

## Commercial Walk-Through Survey Agreement (between Cavanaugh's Property Inspections, LLC, and Client)

The address of the property is:

\_\_\_\_\_.

Fee for the commercial Walk-Through Survey is \$ \_\_\_\_\_.

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between

Cavanaugh's Property Inspections, LLC, (hereinafter "FIELD OBSERVER") and the undersigned (hereinafter "CLIENT"), collectively referred to herein as "the parties." The parties understand and voluntarily agree as follows:

1. FIELD OBSERVER agrees to perform a visual Walk-Through Survey of the commercial building, and to provide CLIENT with a written Property Condition Report identifying the defects that FIELD OBSERVER both observed and deemed material. Where accessible, FIELD OBSERVER will view a representative sample of the building components covered under this Walk-Through Survey to be used in the preparation of the written Property Condition report. FIELD OBSERVER will not test or otherwise analyze elements of the commercial building where destruction or dismantling of the particular element is required. The primary purpose of the Walk-Through Survey is to enhance the CLIENT'S information and knowledge about the commercial building to improve decision-making for buying, selling, maintaining or improving the property. As it may relate to this commercial building Walk-Through Survey, FIELD OBSERVER may offer comments as a courtesy, but these comments will not comprise the bargained-for report. The report is only supplementary to the seller's disclosures.

2. Unless otherwise inconsistent with this Agreement or not possible, FIELD OBSERVER agrees to perform the Walk-Through Survey in accordance with InterNACHI's *Standards of Practice for Inspecting Commercial Properties*. Although FIELD OBSERVER agrees to follow these Standards, CLIENT understands that these Standards contain certain limitations, exceptions and exclusions. CLIENT also understands that InterNACHI is not a party to this Agreement, and that InterNACHI has no control over FIELD OBSERVER or representations made by FIELD OBSERVER, and does not supervise FIELD OBSERVER. As noted above, this commercial building Walk-Through Survey is visual only. In certain instances, FIELD OBSERVER may engage or deploy certain mechanical or other systems in the commercial building for purposes of preparing the written Property Condition Report. However, it is not possible to engage or deploy many systems in a commercial building, including fire-suppression systems, and, thus, determination of whether such systems are properly functioning or otherwise in need of repair, replacement or maintenance is beyond the scope of this basic commercial building Walk-Through Survey. The SCOPE OF WORK outlining the specific elements of the commercial building to be inspected by FIELD OBSERVER under this Agreement is attached hereto and incorporated by reference as EXHIBIT A. Where noted in the written Property Condition report, FIELD OBSERVER may recommend, and CLIENT acknowledges that such may be necessary, that CLIENT hire a professional engineer, or other qualified and licensed professional, to provide an independent Inspection and analysis of certain elements that may be beyond the scope of this basic commercial building Walk-Through Survey. FIELD OBSERVER is NOT responsible for the Due Diligence items other than the Walk-Through Survey. Other Due Diligence items should be inspected and/or tested by other parties. Unless otherwise indicated below, CLIENT understands that this basic commercial building Walk-Through Survey EXCLUDES compliance with applicable building codes, or testing for the presence of potential dangers arising from asbestos, lead, urea formaldehyde, molds, fungi, animals, wood destroying organisms (WDOs), polychlorinated biphenyls (PCBs), radon gas, soil contamination, and other environmental hazards or violations.

3. The Walk-Through Survey and report are performed and prepared for the use of CLIENT, who gives FIELD OBSERVER permission to discuss observations with real estate agents, owners, repair persons, and other interested parties. FIELD OBSERVER accepts no responsibility for use or misinterpretation by third parties. FIELD OBSERVER'S Walk-Through Survey of the property and the accompanying report are in no way intended to be a guarantee or warranty, express or

implied, regarding the future use, operability, habitability or suitability of the commercial building or its components. Any and all warranties, express or implied, including warranties of merchantability and fitness for a particular purpose, are expressly excluded by this Agreement to the fullest extent allowed by law. If any structure or portion of any structure that is to be inspected pursuant to this Agreement is a log home, log structure or similar log construction, CLIENT understands that such structures have unique characteristics that make it impossible for an FIELD OBSERVER to inspect and evaluate them by an exterior visual Walk-Through Survey. Therefore, the scope of the Walk-Through Survey to be performed pursuant to this Agreement does not include decay of the interior of logs in log walls, log foundations or roofs, or similar defects that are not visible by an exterior visual Walk-Through Survey.

