

# ATLAS FAÇADE RESTORATION, LLC

## STANDARD TERMS AND CONDITIONS

### 1. Definitions

“Contractor” means Atlas Façade Restoration, LLC, its employees, agents, and approved subcontractors. “Client” means the owner, developer, property manager, general contractor, or any party accepting the proposal or authorizing work. “Project” means the specific façade restoration, coating, cleaning, or related work described in the written Proposal. “Proposal” means the written document issued by Contractor, including scope, price, schedule, and exclusions. “Work” means only the items expressly identified in the Proposal. “Site” means the entire property and all areas Contractor must access.

### 2. Scope of Work

Contractor shall perform only the Work specifically and expressly described in its written Proposal. Any additional work requires a written Change Order signed by both parties before commencement. Contractor has no obligation to perform out-of-scope work.

### 3. Exclusions

Unless expressly included in the Proposal, the following are excluded (Client is solely responsible):

- All access equipment (scaffolding, swing stages, mast climbers, lifts, boom lifts, etc.) and their engineering, erection, dismantling, and inspection.
- Engineering, structural analysis, permits, inspections, testing, or governmental approvals of any kind.
- Structural repairs, concrete restoration beyond surface level, rebar repair, or load-bearing modifications.
- Sealant replacement, glazing, window systems, or waterproofing membranes.
- Electrical, plumbing, fire-protection, or utility connections/disconnections.
- Removal, storage, protection, or reinstallation of signage, lighting, HVAC units, decorative elements, or tenant improvements.
- Disposal of hazardous materials (asbestos, lead, silica, mold, etc.).
- Off-hours, weekend, holiday, or accelerated-shift work.
- Testing, mock-ups (unless separately priced), or third-party quality assurance.
- Builder’s risk insurance, property insurance, or any insurance beyond Contractor’s own policies.
- Protection of interior spaces, furnishings, or landscaping unless specifically stated.
- Any work required due to code changes or upgrades after the Proposal date.

### 4. Change Orders

All changes must be documented in a written Change Order signed by an authorized representative of both parties. The Change Order will state the price adjustment and any schedule adjustment. Contractor may require a 100% deposit or payment in full for Change Order work before proceeding.

If the parties cannot agree and the Client issues a Construction Change Directive (written direction to proceed), Contractor shall perform the directed work and submit a claim for equitable adjustment within 21 days. Failure of Client to approve a Change Order or issue a directive within 5 business days allows Contractor to suspend work and charge standby/remobilization costs.

### 5. Site Access, Utilities, and Coordination

Client shall provide safe, continuous, unobstructed access to all work areas 24/7 if required, including parking, staging, material storage, and waste disposal areas at no cost to Contractor. Client shall furnish, at its sole expense: adequate power (110v/220v with GFCI) and water at each work level, secure weather-protected storage, and trash removal.

Any delays, interference, security issues, or unsafe conditions caused by Client or others will result in additional charges at Contractor’s then-current rates for standby time (\$90/hour per crew member minimum), remobilization and all costs associated to if necessary, and schedule extension. Client shall coordinate all other trades so as not to interfere with Contractor’s Work.

### 6. Project Scheduling and Mobilization

Scheduling is based on Client's representation that the Site is fully ready. If Contractor mobilizes and the Site is not ready, Contractor may demobilize, reschedule, charge full remobilization fees, and/or assess standby charges. Contractor shall be entitled to a written schedule extension and equitable price adjustment for any delay caused by Client, other trades, weather, or Force Majeure.

#### **7. Surface Preparation and Existing Conditions**

All bids assume substrates are structurally sound, dry, and suitable. Contractor is not responsible for hidden or latent defects, structural deficiencies, moisture intrusion, previous coating failures, or substrate movement. Client shall bear all costs of corrective work required due to existing conditions. If hazardous materials are discovered, Contractor may immediately stop work; Client shall arrange and pay for licensed abatement and provide written certification before work resumes.

#### **8. Surface Readiness and Cure Times**

Client warrants that all surfaces are fully cured, dry, clean, and ready per manufacturer and industry standards prior to Contractor mobilization. Any coating failure caused by uncured or improperly prepared substrates is excluded from warranty and will be treated as additional work.

#### **9. Finish Appearance Standards**

All in-field applied painting and coating restoration work shall conform to the visual appearance criteria of the latest published edition of AAMA 2605-22 (Voluntary Specification, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels).

