



MORGAN K. COHEN HOME INSPECTION LLC

Radon Testing Agreement

1. General. This is an agreement between \_\_\_\_\_ (the "Client") and Morgan K. Cohen Home Inspection LLC ("MKC"). The Client requests that MKC conduct a radon test to be conducted on the premises located at \_\_\_\_\_, MA (the "Radon Test") and prepare a radon test result report (the "Radon Test Report") that reports the Radon Test results. The Radon Test shall have an approximate start time of \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and have an approximate end time of \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_. In most instances, the Radon Test Report will be prepared and delivered to the Client within 48 hours of the end time of the Radon Test, but it may be longer depending on when the results from the radon test lab are obtained. The Client warrants that the owner of the premises to be tested has given permission to MKC and its inspectors to access and perform the Radon Test on the property. The Client agrees to pay at the start time of the Radon Test a fee of \$\_\_\_\_\_.00 to MKC covering the Radon Test and preparation of the Radon Test Report. Should the Client fail to timely pay the agreed upon fees in full, MKC may withhold the Radon Test Report.

2. Testing Method and Standards. The Radon Test to be provided pursuant to this Agreement is a test of Radon in the air using: \_\_\_\_\_. The Radon Test will be performed in accordance with the United States Environmental Protection Agency's ("EPA") protocol for radon testing. When testing in connection with the sale and transfer of a property, buyers and sellers should review the EPA document "Home Buyer's and Seller's Guide to Radon". When testing for any reason other than in connection with the sale and transfer of a property, individuals should review the EPA document "A Citizen's Guide to Radon". Both of these documents can be found at: <http://www.epa.gov/radon/pubs/index.html> or a copy of these documents will be provided to Client upon request.

3. Scope of Radon Testing, Test Conditions and Limitations. The Radon Test is a screening measurement that serves to provide the Client with a better understanding of the level of radon in the air at the property being tested at the time of the Radon Test. The Radon Test Report is not intended to be an inducement to encourage or discourage the purchase or sale of the property and the conclusions and recommendations of the inspector performing the Radon Test are only those contained in the Radon Test Report, not any oral remarks that may be made by the inspector performing the Radon Test. The final written Radon Test Report will report the level of radon in the air or water at the property being tested and make recommendations consistent with EPA protocol. As specified by the EPA, in order to help ensure an accurate radon reading the following conditions must be met prior to and during the test period and until such time as the testing equipment is retrieved: (a) all windows, doors, and crawl space vents must be closed twelve (12) hours before the start and during the entire test period, but normal entry and exit through doors is acceptable except for lower level walkout doors or those sealed with anti-tamper tape; (b) internal-external air exchange systems (e.g. whole house fans, window fans, window air conditioners with outside damper open, etc.) must not be used twelve (12) hours before and during the entire test period; (c) radon test devices must not be moved or tampered with in any way during the test period; and (d) normal operation of heating and air conditioning systems as well as fireplaces or wood burning stoves used for heating purposes is permissible, although fireplaces and/or wood burning stoves should only be used if no other source of heat is available. The Client acknowledges that MKC's and the inspector's control of the test conditions is limited to the actual placement of the test device. Any tampering or manipulation of the test conditions or test device by the Client or occupants prior to, during or after the test period is out of MKC's and the inspector's control and might not be detected. The fee set forth above is due whether or not the Client or occupants comply with test conditions. Changes in heating and ventilation may raise or lower radon levels and inclement weather such as storms or high winds can contribute to unreliable test results. Changing soil conditions can also affect radon test results. Since radon levels can vary from season to season as well as from room to room, this Radon Test only serves to indicate the potential for a radon problem. The Radon Test results for radon in the air are only an average of radon concentrations in the area tested during the period the measurement device was exposed. The EPA suggests that Client or occupants take regular follow-up measurements of radon levels.

4. Warranties and Confidentiality. There is no express or implied warranty of any kind regarding the levels of Radon in the air at the property being tested or as to the future levels of radon in the air at the property being tested, whether or not mentioned in the Radon Test Report. There is also no express or implied warranty that the proper testing conditions have been met. This is a limited test only, and this Agreement, the Radon Test and the Radon Test Report do not constitute a general warranty, an insurance policy, a certification or a guarantee of any kind. The Radon Test Report is considered valid only for the time and conditions under which the Radon Test was performed. This Radon Test is being performed, and the Radon Test Report is being prepared, for the Client's sole, confidential and exclusive benefit and use, and may not be transferred or assigned to any third party. If the Client directly or indirectly allows or causes the Radon Test Report or any portion thereof to be disclosed or distributed to any third party, the Client agrees to indemnify and hold the inspector and MKC harmless from any and all losses, liabilities and related costs and expenses, including reasonable attorneys' fees, arising out of claims or actions based on the Radon Test and/or the Radon Test Report brought by a third party or third parties. Under no circumstances will MKC be responsible for the cost of follow-up radon testing or radon mitigation.

5. Arbitration. Any dispute concerning this Agreement or arising from the Radon Test or the Radon Test Report (unless based on the non-payment of fees) shall be resolved by binding, non-appealable arbitration conducted in the Commonwealth of Massachusetts in accordance with the rules of the American Arbitration Association. The parties shall mutually agree upon one (1) arbitrator who shall have at least ten (10) years experience in the radon testing industry. The fees and expenses of arbitration, including the fees and expenses of the arbitrator, shall be borne by the party deemed responsible by the arbitrator except that, the party filing for arbitration shall be responsible for all filing fees. At the arbitration, the arbitrator may consider all claims that would have been available to the parties in a court of law, including, but not limited to, claims for lawful attorneys' fees and multiple damages, where provided by statute.

6. Miscellaneous. This Agreement contains the entire agreement among the parties and supersedes and nullifies all prior agreements and understandings, express or implied, between the parties hereto concerning the subject matter hereof. This Agreement may be modified or amended at any time and from time to time, but only by a written agreement signed by each of the parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

7. Limitation on Liability. IN NO EVENT WILL MKC OR ITS MEMBERS, MANAGERS, MANAGING MEMBERS, INSPECTORS, OFFICERS, EMPLOYEES OR AGENTS (COLLECTIVELY, "REPRESENTATIVES") BE LIABLE FOR ANY PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR EXPENSES INCURRED BY THE CLIENT OR ANY THIRD PARTY FROM ANY CAUSE WHATSOEVER. IN NO EVENT SHALL MKC'S LIABILITY FOR ANY BREACH OF THIS AGREEMENT EXCEED THE AMOUNT OF THE FEES ACTUALLY PAID TO MKC HEREUNDER, AND THE CLIENT HEREBY RELEASES MKC AND ITS REPRESENTATIVES FROM ANY FURTHER LIABILITY.

By signing below, I agree that I have read, understand and agree to all the terms, conditions and limitations set forth in this Agreement.

Client: \_\_\_\_\_  
By: \_\_\_\_\_ Date \_\_\_\_\_

MORGAN K. COHEN HOME INSPECTION  
By: \_\_\_\_\_ Date \_\_\_\_\_ rev.4.0, 5/31/08