



INSPECTION GROUP

FIG Services LLC d/b/a FOX INSPECTION GROUP

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CDS SAMPLE TESTING INSPECTION AGREEMENT

Toxic Chinese Drywall / Corrosive Chinese Drywall / Corrosive Drywall Syndrome

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

1. **SCOPE OF THE INSPECTION:** The inspector will perform a general, non-Invasive limited visual ("eyeball") inspection followed by sampling of randomly chosen 2" test plugs from the property drywall at the address listed below to provide Client(s) with a written opinion as to the presence evidence typically associated with the presence of Corrosive / Chinese-made drywall. The inspection procedure will follow the best available practices as promulgated by the Consumer Products Safety Commission (CPSC) & Exterior Design Institute (EDI). **Randomly taken samples of drywall will be forwarded to an accredited lab (*Lakeland Laboratories*) for independent chemical analysis to check for the presence of high levels of elemental sulfur and / or Strontium which is associated with CDS**
2. The purpose of this visual assessment and taking of physical drywall samples for testing is to document readily visible evidence and chemical markers typically associated with the presence or absence of Corrosive / Chinese-made drywall. No areas other than those indicated in the report were checked and are expressly disclaimed. **The visual assessment to be conducted, samples taken and forwarded to an accredited laboratory for testing, and written report generated are not be construed as a guarantee or warranty, expressed or implied, that the property does not contain ANY Corrosive / Chinese-made drywall. Please understand / you are hereby put on notice: the lab test results are technically only valid for the specific sheet of drywall from which the sample was taken. Test results cannot and are not to be accepted as fact to represent every single individual sheet of drywall in the property.** It can be reasonably assumed that the randomly selected samples tested represent all drywall in the home, however it is not a guarantee or warranty, expressed or implied, that all drywall in the structure is the same as the randomly chosen samples. No other representation is made. **Acceptance of the report constitutes the acceptance of the above disclaimer.**
3. **CLIENT'S DUTY:** Client agrees to read the entire report when it is received and promptly call the Inspector with any question or concern regarding the inspection or written report. The written report shall be the final exclusive findings of the Inspector. In the event client becomes aware of a reportable condition which was not reported by the Inspector, Client agrees to promptly notify Inspector and allow Inspector and/or Inspector's designated representative(s) to inspect said condition(s) before making any repair, alteration, or replacement.
4. **FURTHER EVALUATION:** Client acknowledges and agrees that the Inspector is a generalist and that further investigation of a reported condition by an appropriate certified licensed specialist may provide additional information that may affect a Client(s) decision to purchase the home. Client should seek further evaluation from licensed professionals regarding the deficiencies identified in the written report. Inspector is not liable for Client(s) failure to further investigate reported deficiencies.
5. **CHANGE IN CONDITION(S):** The parties agree and understand that conditions of systems and components may change between the inspection date and the time of closing. It is the Client's responsibility to further investigate before closing and the Inspector is not liable for any changes and conditions.

