

FIXAIRX TERMS AND CONDITIONS OF ENGAGEMENT



INTRODUCTION

FixAIRx upholds all regulatory and ethical standards that apply to our industry. Adhering to these standards ensures client peace of mind, property protection, and effective mitigation. Compliance is essential for ensuring client safety, minimizing health risks, and maintaining high-quality service outcomes. **The Texas Mold Assessment and Remediation Rules (TMARR)** govern all mold assessment and remediation efforts in the State of Texas. These rules are crucial for ensuring compliance, safety, and preventing legal liabilities for our clients. Key points include:

- Any individual in a professional capacity, testing for mold, lead, or asbestos in Texas **must** hold an appropriate and active license. FixAIRx does not currently hold a license for lead or commercial asbestos testing.
- Fungal or mold-damaged areas of 25 contiguous square feet or greater must be assessed and remediated by licensed mold companies under the direction of a professional remediation protocol written by a licensed Mold Assessment Consultant.
- A remediation job clearance, or Certificate of Mold Damage Remediation (CMDR), is required to accompany seller's disclosures for up to five years prior to the sale of a property.
- A Licensed Remediation Company **cannot** perform **any** remediation services in an indoor space without a professional protocol from a licensed Mold Assessment Consultant (MAC).
- Mold assessment, testing, and remediation **cannot** be performed by the same company on the same job or by different companies with the same ownership. This constitutes a serious conflict of interest in Texas.

GENERAL PREAUTHORIZATION OF SERVICES

If the requested services fall within FixAIRx's scope, an appropriately trained technician will be assigned. This ensures compliance with state and regulatory guidelines.

FixAIRx, LLC ("FixAIRx") requires signatures from the responsible party ("Client") to ensure a clear mutual understanding of responsibilities and terms of engagement before services begin. To do this, the Client agrees to:

- Sign our Terms and Conditions of Engagement prior to the on-site appointment.
- Review the estimate or recommended services and authorize the appointment.
- Initial for the Acceptance of the Consumer Mold Information Sheet (CMIS)
- If the Terms and Conditions of Engagement are not signed, the general acceptance of work performed by FixAIRx constitutes the Client's full acceptance of these Terms and Conditions of Engagement and is fully enforceable as such. By paying the invoice or otherwise not disputing it within 3 days of receipt, you explicitly acknowledge and accept FixAIRx's Terms and Conditions of Engagement as binding and enforceable.

STANDARD SERVICES WE OFFER

- **Water Damage Assessments with a Protocol**
Includes a thorough assessment of water intrusion points, determines causes, sources, extent of damage and contamination levels, health risks and habitability. We use thermal cameras, moisture meters, physics and forensic evidence to document the path and existence of

moisture. The detailed documentation is typically used in insurance claims. The Water Mitigation Protocol outlines the necessary mitigation methods to restore a healthy environment after a water loss.

- **Fire Damage Assessment with a Protocol**
Covers inspection of fire-impacted areas, evaluation of soot, ash, and residue, and identification of secondary water damage. Testing for fire created chemicals and the proliferation of soot, smoke and ash are recommended. The detailed documentation is typically used in insurance claims where the Fire Mitigation Protocol outlines necessary mitigation methods to ensure the full restoration of a healthy environment after a fire loss.
- **Mold Assessments with a Protocol**
Involves inspecting for visible and hidden mold, moisture source identification, and determining proliferation and potential toxicity. The testing often recommended in these situations may include mold identification, viability or toxicity. The detailed reports are useful in proving contamination exists as secondary damage from an improperly handles situation. The Mold Remediation Protocol outlines the applicable State and regulatory guidelines, and remediation methods required to ensure the full restoration of a healthy environment after mold is discovered.
- **Forensic Damage Assessments**
This is typically an assessment where water or fire mitigation has already been attempted. The forensic assessment pulls from our knowledge of physics and the affected materials in the built environment to essentially recreate the damaged scene in order to determine if the mitigation that was done was sufficient for the extent of the damage. A testing strategy may be necessary to prove or disprove if the mitigation was successful.
- **Green Building Assessments**
Includes identification of volatile organic compounds (VOCs) and other chemical hazards creating odors or negatively affecting indoor air quality.
- **Chemical or Odor Assessments**
Includes identification of volatile organic compounds (VOCs) and other chemical hazards creating odors or negatively affecting indoor air quality.
- **Health Risk Assessments**
Evaluates indoor health risks based on general air quality, particulate matter, and other hazardous substances. A testing strategy may be necessary to further identify problem areas.
- **Professional Mitigation / Remediation Protocols with Job Completion Requirements**
Provides detailed protocols according to current industry standards to ensure mitigation and remedial efforts are successful.

