

**SMD CONSTRUCTION COMPANY, INC.**  
**INSPECTION AGREEMENT**  
**THIS AGREEMENT LIMITS OUR LIABILITY - PLEASE READ IT CAREFULLY**

This Home Inspection Agreement (the "Agreement") is made effective on the date stated on Page 2 of this agreement by and between SMD Construction Company, Inc. (hereinafter "SMD", "We", "Us" and "Our") and client named on Page 2 of this agreement (hereinafter "Client", "you", or "your") (collectively "parties"). We are independently owned and engaged in the business of providing home inspection services. You desire to have a general home inspection (the "inspection") and /or other inspection related services ("Ancillary Services") performed on a home located at the address stated on Page 2 of this agreement (collectively "Services"). The Services desired are indicated by checking the appropriate line beside the desired services.

**Fee:** You agree to pay the fee stated on Page 2 of this agreement for the performance of the service(s). This amount shall be paid in full prior to the completion of the services (unless otherwise agreed in writing by the parties). Should you fail to timely pay the agreed upon fee(s), you shall be responsible for paying any and all fees associated with collection, including but not limited to administration costs, attorney's fees, and cost of litigation.

**Scope of the Inspection:** This inspection is a limited visual examination of certain readily accessible systems and components (designated for the inspection herein) using normal operating controls and opening readily openable access panels. The purpose of the inspection is to provide you with information about the condition of certain systems and components of the home at the time of the inspection. The inspection will be performed in accordance with the technical guidelines of the American Society of Home Inspectors ("ASHI") (referred to herein as "inspection guidelines"). (A copy of the inspection guidelines are available for you upon request and should be reviewed by you prior to accepting our service). The inspection guidelines are hereby incorporated by reference in their entirety and we hereby made a part of this agreement. All terms used herein and not otherwise defined shall have the meaning set forth in the inspection guidelines. We are independently owned and operated and may participate in marketing programs or offer additional services that may be outside the scope of the ASHI Standards of Practice. See Additional Services section below. The Inspection shall also comply with the Standards of Practice promulgated by the California Business and Professions Code. (See California Requirements Section below).

The Inspector is a generalist and is not a licensed engineer or expert in any specific craft or trade. If the inspector recommends further action, including (but not limited to) consulting with a specialized expert(s), you must do so at your expense or otherwise assume all risks associated with failure to do so. **This inspection is not technically exhaustive.** The fee charged for this Inspection is substantially less than that of a technically exhaustive inspection.

A written inspection report (Report) will be provided describing the following systems and components: structural components (including foundation and framing), exterior, roof system, plumbing system, electrical system, heating system, installed central and through-wall air conditioning systems, interiors, insulation and ventilation, and fireplaces and solid fuel burning appliances. The Report will identify the following: (a) which systems and components designated for inspection herein are, in the professional opinion of the inspector, significantly deficient or near the end of their service lives, (b) why the inspector deems the system or component to be significantly deficient or near the end of its service life, (c) whether further evaluation, correction or monitoring is needed, and (d) whether any system and component described herein was not inspected and why it was not inspected. We reserve the right to modify the Report for a period of time and shall not exceed forty-eight (48) hours after the Report has been first delivered to you. Nothing in this Agreement is intended to limit the inspector from reporting observations and conditions in addition to those identified herein or excluding systems or components, the inspection is limited to only those systems and components. Should we, as a courtesy, exceed any particular requirement set forth herein in one area, we shall not be obligated to exceed the requirements in other areas.

