

# ESA MOLD SURVEY INSPECTION AGREEMENT

## THIS AGREEMENT LIMITS OUR LIABILITY – PLEASE READ IT CAREFULLY

This Mold Survey Inspection Agreement (the "Agreement") is made effective on the date stated on page 2 of this agreement by and between the ESA affiliated Inspection company named on Page 2 of this agreement (hereinafter "Inspector", "we", "us" and "our") and client named on Page 2 of this agreement (hereinafter "Client," "You" or "Your") (collectively "parties"). We are an independently owned and operated company engaged in the business of providing home inspection services utilizing a ESA approved Lab for environmental laboratory analysis. You desire to have a Mold Survey Inspection (the "inspection") performed on a home located at the address stated on Page 2 of this agreement.

**Purpose.** The purpose of the Mold Survey is to detect the presence of a microbial problem in the inspected areas of the Subject Property and collect appropriate data elements to enable remediation specifications.

**Scope of Mold Survey.** The Mold Survey consists of a visual inspection in readily accessible areas for mold and/or conditions that may indicate the presence of mold ("red flags"), for example, musty odor and/or evidence of water penetration. If the visual inspection shows no or one "red flag" area, then limited samples will be taken ("Initial Sampling"), as set forth in the "Initial Sampling" section below. If "red flags" are found in multiple areas, then You will be advised and offered the chance to have additional samples collected in any and all identified areas ("Additional Sampling"). It is important to note that all "red flag" areas identified MUST have samples collected if Remediation Specifications are to be produced. The objective of the Mold Survey is to determine whether mold problems exist in the readily accessible area(s) sampled at the time the Mold Survey is performed. As such, the results of Mold Survey are not a guarantee that mold does or does not / will or will not exist in the house; the results are indicative only of the presence or absence of mold in the areas sampled at the time the Mold Survey is performed. In light of no currently established Threshold Limit Values (TLVs) for the majority of substances of biological origins that are associated with building-related exposures, We follow the guidance of the American Conference of Governmental Industrial Hygienists (ACGIH) 19.5.3.1. NEVER attempt to incorporate remediation activities (unless YOU are fully qualified); You should consult a Remediation Specialist or other appropriate Professionals concerning Mold.

**Visual Inspection.** The visual inspection is the first part of the Mold Survey. The purpose of the visual inspection is to identify visible mold or conditions that may be productive to microbial growth (examples musty odor/water intrusion). The sole purpose of the visual inspection is to detect the presence, or likely presence, of mold; therefore, We will not be liable for failure to discover any conditions other than readily apparent and visible mold, including, but not limited to, water penetration.

**Scope of Visual Inspection/Exclusions.** The scope of the visual inspection is limited to readily accessible areas only. We do not remove floor and wall coverings or move furniture, open walls or perform any type of destructive inspection. Certain structural areas are considered inaccessible and impractical to inspect including but not limited to: the interiors of walls and inaccessible areas below; areas beneath wood floors over concrete; areas concealed by floor coverings; and areas to which there is no access without defacing or tearing out lumber, masonry, roofing or finished workmanship; structures; portions of the attic concealed or made inaccessible by insulation, belongings, equipment or ducting; portions of the attic or roof cavity concealed due to inadequate crawl space; areas of the attic or crawl space made inaccessible due to construction; interiors of enclosed boxed eaves; portions of the sub area concealed or made inaccessible by ducting or insulation; enclosed bay windows; portions of the interior made inaccessible by furnishings; areas where locks prevented access; areas concealed by appliances; areas concealed by stored materials; and areas concealed by heavy vegetation. Note: There is no economically practical method to make these areas accessible. However, they may be subject to attack by microbial organisms. NO OPINION IS RENDERED CONCERNING THE CONDITIONS IN THESE AFOREMENTIONED OR OTHER INACCESSIBLE AREAS.

**Agreement for Further Sampling.** If discovered, You will have an opportunity for sampling of affected areas for an additional fee(s) by executing as Agreement for Further Sampling. In the event You execute the Agreement for Further Sampling, that agreement will become an additional addendum to this agreement. The cost of the additional sampling is in addition to the Mold Survey fee.