Finished surfaces shall be evaluated solely from a distance of 10 feet (3 meters) at a 90° viewing angle under natural daylight conditions. The coatings shall be visibly free from flow lines, streaks, blisters, or other surface imperfections in the dry-film state on exposed surfaces when observed under these conditions.

Any evaluation conducted closer than 10 feet, under artificial lighting, at any other angle, or using instruments (including colorimeters or gloss meters) unless expressly required in the Proposal shall not be used to determine compliance. Compliance with these standards and viewing criteria shall constitute full and final acceptance of the finish appearance. No claims for appearance-related issues shall be accepted after Substantial Completion or final payment.

#### **10. Field-Applied Coating Variations**

Slight variations in color, gloss, texture, or sheen compared to factory finishes, samples, or adjacent aged surfaces are normal and not defects. Contractor shall have no liability for such variations.

#### **11. Mockups and Sample Approval**

Client must request and approve all mockups/samples in writing within 5 business days of presentation. Failure to respond or to waive review of any mockup/sample constitutes acceptance and approval for Contractor to use its own discretion. Client must review ongoing work weekly and provide immediate written notice of any dissatisfaction. Work performed without timely objection is deemed accepted.

#### **12. Documentation of Existing Conditions**

Prior to commencing Work, Contractor will photograph and/or document existing conditions to the best of their ability. Client acknowledges that pre-existing damage, deterioration, or defects are not Contractor's responsibility unless expressly included in the Proposal. Any claim for pre-existing conditions must be made in writing within 48 hours of discovery or it is waived.

#### **13. Protection of Adjacent Surfaces**

Contractor will exercise reasonable care. Client is responsible for removing or protecting all valuables, furniture, vehicles, landscaping, and sensitive items. Contractor shall not be liable for pre-existing damage, damage caused by other trades, or damage occurring after Substantial Completion.

#### **14. Weather, Force Majeure, and Delays**

Contractor is not responsible for delays caused by (1) acts or neglect of the Client or others; (2) changes ordered in the Work; (3) labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions (including rain, wind >15 mph, temperatures outside manufacturer's range, humidity >85%, or UV conditions), or other causes beyond Contractor's control; or (4) other causes that Contractor asserts and Client agrees justify delay.

Client grants Contractor an automatic time extension and equitable price adjustment (including profit) for such events. Material price increases after Proposal date shall be passed through via Change Order.

#### **15. Payment Terms**

A minimum 20% mobilization deposit is due upon acceptance. Progress invoices may be issued monthly for work performed and materials delivered. All invoices are due on receipt unless otherwise agreed to. Past-due balances accrue 1.5% per month (18% annual) finance charge. Final payment is due within 10 days of Substantial Completion and is a condition precedent to any warranty. Final payment constitutes Client's acceptance of the Work and waiver of all claims except those expressly reserved in writing prior to final payment. Contractor may suspend work immediately if any payment is late.

#### **16. Right to Stop Work / Termination**

Contractor may immediately suspend or terminate if (a) any payment is late, (b) Site conditions are unsafe, (c) Client breaches any term, or (d) Force Majeure continues >30 days. In case of termination for convenience by Client, Client shall pay for all Work performed, materials ordered, demobilization, and 15% of remaining contract balance. Termination for cause by Contractor entitles Contractor to the same plus collection costs.

#### **17. Mechanic's Lien Rights & Collection**

Contractor reserves and shall be entitled to exercise all rights and remedies available under the mechanic's lien statutes, stop-payment notice provisions, bond claim statutes (payment and performance bonds), prompt-payment laws, construction trust fund statutes, and any other lien or collection remedies of the state (or commonwealth) in which the Project is located, as well as any applicable federal laws and the common law or equity of any jurisdiction. This expressly includes the right to file, perfect, foreclose upon, and enforce liens or claims against the Project, the real property, improvements, any construction trust funds, payment bonds, performance bonds, or other security.

The Client shall be personally and jointly and severally liable for all amounts due. The Client shall pay, on demand, all costs and expenses incurred by Contractor in collecting any past-due amounts or enforcing any lien, claim, or remedy, including without limitation: reasonable attorney's fees (at all trial and appellate levels), court costs, expert witness fees, filing and recording fees, service of process, title examination and insurance costs, sheriff's or marshal's fees, and any other out-of-pocket expenses. These obligations apply regardless of the state in which the Project is located and shall survive completion, termination, or expiration of the Agreement. Any unpaid balance shall accrue interest at the rate of 1.5% per month (18% per annum) or the maximum rate permitted by the law of the state where the Project is located, whichever is less.