**Exclusions:** A system or component is not readily accessible if Inspection requires moving personal property, dismantling, destructive measures, or any action that will, in the opinion of the inspector, likely involve risk to persons or property. Anything not readily observable because it is concealed or inaccessible due to obstructions including (but not limited to) floor coverings, suspended ceiling tiles, insulation, furniture or rugs and/or other personal property, soil, vegetation, water, ice, or snow cannot be inspected. We are not required to move or disturb such items in order to diminish or eliminate the obstruction. We are not required to report on or engage in any practice or act that is not included or that is specifically excluded in the Inspection Guidelines unless otherwise agreed to in a writing signed by the parties. We are not required to inspect anything identified in the Inspection Guidelines as limitations or exclusions specific to the systems and components inspected. The list of the following specific exclusions is not an exhaustive list; see Inspection Guidelines for additional exclusions and limitations. We are not required to determine the following: remaining life of any system or component, the causes of any condition or deficiency, methods and costs of corrections, suitability of the property for a specialized use, market value or marketability, advisability of purchase of the property, the presence of pests such as wood damaging organisms (including termites), rodents or insects, rot/decay, fungus, including mold and mildew,

decorative items, underground items, breached vacuum seals in insulated glass or items not permanently installed. We are not required to do the following: predict future conditions including (but not limited to) failure of components, operate any system or component that is shut down or otherwise inoperable, light pilot lights, determine the presence of hazardous substances, enter hazardous areas, or perform engineering, architectural, plumbing, or any other job function requiring an occupational license or certification in your jurisdiction (unless the inspector holds a valid license or certification and the parties agree in writing signed by the parties on the additional service(s) for an additional fee). We are not required to inspect fences, soil conditions, spas, saunas, steam baths, pools (and related equipment), outbuildings (other than garage or carport), sprinkler systems, private and community waste disposal systems, telephones, cable television, intercoms, security systems, low voltage lighting systems, any timing systems, well systems, window-unit air-conditioning systems, furnace heat exchangers and heating or cooling systems when weather condition or other circumstances may cause equipment damage. We are not required to inspect cosmetic items such as paint, wallpaper, carpet or other finishes on walls, ceilings or floors, window treatment (such as blinds or draperies). We are not required to determine non-compliance with manufacturer's specifications or applicable regulatory requirements, including, (but not limited to) building code compliance.

**Water/moisture leaks, seepage and drainage problems are often only visible during or after a certain amount of rain. It is thus impossible to observe water/moisture, leaks, seepage and drainage problems unless the Inspection is conducted during or immediately after a rain sufficient to reveal such problems.**

It is beyond the scope of this inspection to determine if any system or component is, has been, or will be part of any product, component or system recall in the future. Client may wish to subscribe or contact the CPSC (Consumer Product Safety Commission) for recall information regarding any system or component.

**DRYWALL MANUFACTURED IN CHINA EXCLUSION:** SMD is not responsible for testing, discovering, or reporting drywall that was manufactured in China. Furthermore, SMD is not responsible for any damages that arise from or related to drywall manufactured in China. Drywall manufacture in China was shipped to the United States between 2004-2008. If your home was constructed or repaired during this time period, SMD recommends that further testing is conducted to determine the presence of drywall manufactured in China.

**MOLD EXCLUSION:** SMD is not responsible for discovering or reporting on the presence or absence of mold or mildew. Furthermore, SMD is not responsible for any damages that arise from our related to mold or mildew, even if the mold or mildew is a direct consequence of a condition upon which SMD is required to report as set forth in this agreement.

**CALIFORNIA REQUIREMENTS:** Division 3, Chapter 9.3 §§7195-7199 of the Business and Professions Code provides certain requirements for home inspectors ("California Requirements"). Pursuant to the California Requirements, the inspection report "shall identify the inspected systems, structures, or components of the dwelling, any material defects identified, and any recommendations regarding the conditions observed or recommendations for evaluation by appropriate persons." As indicated above, SMD shall perform the inspection in compliance with the inspection guidelines. However, in the event that the California Requirements impose a duty or obligation not required in the inspection guidelines, we will comply therewith. In other words, we will exceed the inspection guidelines to the extent required by the California Requirements. This inspection shall, thus, be in full compliance with the California Requirements.

