

## TERMS AND CONDITIONS FOR RESTORATION SERVICE CONTRACT

### INSTRUCTIONS FOR USE

(This form is not to be given to customers.)

*DISCLAIMER: This product is for general information purposes only and is not a substitute for the advice of an attorney. Non-lawyers should seek the advice of an attorney licensed in Texas in all legal matters, including verification of the fitness of this material for your particular purpose. Edward H. Cross is licensed to practice law only in the States of California and Hawai'i.*

**Introduction:** This is the second page of the basic service agreement, to be presented and executed with the Service Agreement, and is part of the “main document.” The Terms and Conditions are a necessary component to the contract package. Please read the instructions for use of the Service Agreement before reading these instructions. All forms should be evaluated and updated as necessary at least once per year.

**Editing and formatting:** This form can be edited to suit your purpose. The fields can be filled in with little or no formatting problems. To check a box using your computer, double-click on the box and click “checked” under “Default Value.”



These forms will all fit on one-two pages on most computers. Due to formatting variations with certain printer drivers, a small amount of text may carry onto a second page on your computer. The problem can be cured with minor adjustments to formatting.

**Top box:** Fill in your company name, and contact information and contractor’s license number, if any, in the upper left corner and your company logo in the center field.

**“Customer”:** Fill in the name of the customer(s) exactly as shown on the Service Agreement. See the important instructions that accompany the Service Agreement explaining how to identify the “customer.”

**3. Down Payment and Schedule of Progress Payments:** Texas has special rules for down payments and progress payments, based on the location of the contractor’s primary place of business. If contractor has not, for a period of one year preceding the date of the contract, maintained a physical address in the same Texas county where the property is located, or an adjacent county then **the contract is subject to Chapter 58, Business & Commerce Code, and the contractor may not require a full or partial payment before the contractor begins work and may not require partial payments in an amount that exceeds an amount reasonably proportionate to the work performed, including any materials delivered.** If there will be no down payments or progress payments, write “none” in the table. Do not leave

the table empty.

**4. Payment:** This provision includes an aggressive term which purports to allow the contractor to collect 1.5% per month (18% per year) in “Administration Fees” for past due balances. Those fees are in addition to interest of 10%, which means a past due debt accumulates 28% per year in fees and interest. If this provision is inconsistent with the contractor’s business philosophy, it should be reduced or deleted. Some customers may see it as gouging and some courts may refuse to enforce it. However, it could serve as a valuable bargaining chip to establish leverage in payment negotiations.

**5. Finance Charges:** This explains that the customer will be responsible for interest of 10% per year for past due balances in addition to the Administration Fees. Please see the important discussion above regarding Administration Fees.

**10. Workers Compensation Insurance:** Workers Compensation Insurance is required of all companies that have employees. If you have no employees, replace this paragraph with this statement: “This Contractor has no employees and is exempt from Workers Compensation Requirements.”

**Execution:** Fill in every blank on the form (use “n/a” where the subject matter is truly inapplicable). Initial the bottom of the page, get the customer’s initials on the bottom, and give the customer a copy of the completely filled-in and initialed form. You have a number of options if the customer or agent refuses to sign, based on the circumstances; call a qualified lawyer to discuss your options.