

BENT CREEK HOME INSPECTION AGREEMENT

THIS AGREEMENT LIMITS OUR LIABILITY AND IS INTENDED TO BE A LEGALLY BINDING CONTRACT,
PLEASE READ CAREFULLY.

Inspection Address: _____

Client(s) Name(s): _____

Client(s) Address: _____

Buyers Realtor(s) Name: _____

Seller's Name: _____

Seller(s) Address: _____

Seller's Realtor(s) Name: _____

Home Inspection \$ _____ Out Building \$ _____ Pool \$ _____ Pier and Beam \$ _____

Total Fees \$ _____ Closing at: _____

Paid: Cash Check Credit Card V/MC Card # _____ Exp Date ____/____/____

Client (named above) requests a limited visual inspection of the subject property to be conducted by a licensed real estate inspector with **BENT CREEK HOME INSPECTION, L.L.C.** The real estate inspector and the company and their agents, employees, and owners are jointly referred to herein as the "inspector". The purpose of the inspection is to inform the client of visually observable major deficiencies in the condition of the inspected systems at the time of the inspection. Client represents and warrants that client has secured all approvals necessary for inspector's entrance onto the subject property for the purpose of conducting the inspection. Client warrants that they will carefully read the entire inspection report (herein called report) when they receive it and will promptly call the inspector with any questions they may have at 817-403-5000 or in writing 1608 Wiltshire Ct., Roanoke, TX. 76262. Client and inspector understand that they are bound by all terms of this agreement.

FEE: Client agrees to pay the fee stated above for the performance of the inspection. This amount shall be paid in full prior to, or at the completion of the inspection. If fee is to be paid at closing prior arrangement must have been made. As well as, Client agrees to pay any additional fee charged for collection at closing. Should client fail to timely pay the agreed upon fee, client shall be responsible for paying any and all fees associated with collection, including but not limited to attorney's fees and costs. The parties agree that the fee agreed to herein is not contingent on the reporting of any specific, predetermined condition of the subject property. The inspector has not and will not accept a fee or other valuable consideration in this transaction from any person other than the client. The inspector has not and will not pay any portion of the fee received herein to or associated with any participant in this real estate transaction. There will be a \$25.00 fee for any insufficient check.

SCOPE OF INSPECTION: The inspection to be performed for the client is a non-invasive visual examination of the inspected systems and items of the subject property. Major visible defects as they exist on the date of the inspection will be noted on the report, which will be prepared by the inspector during and/or after the actual inspection. The report will be furnished to client within three business days after completion of the inspection. The inspection will be performed in accordance with the Standards of Practice and or rules of the Texas Real Estate Commission (TREC); the inspector will use the TREC Property Inspection Report to report the findings. The TREC Standards of Practice and the Property Inspection Report define the scope of the inspection to be performed. Copies of the TREC Standards of Practice and Property Inspection Report may be provided upon request or client may view them at <http://www.trec.state.tx.us>. The inspection only includes those systems and items expressly and specifically identified in the report. The inspection and report thereon is not a warranty, guarantee, insurance policy, or substitute for real estate transfer disclosures, warranties, or Seller's Disclosure Statement which may be required by law.

EXCLUSIONS: This inspection is limited to the real estate property and does not include personal property unless so indicated in the report. Inspector will not inspect or report on systems and items that are not included or that are specifically excluded in the TREC Standards of Practice or Property Inspection Report unless otherwise agreed to in writing signed by the parties. Inspector is not required to inspect anything identified in the TREC Standards of Practice as limitations or exclusions specific to the systems and components inspected. No representation is made as to how long any equipment will continue to function. Maintenance conditions may be discussed, but they are not a part of this inspection. The inspection to be performed is a **visual inspection only**. Latent and concealed defects and deficiencies are excluded from the inspection. Inspector shall have no liability for conditions that are concealed from view or inaccessible to the inspector. A system or component is not 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 other personal property, soil, vegetation, water, ice or snow cannot be inspected. Inspector is not required to move or disturb such items in order to diminish or eliminate the obstruction.

