

# **MOLD ASSESSMENT AND SAMPLING AGREEMENT**

This Mold Assessment and Sampling Agreement limits our liability. Please read carefully. This Agreement is made effective on the date stated on page 2 of this Agreement by and between the Assessment company named on Page 2 of this Agreement and Client(s) named on Page 2 of this Agreement. We are an independently owned and operated company active in the business of providing professional Mold Assessment and Sampling services utilizing an EMPAT / EMLAP certified lab for environmental laboratory analysis. You wish to have a Mold Assessment with the possibility of Sampling (the "Assessment") completed on a property located at the address stated on Page 2 of this Agreement.

**Purpose.** The purpose of the Mold Assessment and Sampling is to detect the presence of a mold/fungi problem in the assessed area(s) of the Property and acquire information and samples to help enable remediation specifications.

**Scope of Mold Assessment and Sampling.** The Mold Assessment and Sampling consists of a visual Assessment in readily accessible areas for mold and/or conditions that may indicate the presence of mold ("red flags"), for example, dank smell and/or evidence of water seepage. If the visual Assessment shows one or more "red flag" area(s), then samples will be taken ("Initial Sampling"), as set forth in the "Initial Sampling" section below. If "red flags" are found in multiple areas, then You will be advised and offered the chance to have additional samples collected in any and all identified areas ("Additional Sampling"). It is important to note that all "red flag" areas identified MUST have samples collected if Remediation Specifications are to be produced. The objective of the Mold Assessment and Sampling is to determine whether mold/fungi problems exist in the readily accessible area(s) sampled at the time the service is performed. As such, the results of Mold Assessment and Sampling are not a guarantee that mold does or does not / will or will not exist in the property; the results are indicative only of the presence or absence of mold in the areas sampled at the time the service is performed. Considering there are no currently established Threshold Limit Values (TLVs) for the majority of substances of biological origins that are associated with building-related exposures, we follow the guidance of the American Conference of Governmental Industrial Hygienists (ACGIH) 19.5.3.1. NEVER attempt to institute remediation activities yourself (unless YOU are fully qualified); You should consult a Remediation Specialist or other appropriate Professionals concerning Mold.

**Visual Assessment.** The visual Assessment is the first step of the Mold Assessment and Sampling. The purpose of the visual Assessment is to identify visible mold or conditions that may be conducive to mold/fungi growth (examples: dank smell/water intrusion). The sole purpose of the visual Assessment is to detect the presence, or likely presence, of mold; therefore, we will not be liable for failure to discover any conditions other than readily apparent and visible mold, including, but not limited to, water seepage.

**Scope of Visual Assessment/Exclusions.** The scope of the visual Assessment is limited to readily accessible areas only. We do not remove floor and wall coverings, move furniture, open walls or perform any type of destructive Assessment. Certain structural areas are considered inaccessible and impractical to inspect including but not limited to: the interiors of walls and inaccessible areas below; areas beneath wood floors over concrete; areas concealed by floor coverings; and areas to which there is no access without defacing or tearing out lumber, masonry, roofing or finished workmanship; structures; portions of the attic concealed or made inaccessible by insulation, belongings, equipment or ducting; portions of the attic or roof cavity concealed due to inadequate crawl space; areas of the attic or crawl space made inaccessible due to construction; interiors of enclosed boxed eaves; portions of the sub area concealed or made inaccessible by ducting or insulation; enclosed bay windows; portions of the interior made inaccessible by furnishings; areas where locks prevented access; areas concealed by appliances; areas concealed by stored materials; and areas concealed by heavy vegetation. Note: There is no economically practical method to make these areas accessible. However, they may be subject to attack by mold/fungi organisms. **No opinion is rendered concerning the conditions in these aforementioned or other inaccessible areas.**

**Initial Sampling/Lab Testing.** Following the visual Assessment, samples may be taken by means of air (sample(s) indoor and one outdoor), carpet, wall cavity, direct (tape lift, swab, bulk). The samples will be sent to an EMPAT / EMLAP certified lab, which will analyze them for the presence of mold. The lab will then issue a report detailing the presence and type(s) of mold, if any, found in the samples. A reference guide which explains the various types of mold along with any recommended action(s) will be provided.

**Agreement for Further Sampling.** If discovered, you will have an opportunity for Sampling of affected areas, for an additional fee(s), by executing an Agreement for Further Sampling. In the event You execute the use of the Agreement for Further Sampling, that Agreement will become an additional addendum to this Agreement. The cost of the additional Sampling is in addition to the Mold Assessment and Sampling fee.

**Report of Mold Assessment and Sampling Results.** Following the visual Assessment and additional Sampling (if conducted), You will be provided with a written report identifying: Types and levels of molds read in samples along with sample locations; a description of each type of mold discovered; and a summary of findings. **If all identified "red flag" areas are sampled, Remediation Specifications may be created from the findings.** These specifications will identify remediation activities based on current industry/state guidelines (where applicable).

