

ENGAGEMENT TERMS

adopted in the preparation of inspections by **North Star Inspections (NZ) Limited (Consultant)** –
Including individual employees, directors, officers or agents of the Consultant

- 1) Performance standard:** The Consultant will perform the Services exercising the degree of skill, care and diligence normally provided by a competent building inspector in the same circumstances thus satisfying his duty of care.

The Report: This report is intended only as a general guide to help the Client make their own evaluation of the overall condition of the dwelling and is not intended to reflect the value of the premises, nor make any representation as to the advisability of purchase. The report expresses the personal opinions of the Inspector, based upon his visual impressions of the conditions that existed at the time of the inspection only. The inspection and report are not intended to be technically exhaustive, or to imply that every component was inspected, or that every possible defect was discovered. No disassembly of equipment, opening of walls (unless by request), moving of furniture, appliances or stored items, or excavation was performed. All components and conditions, which by the nature of their location are concealed, camouflaged or difficult to inspect, are excluded from the report. The report is not intended to be a warranty or guarantee of the present or future adequacy or performance of the structure, its systems, or their component parts. This report does not constitute any express or implied warranty of merchantability or fitness for use regarding the condition of the property and it should not be relied upon as such.
- 2) Information:** The Client will provide as soon as practicable, free of cost, all information reasonably required to enable the Consultant to perform the Services. Unless verification is part of the Services, the Consultant will be entitled to assume and rely on the accuracy and completeness of all information provided directly or indirectly by the Client or obtained by the Consultant from public or other reasonable sources.
- 3) Advice confidential:** All advice or information, written or oral, provided by the Consultant is confidential and prepared solely for the Client for the purpose of this inspection. The Client will not use the advice or information for any other purpose. The Consultant will have no liability to any third party using or relying on any of the Consultant's advice or information. We accept no responsibility for anything done or not done by any third party in reliance, whether wholly or partially, on any of the contents of the report.
- 4) Liability limitations:** Except as otherwise provided by statute the consultant shall not be liable for:

 - 9.1. Any loss or damage of any kind whatsoever suffered or incurred by the client or another person whether such loss or damage arises directly or indirectly from services or advice provided by the consultant to the client and without limiting the generality of the foregoing of this clause the Consultant shall not be liable for any consequential loss or damage of any kind including without limitation any financial loss, and damage from the ingress of water into a building or structure, and
 - 9.2. Except as provided in this contract the Consultant shall not be liable in contract, or in tort, or otherwise for any loss, damage, or injury beyond the value of the service provided by the Consultant to the client, in addition any liability of the Consultant will be limited to only that portion of the damage or loss directly caused or contributed to by the Consultant and
 - 9.3. The client shall indemnify the Consultant against all claims of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of the Consultant or otherwise, brought by any person in connection with any matter, act, omission, or error by the Consultant its agents or employees' in connection with the service. Weathertightness Insurance is no longer viable.
- 5)** The Consultant will perform a visual inspection of the building specified and will provide the Client with a report of the inspection. The purpose of the inspection will be to assess the general condition of the building based on a limited visual examination. For residential buildings, the Consultant will not necessarily need to comply with all aspects of NZ Standard NZS 4306 2005 in order to meet the performance standard stated in clause 1 of the Engagement Terms. Neither the inspection nor the resulting report should be construed as a compliance inspection of any governmental or non governmental codes or regulations.
- 6)** The Client acknowledges that the inspection will not assess compliance with the weathertightness requirements of the Building Code or the existence of rot or decay. While the Consultant may use the visible presence of mould to aid in the assessment of the general condition of the building, the Consultant will not be liable for any claim for damage or loss (whether in contract, tort or otherwise) arising directly or indirectly in connection with the effects of mould, fungi, protozoa or any similar damaging species or the failure of the building, ingress of water, or any component to meet the weathertightness requirements of the Building Code.
- 7)** The inspection will be non-invasive and/ or probes and limited to those areas of the building which are readily accessible and visible at the time of inspection. The inspection will not include any areas or items which are concealed behind finished surfaces (such as framing, plumbing, drainage, heating, ventilation or wiring) or any areas requiring the moving of anything which may impede access or limit visibility (such as floor coverings, insulation, furniture, appliances, personal property, vehicles, vegetation, debris or soil).
- 8)** The inspection will focus on identifying significant apparent defects at the date and time of the inspection. The Client acknowledges:

 - 18.1. the limited scope of the inspection and accepts that it may not identify all past, present or future defects;
 - 18.2. the inspection will not assess compliance with the Building Code or any structural aspects;
 - 18.3. descriptions in the inspection report of systems or any appliances will relate to existence only and not adequacy or life expectancy.
- 9)** The Client will be responsible for identifying the building including identifying any accessory units where the building is part of a multi-unit complex. The Client will arrange for the Consultant to obtain reasonable access to the building including roof space and sub-floor space where reasonably accessible. The Client will disclose to the Consultant any known defects which the Client is aware of, apparent or not, and any problem which may affect the integrity and use of the building or the facilitation of the inspection and reporting.

