

*"Our Business is of a Higher Calling"*

**3 Point  Restoration**

A full-service general contracting company specializing in both commercial and residential property restoration.

**Web site:** <http://www.3pointrestoration.com/>

**E-mail:** [3Point@3PointRestoration.com](mailto:3Point@3PointRestoration.com)

## **TERMS AND CONDITIONS**

**YOUR AGREEMENT FOR SERVICES IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS AND THOSE CONTAINED ON THE FACE OF THE ESTIMATE FOR SERVICES.**

- **3 Point Restoration, Inc./3 Point Restoration Hawaii, Inc. shall hereafter be referred to as, 3PR**
  - **Contractor/Customer shall apply to the party receiving services from 3PR.**
- 1. This agreement is not subject to cancellation or change in specifications or conditions without 3PR's written consent.**
  - 2. In no event shall 3PR be liable to Contractor/Customer for any indirect, special, or consequential damages or lost profits arising out of or related to this agreement. Even if 3PR has been advised of the possibility thereof or knew or should have known thereof. 3PR liability hereunder to the customer, if any, shall in no event exceed more than 5% of the total amount paid by customer to 3PR under this agreement.**

- 3. Except as specifically provided herein, 3PR makes no warranties, express or implied, including warranties of habitability, good and workmanlike construction, or fitness for any particular use or purpose.**
- 4. No action, regardless of form, arising out of or relating to this agreement, may be brought by either party more than one year after the cause of action has been accrued, except that an action for non-payment may be brought within one year of the date of last payment. A cause of action shall be considered to have accrued when the injured party discovers, or in the exercise of due diligence, should have discovered, a default or breach of this agreement.**
- 5. Should the Customer fail to make payment, contractor may charge a penalty of 21% annually upon the unpaid amount until paid. If payment is not received by the Contractor within (3 days) days after delivery of payment demand for work satisfactorily completed, contractor shall have the right to stop work or terminate the contract at his option. Termination by 3PR under the provisions of this paragraph shall not relieve the Contractor/Customer of the obligations of payments to 3PR for that part of the work performed prior to such termination. All past-due accounts shall be subject to a five percent (25%) collection fee if assigned to a Licensed Collection Company or an Attorney for Collection.**
- 6. In the event of a dispute concerning this agreement, or in the event of an action to collect a past-due account, the non-defaulting party shall be entitled to its remedies at law or in equity, and shall also be entitled to be reimbursed for all of its costs and expenses, including reasonable attorney's fees, in the enforcement of this agreement.**
- 7. The laws of the State of Alaska shall govern this agreement. All legal proceedings arising out of this agreement shall take place in the State of Alaska.**
- 8. If any provisions of this agreement is deemed illegal or un-endorsable it shall not affect the legality, validity or enforceability of the remaining provisions and terms of the Agreement.**
- 9. This agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes and replaces all prior agreements and understandings, whether written or oral.**
- 10. The written estimate/contract with scope of work shall not be binding upon 3PR unless it has been accepted by 3PR' authorized signature.**

- 11. The agreement may not be modified or amended in any way except by an instrument in writing executed by 3PR and the customer.**
- 12. Contractor/Customer shall obtain any and all permits, pay taxes, or any and all government fees associated with the scope of this contract.**
- 13. At the completion of this project, Contractor shall execute an instrument to Contractor/Customer warranting the project for one year against defects in workmanship or materials utilized. The manufacturer's warranty will prevail.**
- 14. Should the Contractor/Customer or 3PR fail to carry out this contract, with all of its provisions, the following options and stipulations shall apply: If the Contractor/Customer or the 3PR shall default on the contract, the non-defaulting party may declare the contract is in default and proceed against the defaulting party for the recovery of all damages incurred as a result of said breach of contract, including a reasonable attorney's fee. In the case of a defaulting Contractor/Customer, the Earnest/Deposit money herein mentioned shall be applied to the legally ascertained damages. In the event of a default by the Contractor/Customer or 3PR, the non-defaulting party may state his intention to comply with the contract and proceed for specific performance. In the case of a defaulting Contractor/Customer, the 3PR may accept, at his option the earnest/deposit money as shown herein as liquidated damages, should earnest/deposit money not cover the expenses to date, 3PR may make claim to the Contractor/Customer for all work executed and for proven loss with respect to equipment, materials, tools, construction equipment and machinery, including reasonable overhead, profit and damages applicable to the property less the earnest money.**
- 15. In the event of any mediation, arbitration or litigation relating to the project, project performance or this contract, the prevailing party shall be entitled to reasonable attorney fees, costs and expenses.**
  - a. Act 119, Hawaii Statutes contains requirements a Contractor/Customer must follow before initiating any action alleging defective construction against the Sub-Contractor. Ninety days before filing any action, the Contractor/Customer must serve the contractor written notice of any construction conditions alleged to be defective. Contractor may then make an offer to repair and/or repay for the defects. Contractor/Customer is not obligated to accept any offer made by 3PR.**

**There are strict deadlines and procedures under the law, and failure to follow them may negatively affect Contractor/Customer's ability to initiate any action against the 3PR.**

- 16. Upon completion, the project shall be inspected by the Contractor/Customer and 3PR, and any repairs necessary to comply with the contract documents shall be made by 3PR. The Contractor/Customer shall not occupy the property until final payment has been received by 3PR. Occupancy of the project by the Contractor/Customer in violation of HRS Article 16.2, and shall constitute unconditional acceptance of the project and a waiver of any defects or uncompleted work.**
- 17. Customer shall comply with all of the terms and conditions stated herein and must take all reasonable measures to allow 3PR to complete the work as provided for in this agreement. Customer shall supply and pay for all heat, electricity and water required by 3PR.**
- 18. One-half of all amounts due and payable under this agreement shall be due and payable immediately upon delivery of the signed and accepted estimate unless otherwise provided for on the face hereof. The remaining balance shall be due and payable upon completion unless otherwise provided for on the face hereof. For contracted services in an amount greater than \$10,000.00 after the 50% deposit is paid than progress bills/payments will be due/paid weekly by the customer.**
- 19. The Contractor/Customer will keep in force a Builder's Risk Insurance Policy on the said property to protect both Contractor/Customer's and contractor's interest until construction is completed. The Contractor/Customer will purchase and maintain property insurance to the full and insurable value of the project, in case of a fire, vandalism, malicious mischief or other instances that may occur.**
- 20. Notwithstanding any other provision herein, any reference to the number of hours, the time of completion, or the size of the home and scope of work to be performed are estimates only. The actual costs may vary and are subject to personal inspection by 3PR. 3PR may from time to time obtain final billing approval by telephone, if customer does not proceed with job for any reason customer agrees to pay a daily travel expenses (\$100.00 a day) and the hourly rate (\$50.00 per man hour) for all services provided by 3PR at the direction of Customer before the Customer's election not to proceed with the job.**

- 21. Notwithstanding any other provision herein, 3PR shall not be liable for any failure to perform or delay in performance as a result of its inability to obtain materials, parts or supplies, interruption of transportation, delays in delivery, governmental regulations, labor disputes, strikes, war, fire, flood, accidents or other causes beyond the control of 3PR.**
- 22. This agreement shall remain in effect and apply to all work with named Contractor/Customer throughout the 2008 year, and shall remain in effect until revoked in writing.**
- 23. Contractors/Customers billing agreement estimate or other contract are subject to the following additions:**
  - a. No invoices are subject to a holdback of any kind and any payment not made in full will constitute a breach of this agreement.**