**Notice of Claims.** You understand and agree that any claim(s) or complaint(s) arising out of or related to any alleged act or omission in connection with the Assessment 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 a reasonable period of time to investigate the claim(s) or complaint(s) by, among other things, re-Assessment 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 sufficient 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.

**Limitations Period.** Any legal action arising from this Agreement or from the Assessment and Report, including (but not limited to) the arbitration proceeding more specifically described below, must be commenced within one (1) year from the date of the Assessment. **Failure to bring such an action within this time period shall be a complete bar to any such action and a full and complete waiver of any rights or claims based thereon.** This time limitation period may be shorter than provided by state law.

**Unconditional Release and Limitation of Liability.** It is understood and agreed that we and the lab are not insurers and, that the Assessment and report to be provided under this Agreement shall not be constructed as a guarantee or warranty of the adequacy, performance or condition of any structure, item, or system at the property. You hereby release and exempt us, the lab and our respective agents and employees of and from all liability and responsibility for the cost of repairing or replacing any unreported defect or deficiency and for any consequential damage, property damage or personal injury of any nature. In the event that we, the lab or our respective agents or employees are found liable due to breach of contract, breach of warranty, negligent misrepresentation, negligent hiring or any other theory of liability, then the cumulative aggregate total liability of us, the lab and our respective agents and employees shall be limited to a sum equal to the amount of the fee paid by you for the Assessment and report.

**Arbitration.** Any conflict concerning the interpretation of this Agreement or arising from the Assessment 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 Assessment industry.

**Confidentiality.** You understand that the Assessment is being performed (and the Report is being prepared) for your exclusive, confidential and sole 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 Assessment or the Report brought by the third party.*

## MOLD ASSESSMENT AND SAMPLE(S)

Area(s) to Be Sampled*	Type of Sample	Quantity	Price	Total	Initials
			@ \$	= \$	
			@ \$	= \$	
			@ \$	= \$	

### AGREEMENT FOR FURTHER SAMPLING

**Mold Assessment and Results:** Based upon the results of the Mold Assessment, we recommend that additional samples be taken in the Property. A checked box indicates the condition(s) warranting this recommendation below. You will be provided information within the written Mold Assessment and Sampling Report identifying the areas of the Property where mold/fungi problems or conditions indicating mold/fungi problems were discovered. This Agreement is not intended to be a substitute or replacement for the visual Assessment. Any and all additional samples will be sent to an EMPAT / EMLAP certified lab that will analyze them for the presence of mold. All sample results will be included in the Mold Report defined in the Mold Assessment and Sampling Agreement.

- Evidence of suspected mold growth is visible in one or more areas of the property. It is recommended that samples in these areas be taken and tested.
- A "Red Flag" condition exists in the Property that may indicate a need for Sampling. Although there may be no visible signs of mold growth, this condition is conducive to mold growth that could be present in areas not readily visible. The tests recommended are: indoor air Sampling, which will identify the type(s) of mold present, if any, and the concentrations of mold spores; a carpet test which will give "historical" data; and/or an inner wall Sampling.

Based on the above-checked items, the Client(s) agrees to have the following samples taken in the home, as indicated by Your initials. By initialing, acknowledge that Client(s) have been advised and encouraged to have the Property tested for mold, and that Client(s) understand that the presence of certain types of mold prevalent in housing can pose severe health hazards. Client(s) agree to hold harmless the Assessor for any damages or responsibility for building conditions which remain undiscovered regarding the discovery of mold and mold spores." **Also, Client(s) understand that Remediation Specifications cannot be produced unless the above mentioned samples are collected and analyzed.**

Location of Area to Be Sampled*	Type of Sample	Quantity	Price	Total	Initials
			@ \$	= \$	
			@ \$	= \$	

\*We recommend Sampling each of the areas identified in this Agreement having evidence of mold/fungi problems (or conditions conducive thereto). Whether and which additional samples are taken is in the sole discretion of the Client(s). By **not signing** Your initials, Client(s) would **decline** that the Assessor conducts the services recommended below.

**Fees.** The base fee for this Mold Assessment and Sampling is \$\_\_\_\_\_ + Additional Samples @ \$\_\_\_\_\_ (See above table for details)  
Total Fee \$\_\_\_\_\_

THIS ASSESSMENT, ASSESSMENT 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 limitation period, and agree to pay the fee listed in the shaded box above. In addition, you acknowledge and agree that the Assessor may notify the homeowner or occupants of the Property (if other than You), as well as any appropriate public agency, of any condition(s) discovered that may pose a safety or health concern.

Client(s) Name \_\_\_\_\_

**Property Address**

Street Name	City	State	Zip Code

CLIENT(S)

ASSESSOR

X \_\_\_\_\_  
Client Name Date

X \_\_\_\_\_  
Company Name Title Date