



Disaster Recovery Authorization and Service Contract

The Service Contract (the Contract) is entered into on this 28th day of June, 2018 by and between Pauloa, LLC dba SERVPRO® of Harlingen/ San Benito (“Service Provider”), an independently owned and operated franchise, and Hidalgo County (“Customer”).

Address: 1902 Joe Stevens Ave City: Weslaco State: Tx Zip: 78599.

- 1. Services:** Service Provider hereby agrees to furnish all labor, materials, equipment, and subcontracted items reasonably necessary to complete the work described in the Scope of Work (Exhibit A). Service Provider and Customer may make changes in the Scope of Work by written change order agreed to in writing by both parties. Customer acknowledges that Service Provider is independent of the Customer’s insurance company and that only the parties hereto have the authority to enter into this Contract. Service Provider and Customer acknowledge that the property which is the subject of the Scope of Work has been damaged by a fire, flood, or other catastrophe and that, while Service Provider agrees to perform the Scope of Work according to industry standards, cannot guarantee that any of the property will be fully operational or free from defects following completion of work.
- 2. Term:** This Contract shall commence on the date signed below and shall continue until the services set forth in the Scope of Work and any applicable change order(s) (“Services”) have been completed.
- 3. Price:** Work performed hereunder shall be priced according to the Time and Materials Commercial Pricing (Exhibit B), plus any applicable taxes and costs, permits, fees, special licenses, and other reasonably necessary expenses and permitted subcontractors (cumulatively, “Charges”). Customer will make the facility accessible to accommodate Service Provider and take all steps necessary or convenient to enable Service Provider to complete Services. All rates quoted are exclusive of Federal, State and Local Sales or Use taxes and costs associated with any applicable Federal, State or Local approvals, consents, permits, licenses and order incident to performance of the work. Service Provider will bill for and Customer shall pay for all such actual incurred costs. Customer agrees that only the work set forth on Exhibit A will be performed for the agreed pricing on this Contract. Additional work will be billed separately.

Invoicing and Payment: Service Provider shall submit to Customer itemized invoice(s) setting forth the total Charges due. Customer agrees to pay such fees and charges for the Scope of Work in accordance with the following schedule:

- a. \$ 60,000 on or before July 6, 2018. For mobilization of large loss equipment.
- b. The balance of fees and charges for the Scope of Work and change orders shall be paid within thirty (30) days from the Customer’s receipt of the final invoice.

If payments are not received within thirty (30) days, Customer agrees to pay all costs of collections up to and including court costs, reasonable attorney’s fees and interest charges at the lesser of 1) 1.5% per month; or 2) the maximum lawful interest rate permitted by applicable law. In the event Customer shall fail to pay any periodic installment payment, such failure shall constitute a breach authorizing Service Provider to cease work without breach pending payment or resolution of any dispute.

Commercial Services Contract

Last update: January 2015

4. **Responsibility for Payment:** By signing below, Customer hereby instructs Customer's insurance carrier to pay Service Provider directly for Services, emergency or otherwise, less any deductible actually paid by Customer. Customer shall remain primarily liable and fully responsible for payment and agrees to make such payment in a timely manner in accordance with the terms of this Contract. **If for any reason Customer receives a check or draft from insurance company made payable to Customer, Customer agrees to remit payment immediately to Service Provider and hereby assigns to Service Provider the right to any such payment.** Customer agrees to make payment for Charges, regardless of whether Customer or another person or entity is legally responsible for payment or whether Customer is entitled to reimbursement for such costs from some other person or entity or insurance carrier(s).
5. **General Lien:** To the extent allowed by the constitution and the laws of the state of Texas. Customer agrees that Service Provider shall have a general lien on any and all real and personal property of the Customer and in Customer's possession, custody or control for all claims, Charges or advances incurred by Service Provider generally and under this Contract. Customer represents that he/she is the owner of said property and/or is authorized to enter into this Contract and to bind the Customer and property owner to each and every term and condition contained herein.
6. **Environmental:** Customer represents and warrants that no hazardous materials and/or hazardous substances as defined by law are present at the property location. Customer is responsible for notification, identification, removal and disposing of all materials containing any such hazardous materials including, without limitation, asbestos and lead. Customer assumes all liability associated with such materials located on Customer's property and jobsites and agrees to hold the Service Provider harmless from disturbance of any such undisclosed materials. Customer assumes all liability for effects such materials may have on Service Provider's employees, temporary or contractual employees and subcontractors associated with this project. The Service Provider shall not be responsible for any such hazardous materials removal, handling or disposal, unless specifically identified as follows:

Mold remediation, if any, must be set forth in the Scope of Work and must be directed by an Industrial Hygienist protocol and clearance testing.

