



**Clayhill Property
Inspection Group**

401 Ave. J.

Snohomish, WA 98290

(425) 508-0103

info@clayhillproperties.com

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, it is *strongly* recommended 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 this Agreement will form a part of the Inspection Report and acceptance of the 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 has 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 months following the date of the Property Inspection Report or 120 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: In the event of a breach or failure of the foregoing warranty, or negligent inspection by the Inspection Company (excluding gross negligence or willful misconduct), 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 the amount paid for the inspection by the Client. Client and Inspection Company acknowledge 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.

Some Words of Introduction 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 not only the best available in our area, but they are of professional caliber as well. 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 as clear a manner as possible. 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* property 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 what 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 *Residential Contract to Buy and Sell Real Estate* which you signed when you began the purchase of this property 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 the Inspection Company are our authority to arrange for and conduct a property inspection (and radon test, if ordered) on your behalf. However, the very last sentence in that same Inspection Clause escapes the notice of Purchasers with alarming regularity. This sentence states, "**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 the protection of our Clients that we refrain from ripping the vegetation off of exterior walls in order to get a closer look. This is also the reason why we don't cut holes in walls, ceilings or floors or in ductwork or pipes in order to see what is 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 Property 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.

Finally, 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. because 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 Property 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.

Some Words of Introduction and Explanation of the Property Inspection Contract – Continued

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, it is recommended 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.