#### **18. Limited Warranty and Correction of Work**

Contractor warrants its workmanship for one (1) year from Substantial Completion, limited solely to repair or reapplication of defective workmanship at Contractor's option. Contractor shall correct any Work not conforming to the Contract Documents within this one-year period upon written notice from Client.

THIS IS THE SOLE AND EXCLUSIVE WARRANTY. Contractor expressly disclaims all other warranties, express or implied, including merchantability, fitness for a particular purpose, and any statutory warranties. Warranty excludes impact damage, structural movement, moisture intrusion from any source, normal weathering, failure of substrates or materials supplied by others, work altered by others, or damage from improper maintenance. Warranty is non-transferable unless expressly assigned in writing by Contractor.

#### **19. Limitation of Liability**

NOTWITHSTANDING ANYTHING TO THE CONTRARY, Contractor's total aggregate liability under any theory shall not exceed the total amount actually paid by Client to Contractor under this contract. In no event shall Contractor be liable for any indirect, consequential, incidental, special, punitive, exemplary, or delay damages, including lost profits, lost rents, business interruption, loss of use, or diminution in property value.

#### **20. Indemnification**

Client shall indemnify, defend (with counsel approved by Contractor), and hold harmless Contractor, its officers, employees, agents, and subcontractors from and against all claims, damages, losses, liabilities, costs, and expenses (including attorney's fees) arising out of Client's or other parties' negligence, acts, or omissions; pre-existing

conditions, hazardous materials, or Site hazards; any breach by Client; or claims by third parties related to the Project not caused by Contractor's sole negligence. This obligation survives completion or termination.

#### **21. Insurance Requirements**

Client shall, at its sole expense, maintain during the Project and for at least two (2) years thereafter:

- Commercial General Liability insurance with limits of at least \$2,000,000 per occurrence and \$4,000,000 aggregate, naming Contractor as additional insured on a primary and non-contributory basis.
- All-risk property insurance (Builder's Risk or equivalent) covering the full replacement cost of the building and Work in progress, naming Contractor as additional insured and loss payee.

Client shall deliver certificates of insurance to Contractor prior to mobilization. Failure to provide insurance allows Contractor to procure it at Client's expense or suspend work.

#### **22. Hazardous Materials & Environmental Compliance**

Client warrants the Site contains no hazardous materials. If any are encountered, Contractor may stop work immediately without liability. Client shall immediately arrange and pay for licensed abatement.

#### **23. Safety & Compliance with Laws**

Contractor follows its own safety program and OSHA requirements. Client is responsible for overall Site safety coordination. Client indemnifies Contractor for any safety-related claims arising from conditions not caused by Contractor's direct negligence. Both parties shall comply with all applicable federal, state, and local laws.

#### **24. Dispute Resolution**

Any dispute shall first be submitted to non-binding mediation in the county where the Project is located (or at Contractor's election, the county of Contractor's principal office). If not resolved within 30 days after a written demand for mediation, it shall be submitted to binding arbitration under the American Arbitration Association Construction Industry Arbitration Rules in the same county. The prevailing party shall recover all costs, including reasonable attorney's fees. The parties waive any right to a jury trial. Texas law governs; conflicts-of-law rules are disregarded.

#### **25. Miscellaneous Provisions**

- Entire Agreement: This document and the Proposal constitute the entire agreement and supersede all prior communications.
- No Oral Modifications: All changes must be in writing and signed.
- Severability: If any provision is held invalid, the remainder remains enforceable.
- Assignment: Client may not assign without Contractor's prior written consent.
- Notices: All notices shall be in writing and sent by email (with read receipt) or certified mail.
- Electronic Signatures & Communications: Valid and binding under the Texas Uniform Electronic Transactions Act.
- Independent Contractor: Contractor is an independent contractor; no partnership or joint venture is created.
- No Third-Party Beneficiaries: None.
- Waiver: No waiver of any breach is a waiver of any other breach.
- Survival: All warranty, indemnity, limitation of liability, and payment provisions survive completion or termination.

**GOVERNING LAW & VENUE** This Agreement shall be governed by the laws of the State of Texas. Exclusive venue for any action shall be in the state or federal courts located in the county where the Project is situated or, at Contractor's sole election, in the county of Contractor's principal place of business.

By proceeding with the Project, Client acknowledges that these Terms have been read, understood, and accepted in full.