6. **NOT A WARRANTY:** The parties agree and understand the Inspector is not an insurer or guarantor against defects in the structure, items, components, or systems inspected. Client(s) understand that the inspection and inspection report does not constitute a guarantee or warranty of merchantability or fitness for a particular purpose, expressed or implied, or insurance policy, nor is it a substitute for real estate transfer disclosures which may be required by law. **INSPECTOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE PRESENT OR FUTURE FITNESS FOR USE, CONDITION, PERFORMANCE OR ADEQUACY OF ANY INSPECTED STRUCTURE, ITEM, COMPONENT, OR SYSTEM, THE PRESENCE OR ABSENCE OF LATENT OR HIDDEN DEFECTS THAT ARE NOT REASONABLY ASCERTAIN IN A COMPETENTLY PERFORMED VISUAL ASSESSMENT FOR CDS.**
7. **NOT A COMPLIANCE INSPECTION:** This inspection or inspection report is **NOT** a compliance inspection or certification for past or present governmental codes or regulations.
8. **INSURABILITY:** The inspection or inspection report does not determine whether the property is insurable.
9. **THIRD PARTIES AND SUBROGATION:** The inspection and written report are performed and prepared for the sole and exclusive use and possession of the Client. No other person or entity may rely on the report issued pursuant to this Agreement. In the event that any person, not a party to this Agreement, makes any claim against the Inspector, its employees or agents, arising out of the services performed by the Inspector under this Agreement, or claims alleging in whole or part any negligent act or omission of the Inspector, the Client agrees to indemnify, defend, and hold harmless Inspector from any and all damages, expenses, costs, and attorney fees, arising from such a claim.
10. **LIMITATION OF LEGAL ACTION:** The parties agree that any legal action must be brought within two (2) years from the date of the inspection, or will be deemed waived and forever banned.
11. **LIABILITY:** The parties agree that the FIG SERVICES LLC d/b/a Fox Inspection Group and its employees and its agents assume no liability or responsibility for cost of repairing or replacing any defects specified in the written report, as well as no liability for the costs of further evaluation or investigation of the defects specified in the written report. Further, the parties agree and understand that the Inspector and its employees and its agents assume no liability for the costs of repairing or replacing any of the unreported defects or deficiencies either current or arising in the future or any property damage, consequential damage or bodily injury of any nature. In the event of a claim by the Client that an installed system, or component of the premises which was inspected by the inspector was not in the condition reported by the Inspector, the Client agrees to notify the Inspector at least 72 hours prior to repairing or replacing such system or component. If repairs or replacement are done without giving the Inspector the required notice, the Inspector will have no liability to the client. Client agrees that prior to taking any action, legal or otherwise Client shall: submit a written claim to Inspection Company within 10 days of the deficiency discovery to 11227 Endicott Lane, Houston TX 77035. The written claim shall describe the suspected deficiency. Allow the Inspection Company, their agent or legal representative to perform a re-inspection of the deficiencies stated in the claim. Agree to not to disturb or repair the disputed item prior to a re-inspection except in cases where injury or subsequent property damage may occur.
12. **DISPUTES AND ARBITRATION** Any dispute, controversy, interpretation, or claim, including claims for but not limited to, breach of contract, any form of negligence, fraud or misrepresentation, arising out of, from or related to, this contract or arising out of, from or related to the inspection or inspection report shall be submitted to final and binding arbitration under Arbitration conducted in accordance with the rules of the American Arbitration Association, except that the parties shall elect an arbitrator who is familiar with the home inspection industry. The arbitrator shall conduct judgment motions and enforce full discovery as a court would, as provided in state code civil procedure. The decision of the Arbitrator appointed there under shall be final and binding judgment on the award may be entered in any court of competent jurisdiction.
13. **SEVERABILITY:** If any court of competent jurisdiction determines that any section, provision or part of this Agreement is void, unenforceable, or contrary to Texas law, the remaining sections of this Agreement shall remain in full force and effect.