**Additional Services:** We may be able to perform any one or more of the Ancillary Services listed in this Agreement. Unless you request Ancillary Services by checking the appropriated box beside the desired service and we agree to perform the Ancillary Service by executing this Agreement, this agreement is for the general home inspection only and does not include the other delineated Ancillary Services including but not limited to the following: carbon monoxide test, radon gas test, water analysis, on-site waste disposal system (septic dye test), basic energy assessment, wood destroying insects (or organisms) inspection, pool and spa inspection, or invasive testing of EIFS, Exterior Insulation & Finishing Systems (also known as artificial or synthetic stucco) to determine the existence of moisture and damage related thereto.

In addition to performing Services under this Agreement, SMD may market and sell the service or products of other companies that may be of interest to its customers. SMD may be paid a fee by these companies based on good faith estimate of the reasonable value of its services and expenses incurred by SMD in promoting, selling, processing, and advertising the services or products of these companies. The Customer acknowledges that the performance of services by these companies and the nature, quality, and performance of any of their products is the sole responsibility of the respective companies, and that SMD shall not be liable for Customer dissatisfaction or any damages or losses arising therefrom. Further, Customer should contact the relevant services provider with questions or concerns regarding their services or products. SMD may also arrange for these services providers to send literature or make post-inspection contact with Customer. If **Customer does not wish to receive literature from or be contacted by a service provider, Customer must notify SMD.** Likewise, SMD may, where permitted by law, pay fees to third-party companies for marketing and selling SMD Construction Company, Inc. or products. Such fees will be based on good faith estimate of the reasonable value of the services and expenses incurred by the third-party company in promoting, selling, processing, and advertising the services or products of SMD.

#### DISPUTE RESOLUTION AND REMEDY LIMITATION:

**Notice of Claims** – You understand and agree that any claim(s) or complaints(s) arising out of or related to any alleged act or omission of SMD in connection with the Services 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 to a reasonable period of time to investigate the claim(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 Services 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 Services 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 Services. Failure to bring such an action within this time period shall be complete bar to any such action and full and complete waiver of any rights or claims based thereon. This time limitation period may be shorter than provided by law.

**THE INSPECTION, ANCILLARY SERVICES, 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 limitations period, and agree to pay the fee listed in the box above.

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

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

CLIENT

SMD CONSTRUCTION COMPANY, INC.

Client's Signature \_\_\_\_\_

by: \_\_\_\_\_

Client's Signature \_\_\_\_\_

Date \_\_\_\_\_

Business Address \_\_\_\_\_

Client Email Address: \_\_\_\_\_

**Limit of Liability** – Due to the nature of the Services we are providing, it is difficult to foresee or determine (at the time this Agreement is formed) potential damages in the event of negligence or breach of this Agreement by us. Thus, **if we fail to perform the Services as provided herein or are careless or negligent in the performance of the services and/or preparing the Report, our liability for any and all claims related thereto is limited to the fee paid for the Services (unless contrary to state law), and you release us from any and all additional liability.**

**There will be no recovery for consequential damages. You understand that the performance of the Services without this limitation of liability would be more technically exhaustive, likely require specialists(s) and would cost substantially more than the fee paid for this limited visual inspection.**

#### Other Provisions:

**Confidentiality** – You understand that the Services are 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 Services or the Report brought by the third party.**

**Severability and Entire Agreement** – The parties agree that should an Arbitrator or Court determine that any provision(s) in this Agreement is void, voidable or unenforceable, the remaining portions shall remain in full force and effect. This Agreement (in its entirety), and any attached, executed addenda, contains the entire agreement between the parties, and there are no other representations, warranties, or commitments, except as are specifically set forth herein. This agreement supersedes any and all representations or discussions, whether oral or written, if any, among the parties relating to the subject matter of this Agreement. This agreement may be modified, altered, or amended only if agreed to in writing and signed by the parties.

Check Line (to select service)	Requested Service	Fee
_____	General Home Inspection	\$ _____
_____	Discounted Inspection Fee	\$ _____
_____		\$ _____
	Total	\$ _____