Property damage can have devastating health impacts. Detailed documentation of property damage may be required by various parties and can streamline communication. The interested parties may include mitigation or remediation companies, insurance companies or landlords. As needed, these services can often include general indoor air quality testing with our handheld equipment for comfort parameters, moisture, total VOC chemicals, total particulate matter, and problematic gases.

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OTHER SERVICES AND SUPPORT

- Third Party Professional Review billed at \$250/hour
- Subject Matter Expert Consulting billed at \$250/hour
- Expert Witness Services billed at \$250/hour

Each client location and assessment goal is unique, allowing FixAIRx to tailor solutions effectively. As a result, an environmental testing strategy is developed onsite to meet specific needs. Clients may approve testing after reviewing our recommendations and assessment feedback, before any laboratory fees are incurred.

Any environmental testing for Mold, Mycotoxins, Chemicals, Particle Identification, or Fire Residues that require a 3rd party independent laboratory have their own lab fee separate from the assessment costs. FixAIRx will coordinate with third-party laboratories directly, and the client will be responsible for any associated laboratory fees resulting from the approved testing strategy.

FORCE MAJEURE CLAUSE

FixAIRx is not liable for any failure or delay in performance due to unforeseen events beyond its reasonable control, including but not limited to natural disasters, strikes, pandemics, or any other events that disrupt service operations.

PAYMENT TERMS

- **Payment Due:** All payments for services are due at the time of service unless otherwise agreed in writing.
- **Report Withholding:** Reports may be withheld until payment is received, which may delay the completion of related remediation or insurance claims.
- **Late Fee for Residential Accounts:** A 5% late fee will apply to any residential account that is 30 days overdue, and the fee will continue to be applied monthly on the accrued outstanding balance.
- **Late Fee for Commercial Accounts:** Commercial accounts will incur compounded late fees of 2% per month on the outstanding balance.
- **Collection Agency:** Delinquent accounts may be turned over to a collection agency, which may report to credit bureaus after 90 days if no payment arrangements are made.
- **Late Fee Limit:** All late fees cannot exceed the original amount owed.
- **Client is responsible** for any additional collection or legal fees incurred in collection attempts.

WEEKENDS, EVENINGS AND HOLIDAYS

FixAIRx typically does not operate on weekends or after 6pm on weekdays. Observed holidays include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.

SERVICES OUTSIDE OF OUR IMMEDIATE SERVICE AREA.

A trip charge applies for distances over 30 minutes from North Plano, Texas. Out-of-town services, defined as those requiring travel over 100 miles, may also incur additional costs such as airfare, car rental, and lodging.

For out-of-town services with an estimate over \$5000, a 50% deposit is required to schedule the appointment and book travel and accommodations.

INDEMNITY CLAUSE

The client agrees to indemnify and hold FixAIRx harmless for any claims or damages arising from client negligence, unauthorized site entry, or interference with inspection conditions.

CANCELLATION AND TERMINATION CLAUSE

Clients may cancel or terminate services by providing written notice. Any cancellations within 24 hours of the scheduled service may incur a cancellation fee equivalent to 10% of the service cost.

INSPECTION REPORT AND USE OF FINDINGS

The findings from FixAIRx's assessments are intended for informational purposes only and are not to be used as a warranty or guarantee of the site's safety or condition. The content of the report cannot be duplicated to be used for other purposes without prior written consent.

