

# Retainer Agreement

## Retainer Agreement

This Retainer Agreement shall be filled after completion of a \_\_\_\_\_, and before \_\_\_\_\_, and before the start of work performed. It constitutes a pro forma agreement between \_\_\_\_\_ [contractor], hereafter "Contractor" and \_\_\_\_\_ [client], hereafter "Client", at the location defined as the Premises. All sections of this Form are mandatory unless specified otherwise, and non-applicable fields must be filled with "N/A". Failure to fill and sign this form may result in nullification of terms, compensation, or replacement with another Form.

## Definitions

The following terms, including abbreviations, legal phraseology, acronyms, and specific words or phrases are sometimes used in this Agreement, and carry specific meanings as defined in this section. Terms used within this agreement will be presumed to be understood, and Parties agree to look up or consult with legal counsel to obtain full understanding of all terms, even terms not listed in this section.

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\_\_\_\_\_

## Parties

The Contractor and the Client, defined below, and sometimes referred to in this document as "Parties", intend to enter into this legally binding Painting Contract, hereafter sometimes referred to as "Agreement", on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, sometimes referred to in this document as "Effective Date."

**The party consisting of** \_\_\_\_\_ [company name], with principal place of business \_\_\_\_\_, with representative or officer \_\_\_\_\_, with phone number \_\_\_\_\_ and email address or other contact information:

\_\_\_\_\_

Shall be known within this Agreement as "Client," and is the party issuing liquid and other considerations in exchange for promises made by the other Party.

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**The party consisting of** \_\_\_\_\_ [full name], with address of residence \_\_\_\_\_, with phone number \_\_\_\_\_ and email address or other contact information: \_\_\_\_\_

Shall be known within this Agreement as "Contractor," and is the party issuing covenants, promises, and performing or causing to be performed acts, beneficial to the other Party in exchange for liquid and other considerations.

## Full Knowledge And Understanding

The Parties acknowledge that by signing this agreement, they form a legally binding contract which stipulates that each party has read and understands fully all clauses within this agreement. To foster complete understanding, all reasonable measures are taken.

## Privacy Policy

The privacy policy of the Contractor is stated here for duplicate measure:

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## Confidentiality

If a check is marked in the box the left of the word "Confidentiality", then Contractor has elected that this Agreement, its terms, existence, parties, and all provisions and communications regarding this Agreement are deemed confidential and protected from disclosure. Client agrees not to speak of, make copies of, share, or otherwise distribute any information regarding, including but not limited to confirming the existence of this agreement.

The Client will not at any time disclose information which is proprietary or confidential, belonging to the Contractor. The Client will use reasonable discretion and make a good faith attempt to protect any confidential information owned by the Contractor from accidental disclosure. Upon written request from the Contractor, the Client will provide all records, notes, or other documentation which reasonably may contain said confidential information belonging to the Contractor.

## Termination

**WITHOUT CAUSE.** Client may terminate this agreement without cause, if the notice for said termination is delivered to Contractor \_\_\_\_\_ days before Termination.

**WITH CAUSE.** Client may terminate this agreement with cause, if the notice for said termination is delivered to Contractor \_\_\_\_\_ days before Termination.

Damages: liquid damages that constitute a breach.

**NOTICE COMMUNICATION PROCEDURE.** Notices Shall be deemed delivered if sent in writing to the Address listed in Article 1: "Parties", and shall be sent as soon as possible within reason. Parties accept notices in paper form or by email to the address listed in Article 1. The delivery date shall be the date sent, defined by SMTP server receipt timestamp in the case of email, or by postmark.

**CHANGE OF MATERIALS.** Contractor will notify Customer within \_\_\_\_ Business days of any change bill of material estimates, third-party costs and incidental costs. Approval of changes shall be made in writing and signed by both parties as an addendum to this Contract.

**QUALIFICATIONS.** Contractor will notify Customer as soon as possible once Contractor becomes reasonably notified or otherwise aware that qualifications presented in Article XIV will lapse during Project.

### Entire Agreement

This Agreement is the entire Agreement as of the Effective Date, between Parties, and supersedes and replaces any prior agreements, representations, and or warranties, express or implied, written, or oral, and such other agreements are voided, with the exception of the attached addendums listed below:

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### Work to be Performed

The Contractor agrees to perform the scope of work for the Client, defined within the project titled herein, with consideration for such work defined below, "Consideration," and milestones and deadlines for the start of work term \_\_\_\_\_[date] and end of work term \_\_\_\_\_ [date]

Contractor agrees to cause or perform the following acts of work, in exchange for Consideration given by the Customer, subject to each act and considerations' respective terms and conditions, which are described within this Article, and are sometimes referred to in this Agreement as "Project."

The project description is as follows:

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The following tasks, milestones, and schedule are included within the duties of the contractor. Without which, the Considerations may not be issued, in whole or in part, by the Client to Contractor.

Task	Completion Criteria	Start Date - End Date

### Consideration

In exchange for the completion of tasks defined herein "Contractor's Duties," the following considerations are offered by the Client to Contractor. Each Consideration may be contingent upon reaching a particular milestone as defined below, and one option may be selected only with a check mark to be valid.