7. **Disposal:** Disposal of any hazardous material and/or hazardous substances (including specimens or samples) agreed to be performed by Service Provider under this Contract will be made in the name of the Customer and under any Customer generator number or other identification of the Customer.
8. **Limited Warranty:** SERVICE PROVIDER WARRANTS FOR TWO YEARS THAT THE WORKMANSHIP OF THE SERVICES PERFORMED PURSUANT TO THIS CONTRACT WILL BE OF THE QUALITY GENERALLY ACCEPTED IN THE EMERGENCY PROPERTY DAMAGE WATER, FIRE AND SMOKE CLEANUP, MITIGATION/RESTORATION AND MOLD REMEDIATION SERVICES INDUSTRY. SERVICE PROVIDER ALSO WARRANTS FOR ONE YEAR THAT ALL MATERIALS FURNISHED IN CONNECTION WITH THE SERVICES WILL BE NEW, OF GOOD QUALITY, AND FREE FROM DEFECTS. IF THE SERVICES PROVIDED BY SERVICE PROVIDER FAIL TO MEET INDUSTRY STANDARDS, SERVICE PROVIDER AGREES TO PROVIDE RE-SERVICE AT NO ADDITIONAL COST FOR UP TO TWO YEARS. THIS PROVISION EXCLUDES RE-SERVICE ASSOCIATED WITH NORMAL WEAR AND TEAR, NORMAL RE-SOILING, IMPROPER CARE, IMPROPER MAINTENANCE AND NEW LOSS EVENTS. ANY ITEMS WARRANTED BY A MANUFACTURER WILL BE GOVERNED BY THAT WARRANTY, AND SERVICE PROVIDER WILL TAKE ALL STEPS NECESSARY TO TRANSFER ANY SUCH WARRANTY TO THE CUSTOMER. THE PARTIES SPECIFICALLY AGREE AND STIPULATE THAT THERE IS NO OTHER WARRANTY OF ANY TYPE OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO,

CONSUMER WARRANTIES, WARRANTY OF FITNESS FOR PARTICULAR PURPOSES, AND/OR WARRANTY OF MERCHANTABILITY.

9. **Causes Beyond Control:** Service Provider shall not be liable for any delay due to circumstances beyond the control of Service Provider including, but not limited to, flood, fire, strikes or other labor difficulty, act of God, casualty, unavailability of materials, weather conditions, building department requests, intervention by governmental authority, civil disturbance, sabotage, fuel or energy shortage, transportation delay, equipment breakdown, natural catastrophes, inability to obtain necessary labor, materials or manufacturing facilities or any other cause beyond Service Provider's reasonable control.
10. **Consents and Permits:** Any Federal, State or Local permits or consents required for the performance of the Scope of Work are the responsibility of the Customer; provided that, if made a part of the Scope of Work, Service Provider may obtain such permits and consents at Customer's expense. Both Service Provider and Customer will comply with all applicable governmental regulations, statutes, laws and ordinances.
11. **Indemnity:** To the extent allowed by the constitution and the laws of the state of Texas. Each party agrees to indemnify and hold harmless the other party hereto and the other party's shareholders, directors, Franchisor, officers, permitted subcontractors, employees and agents, from and against any and all claims, demands, causes of action and liabilities of any nature, including without limitation damages to property or personal injury and/or condition of the property, to the extent that any such claim, demand, cause of action and/or liability arises out of or is related to the breach of contract, negligence or other fault of the indemnifying party.
12. **Cancellation:** Service Provider shall have the right to cancel, cease or postpone any incomplete work without notice to Customer in the event that Customer becomes insolvent, adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, does not pay Service Provider, or becomes unable to meet its financial obligations in the normal course of business.
13. **Limitation of Liability:** In no event shall Service Provider, its owners, officers, directors, employees or agents, Franchisor, or affiliates be responsible for indirect, special, nominal, incidental, punitive, or consequential losses or damages, or for any penalties, regardless of the legal or equitable theory asserted, including contract, negligence, warranty, strict liability, statute, or otherwise.
14. **Jurisdiction and Governing Law:** The parties hereby irrevocably consent to the jurisdiction of the state or federal courts of the State of Texas in connection with any action or proceeding arising out of or relating to this Contract, any document or instrument delivered pursuant to, in connection with, or simultaneously with this Contract, or a breach of this Contract or any such document or instrument. This Contract shall be construed in accordance with the laws of the State of Texas
15. **Entire Agreement:** This Contract and the Exhibits hereto comprise the complete and entire agreement of the parties respecting the Services to be performed. No engagements, promises, representations, or warranties have been made by either party except as is expressly stated in this Contract and its Exhibits. All modifications to the Contract shall be in writing, signed by both parties hereto. The express written terms and conditions in the Contract apply in lieu of any course of dealing between the parties or usage of trade in the industry.
16. **Waiver of Rights:** A failure to either party to exercise any right provided herein shall not be deemed to be a waiver of any rights hereunder.
17. **Right To Repair/Limitations Period:** Any claim by Customer for faulty performance, non-performance, or breach under this contract shall be made in writing to Service Provider within ninety (90) days after the earlier of

completion of the work or date any such performance, non-performance or breach would have been discovered exercising reasonable diligence. Failure to make such a written claim for any matter which could have been corrected by Service Provider shall be deemed waived by Customer. No action, regardless of form, relating to the subject matter of this contract may be brought more than one year after such date.

- 18. **Prevailing Rate:** If in an unforeseen circumstance a prevailing rate is instituted, Customer agrees that labor rates will be adjusted accordingly.
- 19. **Captions:** The captions and headings throughout this Contract are for convenience only. They are not part of this Contract and shall not be used in construing it.
- 20. **Severability:** If any provision of this contract is found to be ineffective, unenforceable or illegal for any reason under present or future laws, such provision shall be fully severable, and this contract shall be construed and enforced as if such provision never comprised a part of this contract. The remaining provisions of this contract shall remain in full force and effect and shall not be affected by the ineffective, unenforceable or illegal provision or by its severance from this contract.
- 21. **Attachments:** The following documents (if box is checked) are attached and incorporated herein by reference:
 - Exhibit A, Scope of Work
 - Exhibit B, Rate Schedule

Agreed to and accepted this _28th day of June, 2018

Client's Signature/Title
(Authorized Signer)

Provider's Representative Signature/Title

Printed Name

SERVPRO®

Address