

REFUSAL OF RECOMMENDATIONS & RELEASE OF LIABILITY SCRIPT

January 5, 2021 Update

(dialogue in italics) DO NOT GIVE THIS FORM TO CUSTOMERS

Introduction: Executing legal documents need not be an uncomfortable experience. The purpose of our scripts is to facilitate a smooth presentation of the forms, and to ensure uniformity in the way various employees explain the principal terms of the contracts. Some states, such as California, require contractors to orally explain all principal terms of home improvement contracts to the customer before the customer (or agent) signs. It is also a good business practice. Always suggest that the person signing actually *reads* the document and asks questions before signing. The oral presentation introduces the concepts and makes the reading easier, but the script is not a substitute for the customer's review of the documents. (Note: The scripts are based on California law but are not intended as legal advice.)

How To Use This Script: First, carefully read the special set of Instructions that accompany the form you are using. The instructions explain the function of the form and how to fill it out. Then read the form before reading this script. Once the form is *completely* filled out, and the "customer" or "agent" box checked, it is ready to be presented to the customer. The script will help you guide the customer through the form. The paragraph headings from the form are shown here for reference. The dialogue follows the heading and is in italics. Memorize (as closely as possible) the explanation that goes with each paragraph and present it the same way to every customer.

Before Preparing Release: Try to negotiate a resolution of the issue, pinpointing the exact nature of the customer's refusal and trying to eliminate it. In a friendly and supportive way, explain the potential negative consequences of the refusal, such as mold. The Release should only be prepared where there is an impasse, so by the time the Release is presented to the customer, the customer is well-educated on the issue. The Release should be presented at the end of a discussion about the issue. If the form is not handy at the time of the first discussion, prepare it and bring it back later. Before presenting it, re-open the discussion: *"I wanted to talk with you again about {the issue} and make sure you understand {explanation of problem, risks, etc.} and see if you have any more questions I can answer. So you still don't want us to {describe refused work}."* If the refusal stands, proceed with the dialogue below.

"As you know, we wanted to (describe refused service) and you elected not to have us perform this work. This simply documents your decision and releases us from liability for any problems that may result from your decision."

"I am giving you the EPA's Flood Cleanup Fact Sheet and a Mold Pamphlet so you are fully informed of the potential risks. You can read these later at your leisure and let me know if you have any questions."

"Please sign here and we'll cross this task off our list."

"Customer(s)"

Always pre-check the "Customer" or "Agent" box before presenting the form; don't leave it up to them to decide!

Signature. Check one: ☐ Customer; ☐ Customer's Agent

Print Name and Title

CONTRACTOR

Signature

Print Name, and Job Title

[If the customer hesitates: *"We need to confirm your decision in writing so there are no misunderstandings."*]

[If, and only if, the customer is concerned this is a release of all claims: *"This is not a release of all claims. We still stand behind our work. This release is very narrow; it only applies to problems that could have been prevented if we had been allowed to do the work we thought was necessary."*]

[If the customer still hesitates, try to pinpoint the exact concern and eliminate it. The basic concept behind this release is that the customer takes responsibility for the customer's decisions. *"Once again, our preference is to {describe refused work}."* Of course, it's not fair for the customer to prevent you from

doing the work but still hold you accountable. If the customer still refuses to sign, tell the customer you will send a confirming letter. Send the “Refusal Confirmation Letter” that comes with the Deluxe Package, available at www.edcross.com/contracts.]