LICENSED INSPECTOR: This inspector is a licensed real estate inspector by the Texas Real Estate Commission, (**There will be no sampling done or environmental testing conducted by this inspector**) Client understands that the inspector is a generalist, knowledgeable in a variety of areas, but does not hold himself as an expert or specialist in any field. A preliminary generalist inspection and report is an unbiased opinion, based upon the experience of the individual inspector. Inspector is not an insurer or guarantor against defects in the systems and items inspected. If the inspector recommends consulting specialized experts for further evaluation or repair, it is up to the Client, at the Client's expense, to proceed with further inspections or evaluations with experts as selected by client. Client agrees to consult with an appropriate specialist on any item noted in need of repair, replacement or further evaluation prior to closing. Inspector may not perform or agree to perform repairs or maintenance in connection with the inspection. The inspector is not a principal, broker or salesperson in this real estate transaction.

LIMITED WARRANTY: CLIENT ACKNOWLEDGES THAT THE INSPECTOR WARRANTS ONLY THAT HIS INSPECTION WILL BE PERFORMED IN ACCORDANCE WITH THE SCOPE HEREIN, THE INSPECTION REPORT, AND THE STANDARDS OF PRACTICE OF THE TEXAS REAL ESTATE COMMISSION. THIS IS A LIMITED AND NONTRANSFERABLE WARRANTY AND IS THE ONLY WARRANTY GIVEN BY INSPECTOR. INSPECTOR MAKES AND CLIENT RECEIVES NO OTHER WARRANTY, EXPRESS OR IMPLIED. ALL OTHER WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND WAIVED BY CLIENT. THIS STATED EXPRESS LIMITED WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF INSPECTOR FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE INSPECTION AND ANY DELIVERY AND USE OF AND RELIANCE ON THE REPORT. CLIENT WAIVES ANY CLAIM FOR CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES.

LIMITATION OF LIABILITY: It is understood and agreed by and between the parties hereto that the inspector is not an insurer, that the payment for the subject inspection is based solely on the value of the service provided by the inspector in the performance of a limited visual inspection of the general condition of the structure's system and components as described above. The inspection cannot be expected to uncover all defects or deficiencies and that it is impracticable and extremely difficult to fix the actual damages, if any, which may result from a failure to perform such services. Client acknowledges and agrees that any omission of a defect or deficiency on the report will not be construed as a representation that the defect or deficiency does not exist. **THIS LIMITATION ON LIABILITY APPLIES EVEN IF THE DAMAGE, LOSS OR INJURY ARISES OUT OF NEGLIGENCE OF THE INSPECTOR.** In the event the inspector fails to fulfill the obligations under this agreement, **Client's exclusive remedy at law or in equity against inspector is limited to a maximum recovery of damages equal to the inspection fee paid herein.** This limitation of liability applies to anyone, including client, who is damaged or has to pay expenses of any kind, including attorney fees and costs, because of mistakes or omissions by inspector in this inspection or report. It is understood and agreed by and between the parties of this agreement that the production of a written inspection report by either paper and / or computer generated disk, that due to the limited nature of this inspection, the client and company agrees that in the event that company breaches its obligation or duty to perform such services and Client is thereby damaged, then the liability of Company (including it's officers, agents and employees) shall be limited to a sum equal to the amount of the fee paid by the customer for the inspection and report and this liability shall be exclusive. Client assumes the risk of losses greater than the refund of the fee paid herein. Client acknowledges that this limitation of liability is reasonable in view of the relatively small fee that inspector charges for making the inspection when compared with the potential of exposure that inspector might otherwise incur in the absence of such limitation of liability.

CONFIDENTIALITY OF REPORT: The report is confidential and is for the sole and exclusive private use of the client. It is not to be copied or disseminated to any other party without the express written consent of the inspector. Use of all information contained in the report is specifically restricted to the transaction for which the inspection was performed. Use of or reliance upon the report by other parties, or for other transactions, is strictly prohibited. No third party shall have any right arising from this contract or the report and may not rely on the report. In consideration of the furnishing of the report, the client agrees to indemnify, defend, and hold harmless inspector for all costs, expenses, legal fees, awards, settlements, and judgments in any legal proceeding brought by any third party who claims that he/she relied on representations made in such report and was damaged thereby. Client's request that inspector release copies of the report to any third party or client's release of copies of the report to any third party shall be at client's risk with respect to the contents of this paragraph.

DISCLOSURE: Client requests and authorizes inspector to disclose information and provide a copy of the report to real estate agents, sellers, lenders, attorneys, and other parties intimate to this transaction. Inspector authorizes client to provide a copy of the report to the seller, the lender, and the real estate agents in this transaction. Client agrees to indemnify, defend and hold harmless Company from any third party claims relating to this inspection or inspection report. Client also agrees to indemnify, defend and hold harmless real estate agents, sellers, lenders, attorneys, and any other parties intimate to this transaction, inspection and / or report.