CLIENT OBLIGATIONS

- Keep exterior windows and doors closed for at least 24 hours prior to the assessment.
- Refrain from deep cleaning activities before the assessment.
- Remove furniture and personal items from suspected problem areas.
- Secure valuables such as money and jewelry.
- Please advise if there is not working electricity or other limitations at the site that may require special equipment.
- If an area is undergoing remediation and is pending a "Job Completion Test" and is in "scrub mode," the Client **must not** enter until cleared by the Consultant. Violation may result in failed tests and additional charges.
- Mutual respect is expected. Abusive behavior, profanity, or inappropriate conduct will not be tolerated.

LIMITATION OF LIABILITY

FixAIRx, LLC is committed to the health of your space. We promise to perform the requested services professionally, ethically, and in accordance with industry standards.

In order to do this, we need your help, as the inspector cannot climb over obstacles, such as furnishings, or stored items, nor enter areas that present a safety hazard. FixAIRx cannot guarantee that the assessment will reveal all adverse environmental conditions. Hidden conditions, such as concealed contamination behind walls or inaccessible crawl spaces, may not be detectable. FixAIRx, LLC cannot assume responsibility for investigating any client-known issues that were not brought to our attention before the survey commenced. The reported environmental conditions are valid only as of the inspection date, and FixAIRx assumes no liability for any damage or events that occur after the assessment has been completed.

Consultant is not liable for damages to building or increased health risks or symptoms resulting from the assessment or recommended resolution(s). During an assessment the Consultant may recommend or be requested by the Client to use invasive practices to determine the type or extent of fungal damage. The client acknowledges that these activities can sometimes disturb fungal spores, creating slightly increased risks to fungal exposure. The consultant will advise on a case-by-case basis and will take precautions to limit exposure risks wherever possible. However, the Client(s) assumes responsibility for their own protection and any repairs needed following an approved invasive test.

Client maintains control of all decisions and should reject advice that they disagree with. Consultant cannot make any guarantees and cannot control future events; therefore, Consultant cannot be held responsible for future outcomes related to the Client's mitigation or repair decisions nor current or future health related problems.

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DISCLAIMER OF WARRANTIES

FixAIRx disclaims any warranties not explicitly stated in this agreement, particularly regarding test results or long-term adverse environmental conditions.

Consultant is required to disclose any outside activities or interests that may conflict with the best interests of Client. Prompt disclosure is required under this paragraph if the activity or interest is related, directly or indirectly, to other consulting relationships that may conflict with this agreement.

Consultants are not Doctors, nor licensed to practice medicine. Discussions can skirt medical issues and should be interpreted as opinions, or things to consider. If medical advice is desired, please consult a physician.

Consultant is not an Attorney, nor licensed to practice law. Discussions can skirt legal issues and should be interpreted as opinions, or things to consider. If legal advice is desired, please consult an Attorney.

Consultant is not licensed for HVAC. However, we may have licensed sub vendors that can properly perform these requested services. Discussions can and do involve HVAC systems, filtration, make-up air, contamination and air flow. When HVAC service is recommended, please refer to a licensed HVAC professional.

Consultant is not a licensed Plumber. Therefore, advice should be considered as a general and should be verified by a licensed plumber.

PRIVACY POLICY

- **Third-Party Disclosures:** FixAIRx does not sell or trade Client's personal information without prior notice, except to parties assisting in providing the requested services or as required by law.
- **Retention:** Project information for each client is retained for seven years, on secure cloud servers as required by Texas State law.
- **Data Protection Rights:** Clients have the right to access, update, delete, or correct personal information. Verification of identity may be required.
- **Confidentiality:** Client recognizes that Consultant may have the following information: Personal affairs; financial information; personal information; future plans; and other proprietary information (collectively, "Information") which are valuable, special and unique assets of Client and need to be protected from improper disclosure. In consideration for the disclosure of the Information, Consultant agrees that Consultant will not at any time or in any manner, either directly or indirectly, use any Information for Consultant's own benefit. Consultant will protect the Information and treat it as strictly confidential. A violation of this section shall be a material violation of this Agreement.

