

## Vandalay Inspections LLC

# STANDARD RESIDENTIAL INSPECTION AGREEMENT

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT – PLEASE READ IT CAREFULLY

### Preliminary Note

In exchange for the agreed-upon fee, Vandalay Inspections will perform a limited visual inspection of various items at the above address. Of course, there will be some places at the property that are not visible or accessible and for that reason we cannot report on them. Also, we cannot predict the future. Many of the systems in a home are like a light bulb, which may look good when checked but there is no way the inspector can possibly predict when the bulb will burn out.

We are like a general practitioner. We will provide you with a physical examination of the covered property, looking for obvious and observable problems. If we see an indication of a problem, we recommend that you have it checked further by a specialist. A specialist can determine the specific problems are serious and, if desired, can recommend any necessary specific corrections. Our examination and report is similar to a personal doctor conducting a general physical and suggesting you see a specialist if there is a condition requiring follow up.

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**SCOPE OF THE INSPECTION.** The inspection to be performed for Client is a survey and basic operation of the systems and components of a building which can be reached, entered, or viewed without difficulty, moving obstructions, or requiring any action which may result in damage to the property or personal injury to the Inspector. The purpose of the inspection is to provide the Client with information regarding the general condition of the building(s). The Inspection will be performed by Patrick Emmett (referred to in this Agreement as Inspector), who is a representative of Vandalay Inspections.

Inspector will prepare and provide Client a written report for the sole use and benefit of Client. The written report shall document any material defects discovered in the building's systems and components which, in the opinion of the Inspector, are safety hazards, are not functioning properly, or appear to be at the ends of their service lives.

The inspection will be performed in accordance with the Standards of Practice of the California Real Estate Inspection Association (CREIA), attached hereto and incorporated herein by reference, and is limited to the items specified in this Agreement.

**CLIENT'S DUTY.** Client agrees to read the entire written report when it is received and promptly call Inspector with any questions or concerns regarding the inspection or the written report. The written report shall be the final and exclusive findings of Inspector.

Client acknowledges that Inspector is a generalist and that further investigation of a reported condition by an appropriate specialist may provide additional information which can affect Client's purchase decision. If there is a pending purchase/sale under consideration, Client agrees to obtain further evaluation of reported conditions before removing any investigation contingency and prior to the close of the transaction.

In the event Client becomes aware of a reportable condition which was not reported by Inspector, Client agrees to promptly notify Inspector and allow Inspector and/or Inspector's designated representative(s) to inspect said condition(s) prior to making any repair, alteration, or replacement. Client agrees that any failure to so notify Inspector and allow inspection is a material breach of this Agreement and a waiver of the right to make a claim with respect to that item or condition.

**ENVIRONMENTAL CONDITIONS.** Client agrees what is being contracted for is a building inspection and not an environmental evaluation. The inspection is not intended to detect, identify, or disclose any health or environmental conditions regarding this building or property, including, but not limited to: the presence of asbestos, radon, lead, urea- formaldehyde, fungi, molds, mildew, PCBs, Chinese drywall, or other toxic, reactive, combustible, or corrosive contaminants, materials, or substances in the water, air, soil, or building materials.

The Inspector is not liable for injury, health risks, or damage caused or contributed to by these conditions.

**GENERAL PROVISIONS.** The written report is not a substitute for any other person's duty to make a full disclosure with respect to the covered property that may be required by law, nor is it a substitute for Client's independent duty to reasonably evaluate the property prior to the close of a transaction relating to it.. This inspection Agreement, the real estate inspection, and the written report do not constitute a home warranty, guarantee, or insurance policy of any kind whatsoever.

**EXCLUDED ITEMS.** Client agrees that items not included in the inspection report are specifically excluded from the inspection and should be performed by other inspectors or technicians more qualified and knowledgeable in those areas.

**EXCLUSIVE USE – BY CLIENT ONLY.** The inspection is performed for the exclusive use of the customer and is subject to the terms and conditions of this document and specific terms and conditions noted in the inspection report, which may include additional clarification of definitions, limitations, and exclusions.

**DISTRIBUTION BETWEEN BUYER/SELLER:** If the client is the buyer or seller with respect to a pending transaction affecting the subject property, the client may deliver a copy of this report to the other side (or the other side's representatives) without further written authorization from PCA Inspections.

**NO WARRANTY.** The Inspector and the Inspection Company are not making any warranty or guaranty, expressed or implied, including any implied warranties for fitness or merchantability. Specifically, the Inspector and PCA Inspections do not warrant that all possible defects that exist at the covered property have been discovered; or that any of the items inspected are designed or constructed in good or workmanlike manner or will continue to perform in the future as they are performing at the time of the inspection.