**ITEMIZED FEE:** If elected, Client agrees to pay itemized fee as a retainer applied to acts performed by Contractor as follows:

Item	Consideration	Contingent upon Milestone (if any)

OR,

**FLAT FEE.** If elected, Client agrees to pay a flat fee of \_\_\_\_\_ as a retainer applied to the acts performed by Contractor;

OR,

**HYBRID FEE.** If elected, Client agrees to pay a hybrid fee, including a flat fee of \_\_\_\_\_, and itemized additional considerations as follows:

Item	Consideration	Contingent upon Milestone (if any)


## Remedies

When Conditions of Default are met, the Contractor may conduct any of the following remedies:

- 1.) Termination of the Agreement upon any notice required, and the Term will immediately become forfeited and void.
- 2.) The Contractor has the option to perform any obligation of this Agreement or Parent Agreements, on behalf of the Client, and seek redress from the Client.
- 3.) The Contractor may perform or cause to be performed collection, including hiring of collection agencies, and seek collections from the Client.

The existence of any remedy listed above does not preclude the Contractor from exercising any other remedy or specific right whether allowed by law, or provided by equity, or expressly provided for in parent Agreements.

## Dispute Resolution

The venue for any disputes relating to or arising from the contract will be in the local jurisdiction where the Work is created. When a legal action arises from the agreement, the prevailing party shall be awarded reasonable attorney fees and court costs from the non-prevailing party.

If a dispute arises from this agreement and parties are unable to resolve their dispute, then both parties hereby agree to seek mediation prior to filing a lawsuit. Mediator(s) should be a neutral third party which is mutually agreed upon and chosen between both parties.

If either party initiates a lawsuit without attending mediation, then that party shall not be entitled to recovering attorney fees and court costs even when otherwise entitled parties agreed to seek first mediation as a solution for any disputes.

If both parties attend mediation and are unsuccessful in reaching a mutually agreeable resolution, then both parties agree to attend legally binding arbitration. In this case, the arbitrator shall be mutually agreed upon by both parties and be experienced in residential real estate law and shall include a written record of the arbitration hearing. By initialing the spaces provided in both parties agree to attend arbitration if mediation is not successful. If both parties elect this arbitration clause and one party initiates a lawsuit without attending arbitration, then that party shall not be entitled to recovering attorney's fees and court costs even when otherwise entitled.

INITIALS \_\_\_\_\_ [Client] \_\_\_\_\_ [Contractor]

## Subcontracting

If elected, Parties agree that Contractor may assign and/or subcontract work and acts defined in Project Articles within this Contract, including:

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And excluding:

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And if **NOT ELECTED**, Contractor may not assign and/or subcontract any work and acts defined in Project Articles within this Contract.

## Assignment

This Contract cannot be re-assigned without consent from all Parties. In the event of the dissolution or cessation of any entity's existence which was a Party to this Contract, the remaining party(ies) may terminate the contract and seek compensation or damages from the previous owners, parent organizations, investors, or other persons or Parties which have previously held ownership or control of the dissolved or ceased entity or its parents.

## No Guarantee

Parties acknowledge that the Contractor does not guarantee success or completion of the Project, or favorable result of key performance indicators, and Contractor will only make a reasonable good faith attempt to cause said success factors to be favorable.

## Non-Conflict of Interest

For a period, lasting \_\_\_\_\_ months from the Effective Date of this Agreement, the Contractor will not directly or indirectly engage in any business which competes with the Client's interests, and  If elected, the Client will not directly or indirectly engage in any business which competes with the Contractor.

GEOGRAPHICAL OR OTHER LIMIT. If elected, this covenant applies to a geographical area of \_\_\_\_\_, and a market including transactions which may occur \_\_\_\_\_.

## Force majeure

Parties will NOT be deemed in breach, or to have liability, or need to perform services, if the reason of the breach, liability, or failure to perform services, is due in whole or part to: acts of God, worker strike, supplier delay or lack of availability, regulation or regulation changes, war, epidemic, weather, unavoidable accidents or any other cause outside of the control of the Contractor or Client.

## Severability

Any provisions of this Agreement that are found invalid, void, or unenforceable by a court of law in the Governing Jurisdiction shall not preclude other provisions from remaining in-force.

Any alterations or improvements must be made in compliance with the laws of the Governing Jurisdiction, and any alterations or improvements which fail to comply with the laws of the Governing Jurisdiction shall not change the enforceability of the remainder of provisions of this Agreement.

Parties agree that, in the course of settling any disputes arising from any provision within this Contract, if the contract shall be read by entities within a court of law, that, if any part of this Contract is deemed unenforceable by law, then Parties intend to reduce the Contract by the minimum amount necessary to make the remainder of the Contract's parts enforceable.

## Survivability

Clauses relating to confidentiality and non-disclosure shall survive the termination of this Agreement.

The receiving party is not responsible for the preservation of Confidentiality for IP which is disqualified from the status of Confidentiality. For example, IP is NOT qualified to be considered Confidential if the IP is:

1. publicly known at the time of disclosure or becomes publicly known without cause or fault due to the Receiving Party;
2. discovered by the Receiving Party before disclosure by the Disclosing Party;
3. converted to Non-Confidential status upon written approval by the Disclosing Party.

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