**Initial Sampling/Lab Testing.** Following the visual inspection, two air samples (one indoor and one outdoor) along with a carpet, swab, or additional air sample in one of

the common areas will be conducted. The samples will be sent to an ESA approved Lab, which will analyze them for the presence of mold. The Lab will then issue a report detailing the presence and type(s) of mold, if any, found in the samples. A reference guide will be provided, which explains the various types of mold along with any recommended action(s).

**Report of Mold Survey Results.** Following the visual inspection and additional sampling (if conducted), You will be provided with a written report identifying: Types and levels of molds read in samples along with sample locations; a description of each type of mold discovered; and a summary of findings. **If all identified "red flag" areas are sampled, Remediation Specifications will be provided.** These specifications will identify remediation activities based on current EPA guidelines.

**Notice of Claims.** You understand and agree that any claim(s) or complaint(s) arising out of or related to any alleged act or omission in connection with the Inspection shall be reported to us, in writing, within ten (10) business days of discovery. Unless there is an emergency condition, you agree to allow us a reasonable period of time to investigate the claim(s) or complaint(s) by, among other things, re-inspection before you, or anyone acting on your behalf, repairs, replaces, alters or modifies the system or component that is the subject matter of the claim. **You understand and agree that any failure to timely notify us and allow adequate time to investigate as stated above shall constitute a complete bar and waiver of any and all claims you may have against us related to the alleged act or omission unless otherwise prohibited by law.**

**Arbitration.** Any dispute concerning the interpretation of this Agreement or arising from the Inspection and Report (unless based on payment of fee) shall be resolved by binding, non-appealable arbitration conducted in accordance with the rules of the American Arbitration Association, except that the parties shall mutually agree upon an Arbitrator who is familiar with the home inspection industry.

**Limitations Period.** Any legal action arising from this Agreement or from the Inspection and Report, including (but not limited to) the arbitration proceeding more specifically described above, must be commenced within one (1) year from the date of the Inspection. **Failure to bring such an action within this time period shall be a complete bar to any such action and a full and complete waiver of any rights or claims based thereon.** This time limitation period may be shorter than provided by state law.

**UNCONDITIONAL RELEASE AND LIMITATION OF LIABILITY.** IT IS UNDERSTOOD AND AGREED THAT WE AND THE LAB ARE NOT INSURERS AND, THAT THE INSPECTION AND REPORT TO BE PROVIDED UNDER THIS AGREEMENT SHALL NOT BE CONSTRUED AS A GUARANTEE OR WARRANTY OF THE ADEQUACY, PERFORMANCE OR CONDITION OF ANY STRUCTURE, ITEM, OR SYSTEM AT THE SUBJECT PROPERTY. YOU HEREBY RELEASE AND EXEMPT US, THE LAB AND OUR RESPECTIVE AGENTS AND EMPLOYEES OF AND FROM ALL LIABILITY AND RESPONSIBILITY FOR THE COST OF REPAIRING OR REPLACING ANY UNREPORTED DEFECT OR DEFICIENCY AND FOR ANY CONSEQUENTIAL DAMAGE, PROPERTY DAMAGE OR PERSONAL INJURY OF ANY NATURE. IN THE EVENT THAT WE, THE LAB OR OUR RESPECTIVE AGENTS OR EMPLOYEES ARE FOUND LIABLE DUE TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENT MISREPRESENTATION, NEGLIGENT HIRING OR ANY OTHER THEORY OF LIABILITY, THEN THE CUMULATIVE AGGREGATE TOTAL LIABILITY OF US, THE LAB AND OUR RESPECTIVE AGENTS AND EMPLOYEES SHALL BE LIMITED TO A SUM EQUAL TO THE AMOUNT OF THE FEE PAID BY YOU FOR THE INSPECTION AND REPORT.

**Confidentiality.** You understand that the Inspection is being performed (and the Report is being prepared) for your sole, confidential and exclusive benefit and use. The Report, or any portion thereof, is not intended to benefit any person not a party to this Agreement, including (but not limited to) the seller or the real estate agent(s) involved in the real estate transaction ("third party"). *If you directly or indirectly allow or cause the Report or any portion thereof to be disclosed or distributed to any third party, you agree to indemnify, defend, and hold us harmless for any claims or actions based on the Inspection or the Report brought by the third party.*

**AGREEMENT FOR FURTHER SAMPLING**

**Mold Survey Results:** Based upon the results of the Mold Survey, We recommend that additional samples be taken in the Subject Property. A checked box indicates the condition(s) warranting this recommendation below. You will be provided information within the written Mold Survey Report identifying the areas of the Subject Property where microbial problems or conditions indicating microbial problems were discovered. This Agreement is not intended to be a substitute or replacement for the visual inspection. Any and all additional samples will be sent to an ESA approved Lab that will analyze them for the presence of mold. All sample results will be included in the Mold Survey Report defined in the Mold Survey Inspection Agreement.

