongings, open walls, or perform any type of destructive or invasive testing in order to perform the Inspection. MHI is not responsible for any condition that may be covered, concealed, or inaccessible because of, but not limited to, soil or vegetation, walls, structural members, furniture, floor coverings, insulation, stored items, personal belongings, water, ice, snow, soot, or conditions that would be considered a danger to the Inspector. The Inspection may be limited by weather or other conditions during the Inspection and by builder rules and restrictions. Inspector will not turn on, ignite, or inspect any utility service, major system, item, or component that is shut down or not connected to a functioning system at the time of the Inspection. All utility services and major systems must be turned on to perform the Inspection. Whether or not concealed or inaccessible, the following is a non-exhaustive list of conditions and components not within the scope of the Inspection:

- Violation of any past or present building or governmental codes or regulations;
- Violation of any zoning ordinances;
- Soils or soil contamination;
- Fireplace draft;
- Condominium or co-op common arrears or areas under the management of the condominium or co-op association;
- Telephone, intercom, antennae, lightening arrestors, and cable TV cables;
- Low voltage lighting and electrical systems;
- Electronic air cleaners or filter systems;
- Fences, gates, and related components;
- Water volume or flow;
- Security systems;
- Landscaping;
- Automatic gates, elevators, lifts, and dumbwaiters;
- Conditions relating to animals, rodents, or other household pests or the damage caused thereby;
- Irrigation systems;
- Solar heating systems;
- Underground tanks and pipes;
- Engineering analysis of any kind including structural integrity, system design problems, functional adequacy, operational capacity, quality or suitability for a particular use;
- Geological stability or ground condition of site;
- Scientific or specialized technician tests readings or evaluations;
- Cosmetic items, including without limitation, paint, scratches, scrapes, dents, cracks, stains, or faded surfaces, flooring, wall coverings, carpeting, paneling, lawn, and landscaping;
- Home warranty, system warranty, or component warranty;
- Cisterns or fountains;
- Electrostatic precipitators;
- Free standing appliance, such as washers, dryers, window air conditioning units, and other personal property;
- Tennis courts, playground, or other recreational or leisure appliances or equipment;
- Water conditioning/softening systems;
- Central vacuum systems.
- Systems, appliances, and other materials that have been subject to recall.

Unless Client has paid an additional fee and the specific item is circled and initialed by both Client and Inspector in this Agreement, the following items are also excluded under this Agreement and not within the scope of the Inspection:

- Septic system;
- Wells or well pumps;
- Water quality;
- Swimming pools, saunas, hot tubs, spas/whirlpools, jet tubs, or attached equipment;
- Mold/mildew/fungus or spores thereof or conditions related to mold, mildew, or fungus;
- Detached buildings or equipment;
- Environmental hazards including, but not limited to, asbestos, radon, lead, and lead based paint, Chinese drywall, formaldehyde, electro-magnetic fields, microwaves; and
- Wood destroying organisms including but not limited to, termites, carpenter ants, wood boring beetles, and fungal rot.

Any general comments in the written report about items not within the scope of the Inspection are informal only, done as a courtesy to Client, and do not alter or expand the scope of the Inspection. Client agrees to not hold MHI responsible for future failure and repair or for the non-discovery of any patent or latent defects in material, workmanship, or other conditions of the Property which may occur or become evident after the Inspection, nor for any alleged non-disclosure of conditions that are the responsibility of the seller of the Property. Client agrees to assume all the risk for conditions which are concealed from view or inaccessible to the Inspector at the time of the Inspection.

4. **PAST AND KNOWN DEFECTS:** Prior to the Inspection, the Client shall inform the Inspector of any and all past and currently known defects and/or past inspections performed, whether by a home inspector, pest control company, structural engineer, or other entity. The Client shall inform the Inspector of the history of all known structural problems of the Property regardless of repair and of any known natural or man-made disasters occurring at the Property (e.g., fire, flood, roof leaks, pipe bursts, etc.).
5. **NO WARRANTIES OR GUARANTEES:** The Parties to this Agreement agree and understand the Inspector is not an insurer or guarantor against defects in the Property, including any defects in the structure, items, components, or systems inspected. INSPECTOR MAKES NO WARRANTY, EXPRESSED OR IMPLIED, AS TO THE FITNESS FOR USE, CONDITION, PERFORMANCE, OR ADEQUACY OF ANY INSPECTED STRUCTURE, ITEM, COMPONENT, OR SYSTEM. The Inspection is not a substitute for real estate transfer disclosures which may be required by law. The Client further agrees that the payment for the Inspection is based solely on the value of the service provided by MHI in the performance of a limited visual inspection, the scope of which is defined in this Agreement.