NON-SOLICITATION

The Client agrees not to solicit, employ, or engage any FixAIRx employee or subcontractor involved in providing services for a period of 12 months after service completion without compensating FixAIRx an amount equal to six months of that individual's compensation.

The choice of selecting a vendor or contractor remains the sole decision of the Client. No referral fees are exchanged for remediation services.

ARBITRATION

Any claim, dispute, or controversy between the Client and FixAIRx, LLC, arising from or relating to the Agreement, shall be resolved exclusively by binding arbitration in Plano, Texas. Arbitration will be conducted per the rules of the American Arbitration Association, with proceedings in English. The arbitration decision is final and binding, and both parties waive their rights to court litigation, including jury trials and class actions.

ASSIGNMENT

FixAIRx reserves the right to assign its rights and obligations under the Agreement to a qualified third party. The Client may not assign the Agreement without prior written consent from FixAIRx.

GOVERNING LAW

The Agreement, including claims and disputes, is governed by the laws of the State of Texas. Proper venue lies exclusively with the courts of Collin County, Texas. Claims must be brought within one year of the incident; otherwise, they are deemed waived.

COMPLETE AGREEMENT

This Agreement constitutes the entire understanding between the Client and FixAIRx, LLC, superseding all prior proposals and communications.

SIGNATURE AND ACKNOWLEDGMENT REQUIREMENTS

Both parties represent that they have the legal authority to enter into this agreement. By signing below, the Client acknowledges that they understand and agree to all of the Terms and Conditions of Engagement with FixAIRx's Consultants wherein the Client reserves the right to approve recommended costs and services before services are actively rendered.

SIGNATURES

FixAIRx, LLC

Authorized By: Wendy Michaelis

Signature: 

Client

Name: _____

Signature: _____

Email: _____

Phone: _____

Date: _____

CONSUMER MOLD INFORMATION SHEET (CMIS). Client also acknowledges receipt of the TDLR CMIS as attached.

_____ (Initial)



TEXAS DEPARTMENT OF LICENSING & REGULATION

P.O. Box 12157 - Austin, Texas 78711-2157

www.tdlr.texas.gov

CONSUMER MOLD INFORMATION SHEET

State rules require licensed mold assessors and remediators to give a copy of this Consumer Mold Information Sheet to each client and to the property owner, if not the same person, before starting any mold-related activity [16 TAC 78.70].

How does Texas regulate businesses that do testing for mold or that do mold cleanup?

The Department of Licensing and Regulation (TDLR) regulates such businesses in accordance with the [Texas Occupations Code, Chapter 1958](#). Under the **Texas Mold Assessment and Remediation Rules (rules)** ([16 Tex. Admin. Code, Chapter 78](#)), all companies and individuals who perform mold-related activities in Texas must be licensed by TDLR unless exempt. (See Page 2 regarding owner exemptions.) Individuals must meet certain qualifications, have required training, and pass a state exam and criminal history background check in order to be issued a license. Applicants for a mold remediation worker registration must have training and pass a criminal history background in order to be registered by TDLR. Laboratories that analyze mold samples must also be licensed and meet certain qualifications. The rules set minimum work practices and procedures and also require licensees to follow a code of ethics. To prevent conflicts of interest, the rules also prohibit a licensee from conducting both mold assessment and mold remediation on the same project. While the rules regulate the activities of mold licensees when they are doing mold-related activities, the rules do not require any property owner or occupant to clean up mold or to have it cleaned up.

How can I know if someone is licensed?

A licensed individual is required to carry a current TDLR license certificate with the license number on it. A search tool and listings of currently licensed companies and individuals can be found at: <https://www.tdlr.texas.gov/LicenseSearch/>.

What is “mold assessment?”

Mold assessment is an inspection of a building by a **mold assessment consultant** or **technician** to evaluate whether mold growth is present and to what extent. Samples may be taken to determine the amount and types of mold that are present; however, sampling is not necessary in many cases. When

mold cleanup is necessary a licensed mold assessment consultant can provide you with a **mold remediation protocol**. A protocol must specify the estimated quantities and locations of materials to be remediated, methods to be used and clearance criteria that must be met.