14. **DAMAGES:** If the inspection company or any of its employees, agents, providers, officers, members, or shareholders, are found to be liable for any claim or damage due to the alleged negligence or willful misconduct of the Inspection company performing the home inspection or in the reporting on the condition of the property in the inspection report, the maximum damage that the Client can recover from the Inspection Company shall not exceed the cost of the inspection fee paid by the Client. The Inspection Company shall not be liable to the Client for any loss of use of the property, repair or replacement cost, consequential or punitive damages or for attorneys' fees or court costs. The Inspection Company shall not be liable to the Client for any claims, loss or damage if the Client alters, tampers with or repairs or replaces the condition which is the subject matter of the Client's claim before the Inspection Company has had an opportunity to inspect the alleged defective condition.
15. **EXPERT TESTIMONY / LITIGATION FINANCIAL COMPENSATION CLAUSE:** In the event our services are needed at any time in the future as expert testimony or in a litigation case, client agrees at this time / in advance to financially compensate this firm for it's time and services. Terms: Non-refundable retainer of \$2,500.00 upfront, Hourly rate of \$175.00 for any activities on our part for your case, including but not limited to; deposition, phone time, research, court time, travel time portal to portal, review of case prior to court appearance, etc. Balance due invoiced weekly, submitted Friday, payable the next Friday
16. **LIMITATION AND EXCLUSION CLAUSE:** The Client expressly acknowledges and agrees that the following are not included in the scope of the inspection and the inspection report and further acknowledges that the Inspector makes no representations or warranties as to them. **THE FOLLOWING SYSTEMS, ITEMS, AND CONDITIONS WHICH ARE NOT WITHIN THE SCOPE OF THE CDS INSPECTION INCLUDE BUT ARE NOT LIMITED TO:** recreational, leisure, playground or decorative equipment or appliances including but not limited to pools, hot tubs, saunas, steam baths, landscape lighting, fountains, shrubs, trees, and tennis courts. Cosmetic conditions wallpapering, painting, carpeting, scratches, scrapes, dents, cracks, stains, soiled or faded surfaces on the structure ,equipment or component, soiled, faded, torn, or dirty floor, wall or window coverings, etc. Noise pollution or air quality. Earthquake hazard, flood plain certification, liquefaction, soil, retaining walls, slide potential, wave action and hydrological stability, soil and earth measurements and stability, seismic safety, code and zoning, engineer level analysis, under ground utilities, sink hole potential, formaldehyde, lead paint, asbestos, toxic or flammable materials, molds, mildew, fungi, other environmental hazards, pest infestation, security systems, fire protection systems, sump pumps, household appliances, humidifiers, paint, other treatment windows, interior walls, ceilings and floors, water purification systems, (ozone generator/saltwater, etc), under ground storage tanks, energy efficiency measurements, motion or photo electric sensor lighting, concealed or private security systems, water wells, all over flow drains, heating system's accessories, solar heating systems, heat exchangers, wood burning stoves, sprinkler systems, water softener or purification systems, central vacuum systems, telephone intercom or cable TV systems, internet connections and cable connections, antennae, lightning arrestors, load controllers, governing codes, permits, ordinances, statues, and covenants, and manufacturer specifications, recalls, EIFS, Chinese drywall and tainted materials, plasterboard, sheet rock, gypsum board, latent and concealed defects, and manufactured stone veneer, culture stone siding, fiber cement siding, flues or chimneys, coal stoves, water leaks, water intrusion, design and architect problems, circuit breaker operation, fireplace drafting, boundaries egress and ingress, quality of materials, private sewage, wattage and wiring, electromagnetic field, non built in appliances, rodents, ants, birds, or other wood boring organisms, security locks and devices, thermostat and gauges. Client understands that these systems, items, and conditions, are excepted and excluded from this inspection and Inspection report. Any general comments about these systems, items, and conditions of the written report are informal only and **DO NOT REPRESENT AN INSPECTION.**
17. **MISCELANIOUS:** We are not responsible for another participant's personal safety during the inspection process. Client, their representative's, or others participation shall be at his/her own risk for falls, injuries, property damage, etc. We reserve the right to refuse service to anyone for any reason.
18. This Agreement, including the terms and conditions on all pages, represents the entire agreement between the parties and there are no other agreements either written or oral between them. This Agreement shall be amended only by written agreement signed by both parties

19. ACKNOWLEDGEMENT: THE UNDERSIGNED HAS REVIEWED THIS DOCUMENT, UNDERSTANDS ITS CONTENT AND AGREE TO THE TERMS AND CONDITIONS CONTAINED. THE CLIENT FURTHER REPRESENTS AND WARRANTS THAT HE OR SHE HAS FULL AND COMPLETE AUTHORITY TO EXECUTE THIS CONTRACT ON BEHALF OF ANY SPOUSE OR SIGNIFICANT OTHER, AND TO FULLY BIND ANY SPOUSE OR SIGNIFICANT OTHER TO ALL THE TERMS, CONDITIONS, EXCLUSIONS AND LIMITATIONS OF THIS AGREEMENT. **The visual assessment to be conducted, samples taken and forwarded to an accredited laboratory for testing, and written report generated are not be construed as a guarantee or warranty, expressed or implied, that the property does not contain ANY Corrosive / Chinese-made drywall. Please understand / you are hereby put on notice: the lab test results are technically only valid for the specific sheet of drywall from which the sample was taken. Test results cannot and are not to be accepted as fact to represent every single individual sheet of drywall in the property.** It can be reasonably assumed that the randomly selected samples tested represent all drywall in the home, however it is not a guarantee or warranty, expressed or implied, that all drywall in the structure is the same as the randomly chosen samples. No other representation is made. **Acceptance of this report constitutes the acceptance of the above disclaimer**

Client Signature(s): _____ Date _____
 _____ Date _____

Client e-mail _____

If after walking thru the property with the inspector, if you are in anyway dissatisfied with the services provided by FIG Services, LLC d/b/a Fox Inspection Group, you are under no obligation to pay the inspection fee.

Inspection Fee \$ _____ *made payable to Fox Inspection Group*

Paid Check # _____ *Or by (circle one) Credit Card / Cash*

Property Address: _____

Inspector: _____ Date _____