6. **RIGHT OF OBSERVATION PRIOR TO REPAIR:** Client shall immediately notify Inspector of all components and conditions upon which Client may base claims, actions, and complaints against Inspector. Client shall provide Inspector the opportunity and a reasonable amount of time to observe all such components and conditions prior to making repairs or replacements (except emergency repairs necessary to protect life and property). Failure by Client to provide Inspector with the opportunity to observe all such components and conditions prior to repair or replacement will forever bar Client from instituting claims, actions, and complaints of any kind involving the Inspection.
7. **THIRD PARTIES:** Client agrees that Inspector's written report is for the Client's benefit and use only. The written report is prepared for the Client and may not be used or relied upon by any person other than the Client. The Client agrees to not rely on the report alone in making decisions about the Property. The Client agrees to maintain the confidentiality of the report and reasonably protect the report from distribution to any other person. Client agrees to indemnify, defend, and hold MHI harmless for any damages or expenses, including legal fees and expenses, involved in defending against any claim made by a third party against MHI resulting from the work performed under this Agreement, the inspection, or the report. Client expressly authorizes Inspector to provide copies of the written report and to discuss Inspector's findings with parties who may, in the Inspector's opinion, have a need for the information contained in the report including, but not limited to, the owner, owner's contractors, real estate agents, and government inspectors.
8. **EXECUTION OF AGREEMENT:** Client understands and agrees that if Client does not sign the Agreement prior to the Inspection, then this Agreement shall form a part of the written report and acceptance of, payment for, or use of the written report by the Client shall constitute execution and acceptance of the terms and conditions of the Agreement.
9. **RIGHT OF ACCESS:** Client shall secure from the owner of the Property permission for Inspector to enter the Property at a mutually agreeable time to conduct the Inspection. By signing this Agreement, the Client represents and warrants that such permission has been secured. Client will indemnify and hold MHI harmless from any action instituted against MHI by the owner of the Property due to Client's failure to secure Inspector's right of access.
10. **RE-INSPECTION AND ADDITIONAL SERVICES:** MHI's fees are based upon a single visit to the Property and the preparation of the written report. If additional visits, reports, or services are requested of MHI for any reason, an additional fee will be charged. In the course of the Inspection, MHI may refer other service providers to the Client. Client understands Client is not required or obligated to use these services or providers, and MHI does not warrant the adequacy or quality of their work. MHI does not accept a referral fee from these service providers.
11. **DISPUTE RESOLUTION:** Upon demand of MHI or Client, all claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration in the state of South Carolina or another location mutually agreeable to the Parties. The arbitrator's decision shall be final and binding on the parties, and judgment upon any determination or award may be entered in any court having jurisdiction. To the extent permitted by applicable law, Client hereby knowingly, voluntarily, and intentionally waives any right Client may have to a trial by jury in respect to any litigation based on, arising out of, or in connection with this Agreement and/or the services provided by MHI.
12. **MISCELLANEOUS PROVISIONS:** The Parties declare and represent that they have read this Agreement and that no promise, inducement, or agreement not herein expressed has been made to them and that the instrument contains the entire agreement between the parties hereto and that the agreement herein contained shall be binding on the heirs, executors, administrators, and assigns of the Parties, and further, that if any paragraph or part of this Agreement is found void or unenforceable, then the remainder of this Agreement shall not be affected and shall remain in force between the parties. Any modifications to this Agreement must be made in a writing signed by all parties. This Agreement shall be construed in accordance with the laws of the State of South Carolina. Client understands and agrees they will not rely on any oral statements made by the Inspector prior to the issuance of the written report. Client further understands and agrees that MHI reserves the right to modify the written report for 48 hours after the report has first been delivered to the Client.

13. **REPORT DEFINITIONS:** Client understands the following report definitions:

- a. **Apparent Condition:** Systems and components are rated as follows:
 - i. **IN – INSPECTED.** Indicates that the component was inspected and is functionally consistent with its original purpose but might show signs of normal wear and tear, or age.
 - ii. **NI – NOT INSPECTED.** Indicates that component was not available for inspection or could not be inspected. If critical to the home purchase decision, recommend subsequent follow-up by a licensed and qualified tradesperson prior to Closing.
 - iii. **NP – NOT PRESENT.** Indicates that the component was not present or could not be located for inspection.
 - iv. **RR – REPAIR OR REPLACE.** The item, component, or unit is not functioning as intended or needs further evaluation by a qualified contractor. Items, components, and units that can be repaired to satisfactory condition may not need to be replaced.
- b. **Installed systems and components:** Structural components, exterior, interior, roofing, plumbing, built-in appliances, electrical, heating, central conditions (weather permitting), insulation, and ventilation.
- c. **Readily accessible systems and components:** Only those systems and components where Inspector is not required to remove personal items, furniture, equipment, soil, snow, insulation, or other items which obstruct access or visibility or could require the Inspector to perform any unsafe or potentially hazardous act.

LIMITATION OF LIABILITY

THE CLIENT UNDERSTANDS AND AGREES THAT SHOULD MHI AND/OR ITS OWNERS, OFFICERS, AGENTS, OR EMPLOYEES BE FOUND LIABLE UNDER ANY LEGAL THEORY, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, GROSS NEGLIGENCE, FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, VIOLATION OF STATUTE, OR OTHERWISE, FOR ANY LOSS OR DAMAGE RELATING TO MHI'S SERVICES OR RESULTING FROM A FAILURE TO PERFORM ANY OBLIGATION, THEN THE TOTAL LIABILITY OF MHI AND/OR ITS OWNERS, OFFICERS, AGENTS, OR EMPLOYEES SHALL BE LIMITED TO A SUM EQUAL TO THE AMOUNT OF THE FEE PAID BY THE CLIENT FOR THE INSPECTION AND REPORT AS WRITTEN ABOVE.

CLIENT INITIALS _____

Client has read the Agreement, including the dispute resolution and limitation of liability provisions, and acknowledge that they understand the Agreement, have had the opportunity to negotiate the terms of the Agreement, and agree to be bound by the terms and conditions stated herein. Client understands that one signature on the Agreement binds all parties with an interest in the Property. The Parties agree that the Client's electronic signature or other electronic mark shall have the same legal effect as a manual signature.

Client's Signature: _____ Date: _____