- Evidence of suspected mold growth is visible in one or more areas of the property. It is recommended that swab samples in these areas be taken and tested.
- A visible condition exists in the Subject Property that may indicate that water infiltration has occurred or is occurring. Although there may be no visible signs of mold growth, this condition is conducive to mold growth that could be present in areas not readily visible. The tests recommended are: indoor air sampling, which will identify the type(s) of mold present, if any, and the concentrations of mold spores; a carpet test which will give "historical" data; and/or an inner wall sampling.
- A musty odor is present at the property. Although there may not be any physical evidence of the presence of mold growth in any readily accessible areas, this odor is consistent with odors commonly associated with the presence of mold growth. An indoor air sample; a carpet test which will give "historical" data; and/or an inner wall sampling is recommended.

Based on the above-checked items, the Client agrees to have the following samples taken in the home, as indicated by Your initials.

Location of Area to Be Sampled*	Type of Sample	Quantity	Price	Total	Initials
	Air / Swab / Carpet / Wall		@ \$	= \$	
	Air / Swab / Carpet / Wall		@ \$	= \$	
	Air / Swab / Carpet / Wall		@ \$	= \$	
	Air / Swab / Carpet / Wall		@ \$	= \$	
	Air / Swab / Carpet / Wall		@ \$	= \$	

\*We recommend sampling each of the areas identified in the Mold Survey Report having evidence of microbial problems (or conditions conducive thereto). Whether and which additional samples are taken is in the sole discretion of the Client.

Clients authorize and request the Inspector to take the samples initialed above. Clients understand that by requesting further sampling that this Agreement For Further Sampling becomes an additional addendum to the Mold Survey Agreement and subject to the terms thereof. Clients further acknowledge and agree that the Inspector may notify the homeowner or occupants of the Subject Property (if other than me/us) of any conditions in the Subject Property that may pose a health or safety concern."

\_\_\_\_\_  
Authorized Signature \_\_\_\_\_  
Date

The undersigned Client(s), acknowledge that Client(s) have been advised and encouraged to have the Subject Property tested for mold, and that client(s) understand that the presence of certain types of mold prevalent in housing can pose severe health hazards. Client(s) **decline** that the Inspector conducts the services recommended above. Client(s) agree to hold harmless the Inspector for any damages or responsibility for building conditions which remain undiscovered regarding the discovery of mold and mold spores." **Also, clients understand that Remediation Specifications cannot be produced unless the above mentioned samples are collected and analyzed.**

\_\_\_\_\_  
Authorized Signature \_\_\_\_\_  
Date

<b>Fees.</b> The base fee for this Mold Survey Inspection is \$ _____ + Additional Samples @ \$ _____ (See above table for details) Total Fee \$ _____
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THIS INSPECTION, INSPECTION AGREEMENT AND REPORT DO NOT CONSTITUTE A WARRANTY, AN INSURANCE POLICY, OR A GUARANTEE OF ANY KIND; NOR DO THEY SUBSTITUTE FOR ANY DISCLOSURE STATEMENT AS MAY BE REQUIRED BY LAW. By signing below, You acknowledge that You have read, understand, and agree to the terms and conditions of this agreement, including (but not limited to) the limitation of liability, arbitration clause and limitation period, and agree to pay the fee listed in the shaded box above. In addition, You acknowledge and agree that the Inspector may notify the homeowner or occupants of the Subject Property (if other than You), as well as any appropriate public agency, of any condition(s) discovered that may pose a safety or health concern.

Client Name \_\_\_\_\_

Property Address \_\_\_\_\_  

Street Name
City
State
Zip

CLIENT _____	INSPECTOR _____
Client's Signature _____	Company Name: _____
Date _____	Title: _____
	Date _____