- 10)** In addition to and without limiting any of the above, the following will be excluded from the scope of the inspection:
- 22.1. any area of the building or site or any item, system or component not specifically identified in the inspection report as having been inspected;
 - 22.2. engineering, architectural, geotechnical, geological, hydrological, land surveying or soils examinations;
 - 22.3. dismantling of any system, structure or component or any invasive or destructive testing or analysis (unless by request);
 - 22.4. systems including electrical, plumbing, air conditioning, heating (including fire places and chimneys), security, fire warning and control, sewerage, storm water, ducted vacuum systems;
 - 22.5. environmental hazards or conditions including the existence of asbestos, toxic fungi or moulds, termites or other pest infestations, electromagnetic radiation, toxic or flammable chemicals, air or water contaminants, geological hazards or floods;
 - 22.6. sheds, outhouses, detached buildings, swimming pools, spa pools, saunas and associated equipment, or appliances including but not limited to kitchen, leisure and laundry appliances;
 - 22.7. common property or common areas, systems, structures or components where the building is part of a multi-unit complex;
 - 22.8. acoustical or other nuisance characteristics of any system, service, structure or component of the building or building complex, adjoining properties or neighbourhood;
 - 22.9. any legal, resource consent or building consent or compliance aspects including title, boundaries, occupational rights, resource and planning consent, building consent, Building Code compliance, building warrant of fitness or heritage obligations.
- 11) Fees and payment:** The Client will pay to the Consultant the amount of fees and disbursements at the times and in the manner set out in the Fees section of our Agreement. All amounts payable by the Client will be paid upon receipt of the relevant invoice being mailed to the Client. Invoices not paid by the due date will, without prejudice to the Consultant's other rights, be liable to an interest charge 10 days after the due date to the date of payment of 1.5% per calendar month calculated on the total amount owing for each calendar month the account is overdue. The Client will pay all costs and expenses incurred by the Consultant in relation to recovering any money owed by the Client (including legal costs on a solicitor/client basis and the Consultant's internal time and administration costs).
- 12) Termination for non-payment:** If the Client defaults on any payment due and the default continues for a period of 14 days, the Consultant may give written notice to the Client specifying the default and requesting payment within 7 days of the date of service of the notice. If the Client fails to remedy the default within that period, the Consultant may suspend all or part of the Services or terminate this Agreement without further notice, and the Consultant will not be liable for any damage or loss arising directly or indirectly in connection with those parts of the Services to which the payment default relates.
- 13) Client's agent:** Where this Agreement has been entered into by an agent on behalf of the Client (or a person purporting to act as agent), the agent and the Client will be jointly and severally liable for payment of all amounts due to the Consultant under this Agreement.
- 14) Consultant's employees/agents:** The Client acknowledges that while the Consultant operates through employees and other individuals, no reliance has or will be placed on them personally by the Client in connection with this Agreement or the performance of the Services. The Client acknowledges and accepts that the Client only relies on the corporate conduct of the Consultant and that the Consultant's employees or individual agents have no personal legal responsibility to the Client.
- 15) Term and termination:** This Agreement will continue until all the Services have been performed unless terminated earlier by the parties' agreement, by the Consultant under clause 5, or by a party following the other party's failure to remedy a material breach of this Agreement.
- 16) Indemnity:** The Client agrees to indemnify the Consultant against any damage, loss or expense incurred by the Consultant as a result of a breach of this Agreement by the Client.
- 17) Copyright:** The Consultant will retain copyright of all documents prepared by the Consultant in performing the Services. The Client will be entitled to use or copy the documents only as reasonably required in connection with the purpose stated in the Services section of this Agreement. The Client will have no right to use any of the Consultant's documents if the Client is in default on any payment due under this Agreement.
- 18) Consumer Guarantees Act:** If the Services are required for the purpose of a business, the provisions of the Consumer Guarantees Act 1993 will not apply to the Services.
- 19) Additional work:** If while performing the Services additional work is considered necessary or advisable, the Consultant will inform the Client in writing of the scope of the additional work and will obtain the Client's prior written approval to extend the Services. Unless otherwise agreed in writing, the provisions of this Agreement will apply to the additional work with reasonable consequential adjustments to the Fees and Programme of Services.
- 20) Disputes resolution:** Any disputes will first be referred to mediation. This clause will not apply to a recovery claim by the Consultant for any money owed by the Client.
- 21) Governing law:** This Agreement and the parties' relationship will be governed by the laws of New Zealand.