The inspection report will contain the opinion of the inspector on the need for repair or replacement of the items inspected on the day of the inspection only. The inspection or the report will not include opinions as to the adequacy, efficiency, quality, durability, or future life and performance of any item inspected. Those opinions are specifically excluded from the inspection or the report.

**SECOND OPINION.** Before beginning any repair, or taking any action with respect to comments made in the inspection report, Client agrees to obtain a second opinion from a knowledgeable and appropriate contractor or specialist on items where performance may be reported as questionable, and agrees to hold the Inspector and Vandalay Inspections free from any liability on those items. If deficiencies are noted in the report, Client also agrees to obtain appropriate second opinions prior to concluding any transaction with respect to the property.

**TIME FOR LEGAL CLAIM.** No legal action or proceeding of any kind, including those sounding in tort or contract, can be commenced against Inspector or the Inspection Company or its officers, agents, or employees more than one year from the date Client discovers, or through the exercise of reasonable diligence should have discovered, the cause of action. In no event shall the time for commencement of a legal action or proceeding exceed two (2) years from the date of the subject inspection. **THIS TIME PERIOD IS SHORTER THAN OTHERWISE PROVIDED BY LAW.**

**BINDING ON CLIENT AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors, and assigns.

**ENTIRE AGREEMENT.** This document constitutes the entire integrated Agreement between the parties hereto pertaining to the subject matter hereof and may be modified only by a written Agreement signed by all of the parties hereto. No oral Agreements, understandings, or representations shall change, modify, or amend any part of this Agreement.

**REPRESENTATION ABOUT CAPACITY TO SIGN.** Each party signing this Agreement warrants and represents that he/she has the full capacity and authority to execute this Agreement on behalf of the named party. If this Agreement is executed on behalf of Client by any third party, the person executing this Agreement expressly represents to Inspector that he/she has the full and complete authority to execute this Agreement on Client's behalf and to fully and completely bind Client to all of the terms, conditions, limitations, exceptions, and exclusions of this Agreement.

**SEVERABILITY.** Should any provision of this Agreement be held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, unimpaired by the court's holding.

**MEDIATION.** If there is a dispute between the parties, they both agree, prior to commencing any legal claim, to attend in good faith a mediation with a retired judge or an active lawyer of their mutual preference with

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at least 5 years of mediation experience. If the parties can't agree on a mutually acceptable mediator, one shall be appointed by the San Francisco Regional Office of the American Arbitration Association. All notices of mediation must be served in writing by return receipt requested allowing 30 days for response. If no response is forthcoming, the moving party may then demand binding arbitration under the terms and provisions set forth below. The parties agree to split the costs of the mediation.

**ARBITRATION.** Any dispute concerning the interpretation or enforcement of this Agreement, the inspection, the inspection report, or any other dispute arising out of the parties' relationship, shall be resolved between the parties by binding arbitration conducted in accordance with California Law, except that the parties shall select an arbitrator who is familiar with the real estate profession. The parties agree that they shall be entitled to discovery procedures within the discretion of the arbitrator. The arbitrator shall manage and hear the case applying the laws of the State of California to all issues submitted in the arbitration proceeding. The award of the arbitrator shall be final, and a judgment may be entered on it by any court having jurisdiction. The arbitration shall be administered by the San Francisco Regional Office of the American Arbitration Association pursuant to that agency's then-current rules applicable to real estate disputes. The rules can be accessed at <https://www.adr.org> (under the "Rules & Forms" drop down menu). The parties agree to split the costs of the arbitration, subject to the arbitrator's allocation of costs in the award.

**AGREEMENT TO ARBITRATE AND WAIVE RIGHT TO JURY TRIAL**  
By inserting their initials below, the parties agree to waive their right to a jury trial with respect to disputes relating to this Agreement or the inspection, and instead resolve any such dispute(s) via Mediation and/or Arbitration as set forth above.

**NO ATTORNEY'S FEES.** With respect to any dispute relating to the inspection, the parties agree to bear his/her/their/its own attorney's fees and not seek recovery of those fees from the other side. No dispute resolution neutral (be it a Mediator, Arbitrator or Judge) is authorized by this Agreement to award attorney's fees to either party.

Client acknowledges having read and understood all the terms, condition and limitations of this Agreement and voluntarily agrees to be bound by the above terms and to pay the agreed-upon Inspection Fee set forth below.

Client Signature: \_\_\_\_\_

Client's Name (please print): \_\_\_\_\_

Date Signed: \_\_\_\_\_