4. FIELD OBSERVER assumes no liability for the cost of repair or replacement of unreported defects or deficiencies, either current or arising in the future. CLIENT acknowledges that the liability of FIELD OBSERVER, its agents and employees, for claims or damages, costs of defense or suit, attorney's fees and expenses, and payments arising out of or related to the FIELD OBSERVER'S negligence or breach of any obligation under this Agreement, including errors and omissions in the Walk-Through Survey or the report, shall be limited to liquidated damages in an amount equal to the fee paid to the FIELD OBSERVER, and this liability shall be exclusive. CLIENT waives any claim for consequential, exemplary, special or incidental damages, or for the loss of the use of the commercial building, even if the CLIENT has been advised of the possibility of such damages. The parties acknowledge that the liquidated damages are not intended as a penalty, but are intended: (i) to reflect the fact that actual damages may be difficult and impractical to ascertain; (ii) to allocate risk among the FIELD OBSERVER and CLIENT; and (iii) to enable the FIELD OBSERVER to perform the Walk-Through Survey at the stated fee.

5. FIELD OBSERVER does not perform engineering, architectural, plumbing, or any other job function requiring an occupational license in the jurisdiction where the Walk-Through Survey is taking place, unless the FIELD OBSERVER holds a valid occupational license, in which case s/he may inform the CLIENT that s/he is so licensed, and is therefore qualified to go beyond this basic commercial building Walk-Through Survey and, for additional fee, perform additional Walk-Through Surveys beyond those within the scope of the basic commercial building Walk-Through Survey. Any agreement for such additional Walk-Through Surveys shall be in a separate writing, or noted here:

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6. In the event of a claim against FIELD OBSERVER, CLIENT agrees to supply FIELD OBSERVER with the following: (1) written notification of adverse conditions within 14 days of discovery; and (2) access to the premises. Failure to comply with the above conditions will release FIELD OBSERVER and its agents from any and all obligations or liability of any kind. Additionally, if there is a dispute between FIELD OBSERVER and any consultant or third party arising out of FIELD OBSERVER'S Walk-Through Survey, CLIENT agrees to provide FIELD OBSERVER with reasonable access to the premises upon request by the FIELD OBSERVER.

7. The parties agree that any litigation arising out of this Agreement shall be filed only in the Court having jurisdiction in the County in which the FIELD OBSERVER has its principal place of business. In the event that CLIENT fails to prove any adverse claims against FIELD OBSERVER in a court of law, CLIENT agrees to pay all legal costs, expenses and fees of FIELD OBSERVER in defending said claims. CLIENT further understands that any legal action against InterNACHI itself, allegedly arising out of this Agreement or FIELD OBSERVER'S relationship with InterNACHI, must be brought only in the District Court of Boulder County, Colorado.

8. If any court declares any provision of this Agreement invalid or unenforceable, the remaining provisions will remain in effect. This Agreement represents the entire agreement between the parties. All prior communications are merged into this Agreement, and there are no terms or conditions other than those set forth herein. No statement or promise of

FIELD OBSERVER or its agents shall be binding unless reduced to writing and signed by FIELD OBSERVER. No change or modification shall be enforceable against any party unless such change or modification is in writing and signed by the parties. This Agreement shall be binding upon and enforceable by the parties and their heirs, executors, administrators, successors and assignees. CLIENT shall have no cause of action against FIELD OBSERVER after one year from the date of the Walk-Through Survey.

9. Payment of the fee to FIELD OBSERVER is due upon completion of the on-site, walk-through survey portion of the Walk-Through Survey. The CLIENT agrees to pay all legal and time expenses incurred in collecting due payments, including attorney's fees, if any. If CLIENT is a corporation, LLC, or similar entity, the person signing this Agreement on behalf of such entity does personally guarantee payment of the fee by the entity. If CLIENT requests a re-Walk-Through Survey, the re-Walk-Through Survey is also subject to all the terms and conditions set forth in this Agreement.

CLIENT HAS CAREFULLY READ THE FOREGOING, AGREES TO IT, AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT.

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FIELD OBSERVER

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CLIENT OR REPRESENTATIVE