DISPUTE RESOLUTION: Notice: Client understands and agrees that any claim for failure to accurately report the major visible defects of the subject property, as limited herein, shall be made in writing to BENT CREEK HOME INSPECTION, L.L.C. 1608 Wiltshire Ct., Roanoke, TX 76262-8817 and reported to the inspector **within 10 business days of discovery.** Inspector agrees to respond promptly to any legitimate complaint and to re-inspect the portion of the property relating to the claimed condition by requesting permission to do so within 15 days of client's written notice of the claimed condition. Client further agrees that client and its agents, employees or independent contractors will make no alterations, repairs or replacements to the claimed condition prior to a re-inspection by the inspector. **Client understands and agrees that any failure to timely notify inspector and allow adequate time to investigate and re-inspect as stated above shall constitute a complete bar and waiver of any and all claims client may have against inspector related to the alleged act, omission, or claimed condition.**

Litigation: This agreement shall be construed and enforced in accordance with the laws of the State of Texas, and venue shall be in Tarrant County, Texas. In any DTPA claim related to or arising from this Agreement, the parties agree that the prevailing party shall be entitled to recover its attorney's fees incurred in the lawsuit. Client acknowledges having read and understood this Agreement, and also acknowledges having been given the opportunity to have this Agreement reviewed by an attorney prior to signing the Agreement.

Mediation: Client agrees that if a dispute or claim arises from this agreement, the inspection, or the report, and if the dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle the dispute by mediation before resorting to arbitration. If the mediation does not result in a settlement of the dispute, then any unresolved controversy shall be submitted to arbitration, as set forth below. The parties shall share equally the costs of the mediator.

Arbitration: Any and all disputes, not resolved by direct discussions or mediation, concerning the interpretation of this Agreement or arising from the inspection and report shall be resolved by final, binding, non-appeal able arbitration conducted in Tarrant County, Texas in accordance with the rules of the American Arbitration Association, except that parties shall mutually agree upon an Arbitrator who is familiar with the real estate inspection industry and the TREC Standards of Practice. At the arbitration the parties may adjudicate all claims and issues, as provided for or limited herein, that could have been raised before a court of law, including but not limited to, lawful attorneys' fees and costs, where provided by statute. The decision of the Arbitrator shall be final and binding. The parties shall share equally the costs of the arbitrator. Either party may demand arbitration by written notice to the other. Such demand for arbitration must be made less than one year after the date of the inspection.

STATUTE OF LIMITATIONS: The parties agree that no claim, demand, or action, whether sounding in contract or in tort, may be brought to recover damages against the inspector, or its officers, agents, or employees **more than one year after the date of inspection. Time is expressly of the essence herein.** Client understands that this time period may be shorter than otherwise provided by law.

ACCEPTANCE OF REPORT: If the client has not signed this agreement then acceptance of the report shall constitute agreement with all of the terms of this agreement. The report to be prepared by inspector shall be considered the final and exclusive findings of the inspector regarding the inspection of the property. Client shall not rely on any oral statements made by the inspector prior to issuance of the printed report.

SEVERALABILITY: If any portion of this agreement is found to be invalid or unenforceable by any court or arbitrator, the remaining terms shall remain in force and effect between the parties to the fullest extent possible.

ACCEPTANCE OF THIS AGREEMENT: This agreement shall be binding upon and issued for the benefit of the parties hereto, their heirs, successors, assigns, agents, and representatives of any kind whatsoever. If client is married, client represents that this obligation is a family obligation incurred in the interest of family. With regard to words used herein, the singular shall include the plural and the plural shall include the singular where appropriate. This agreement constitutes the entire integrated agreement between the parties pertaining to the subject matter hereof and may be modified only by a written agreement signed by all of the parties. 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. No oral agreements, understandings, or representations shall change, modify, or amend any part of this agreement.

I/WE HAVE READ, UNDERSTAND AND AGREE TO ALL OF THE ABOVE TERMS AND CONDITIONS.

BENT CREEK HOME INSPECTION CLIENT (S) _____ DATE: _____ TIME: _____ AM/PM

BENT CREEK INSPECTION INSPECTOR _____ TREC # _____ DATE: _____ TIME: _____ AM/PM
George Potter T.R.E.C. #10086

BENT CREEK HOME INSPECTION, L.L.C. – 1608 Wiltshire Ct., Roanoke, TX. 76262-8817 817-403-5000