What is meant by “clearance criteria?”

Clearance criteria refer to the level of “cleanliness” that must be achieved by the persons conducting the mold cleanup. It is important to understand and agree with the mold assessment consultant prior to starting the project as to what an acceptable clearance level will be, including what will be acceptable results for any air sampling or surface sampling for mold. There are no national or state standards for a “safe” level of mold. Mold spores are a natural part of the environment and are always present at some level in the air and on surfaces all around us.

What is “mold remediation?”

Mold remediation is the cleanup and removal of mold growth from surfaces and/or contents in a building. It also refers to actions taken to prevent mold from growing back. Licensed **mold remediation contractors** must follow a mold remediation protocol as described above and their own **mold remediation work plan** that provides specific instructions and/or standard operating procedures for how the project will be done.

Before a remediation project can be deemed successful, a mold assessment consultant must conduct a **post-remediation assessment**. This is an inspection to ensure that the work area is free from all visible mold and wood rot, the project was completed in compliance with the remediation protocol and remediation work plan, and that it meets all clearance criteria that were specified in the protocol. The assessment consultant must give you a **passed clearance report** documenting the results of this inspection. If the project fails clearance,

further remediation as prescribed by a consultant will be necessary.

What is a Certificate of Mold Damage Remediation?

No later than the 10th day after a mold remediation project stop date, the remediation contractor must sign and give you a **Certificate of Mold Damage Remediation**. The licensed mold assessment consultant who conducted the post-remediation assessment must also sign the certificate. The consultant must truthfully state on the certificate that the mold contamination identified for the project has been remediated and whether the underlying cause of the mold has been corrected. (That work may involve other types of professional services that are not regulated by the mold rules, such as plumbing or carpentry.) Receiving a certificate documenting that the underlying cause of the mold was remediated is an advantage for a homeowner. It prevents an insurer from making an underwriting decision on the residential property based on previous mold damage or previous claims for mold damage. If you sell your property, the law requires that you provide the buyer a copy of all certificates you have received for that property within the preceding five years.

How is a property owner protected if a mold assessor or remediator does a poor job or damages the property?

The rules require licensees to have commercial general liability insurance in the amount of at least \$1 million, or to be self-insured, to cover any damage to your property. Before hiring anyone, you should ask for proof of such insurance coverage. You may wish to inquire if the company carries additional insurance, such as professional liability/errors and omissions (for consultants) or pollution insurance (for contractors), that would provide additional recourse to you should the company fail to perform properly.

How is my confidentiality protected if I share personal information about myself with a company?

Under the code of ethics in the rules, to the extent required by law, licensees must keep confidential any personal information about a client (including medical conditions) obtained during the course of a mold-related activity. Further, you may be able to negotiate a contract to include language that other personal information be kept confidential unless disclosure "is required by law." However, licensees are required to identify dates and addresses of projects and other details that can become public information.

How do I file a complaint about a company?

Anyone who believes a company or individual has violated the rules can file a complaint with TDLR. For information on this process, call 1-800-803-9202, or complete the online complaint form at <https://www.tdlr.texas.gov/complaints/>.

Can property owners do mold assessment or remediation on their own property without being licensed?

Yes. A homeowner can take samples for mold or clean it up in the home without a license. An owner, or a managing agent or employee of an owner of a residential property is not required to be licensed, **unless** the property has 10 or more residential dwelling units. For non-residential properties, an owner or tenant, or a managing agent or employee of an owner or tenant, is not required to be licensed to do mold assessment or remediation on property owned or leased by the owner or tenant, **unless** the mold contamination affects a total surface area of 25 contiguous square feet or more. Please refer to 16 TAC §78.30 for further details on exceptions and exemptions to licensing requirements.

For more information about mold and the Texas Mold Assessment and Remediation Rules, contact:

Texas Department of Licensing and Regulation

Mold Assessors and Remediators

P.O. Box 12057, Austin, TX 78711

Phone: 512-463-6599 or 800-803-9202

www.tdlr.texas.gov
