

Restate New Zealand Limited ("Restate" "We", "Us", "Our") (trading as an independent franchised operator of Restate)
– Terms of Trade

1. Definitions

- a. "Agreement" means these Terms of Trade, any work authority signed by the Customer, the Work Proposal (where one is provided, which may not be the case for any emergency work where it is not practical to provide one), any client authority and any other associated documents.
- b. "Customer", "you", "Your" shall mean the Customer, any person or entity acting for or on behalf of the Customer or with the permission or authority of the Customer as detailed in any quotation, estimate, work authority, notation or form as provided by Restate to the Customer.
- c. "Payment" shall mean the full payment of the Price pursuant to an invoice by the Customer for the Services conducted by Restate.
- d. "Property" shall mean the Customer's Property where the Services are to be performed including any dwellings on the Property.
- e. "Price" shall mean the final price payable (exclusive of GST) for the Services as may be:
 - i. Estimated or quoted by Restate; or
 - ii. Calculated on a cost of time, attendance, products and materials basis (in relation to any emergency work (where due to the emergency nature of the Services to be completed the scope and nature of the Services to be performed are not yet known and as such the RFSO is not able to give any indication of the Price); and any other amounts owing to Restate by the Customer.
- f. "Service(s)" shall mean all services undertaken and any ancillary products and materials supplied, by Restate to the Customer in accordance with this Agreement, including all treatments conducted on the Customer's Property and all works detailed in the Work Proposal. This includes but is not limited to the following it's the nature, scope and details of which are set out in the applicable Work Proposal:
 - i. Floor & Water Damage Restoration; and/or
 - ii. Mould Decontamination & Indoor Air Quality; and/or
 - iii. Fire, Smoke & Odour Restoration; and/or
 - iv. Methamphetamine (Meth/P) Decontamination & Clean-up.
- g. "Work Proposal" means (where one is provided) a written document sent to the Customer regarding the Services to be performed by us and includes any reports conducted by us before the Services.

2. Introduction

- a. These Terms of Trade and this Agreement will apply to the relationship between us and you.
- b. You accept these Terms of Trade and this Agreement by either:
 - i. signing the Work Proposal and/or any Work Authority (whether these Terms of Trade are attached to that form); or
 - ii. providing us confirmation in writing (via email or other means); or
 - iii. Paying a deposit for the Services;
 - iv. commencement of the Services by us at the Property.
- c. Any variations to these Terms of Trade and this Agreement in relation to any project/work the subject of the Services must be agreed and recorded in writing by both parties.
- d. The Customer agrees that in the event of any inconsistency with these terms of Trade and any other document(s) relating to the Agreement, these Terms of Trade shall prevail.
- e. Restate reserves the right to vary, modify or replace these Terms of Trade at any time without notice and such changes shall take effect in respect of any subsequent provision of Services.

3. Services

- a. The Services shall be provided in accordance with this Agreement and shall be as described on our invoices, quotations, work authorities and/or Work Proposal(s), or any other such form as provided by us to you.
- b. We will use all reasonable skill and care to perform the Services to accepted industry standards.
- c. Any unforeseen damage or loss (where not identified/discovered during the Services and which will be treated as a variation to the Services. We will communicate any issues to you upon the issue becoming apparent.
- d. The Customer by agreeing to these Terms and Conditions authorises Restate to enter onto the Property to perform the Services.
- e. You may cancel the performance of the Services on reasonable written notice, but we are entitled to seek reasonable compensation for any losses, costs and expenses we suffer because of the cancellation, including any loss of deposit for the Services.
- f. The expected duration time for the completion of the Services is an estimate and may change if reasonably required. We will ensure any changes are communicated to you in a reasonable timeframe.
- g. Restate warrants that it is skilled and experienced and possesses the expertise needed to perform the Services as per clause 3.a. and where relevant will be conducted in accordance with the Building Code and Local Authority regulations. The warranty provided in this clause 3.g. is instead of, and Restate disclaims, to the extent permitted by law, all other warranties, liabilities and representations expressed or implied including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose in connection with the Services.
- h. If the Services provided by us to you includes Methamphetamine Decontamination, these provisions of this clause 3.h will apply:
 - i. it is the Customer's responsibility to ensure the Customer carries out their own clearance testing post-Service under NZS8510:2017;
 - ii. post-Service, the Property should be left open to air out immediately after the Services for a period of at least 3 days. In certain circumstances, mechanical drying must ensure the Property is adequately aired out and the mechanical drying must meet Building Standards. This post-Service care is the sole responsibility of the Customer, and we will not be liable for any recontamination and/or damage due to inadequate airing of the Property;
 - iii. all personal belongings, furniture and possessions not to be disposed of must be removed before our arrival at the Property. You acknowledge that any items still present at the Property before the commencement of the Services will require our written consent for removal and this may cause additional cost resulting in Price escalation and delay to the Services commencing; The Services as provided in the Work Proposal may change after the commencement of the Services if a more thorough decontamination service is required. Any changes to the Work Proposal or scope of Services are at our sole discretion and We will report any changes (including to the Price) to you before the Services proceed;
 - iv. We do not allow for the encapsulation of any structural materials (unless otherwise specified);
 - v. We require the Customer to do the following for the electricals at the Property:
 - a. After Services are performed, you must organise for the Property be re-energised by a qualified electrician under the relevant electrical and building codes. We are not qualified to do this and it is not part of the scope of our Services;
 - b. We will use reasonable efforts to clean any electrical fittings. If the Customer wishes to replace the fittings this must be confirmed to us before the commencement of the Services; and
 - c. We strongly recommend that all heat pumps are replaced after treatment. However due to the high cost of replacing heat pumps, heat pumps can be cleaned to a low level upon request. You acknowledge that a low level clean does not completely clean the heat pump nor repair damage to it and a risk of re-contamination will remain. It is at the Customer's sole risk if making this decision and we will not be liable for any re-contamination.
- vi. You acknowledge the following:
 - a. Damage may occur to the Property decontamination process. We will take all reasonable care during the decontamination process, but we will not be held liable or responsible for any damage nor will you have any claim against us for any damage caused during the decontamination process.
 - b. Doors are susceptible to damage during the decontamination process and may swell during the decontamination process. If sanding is required to any part of the Property including any surfaces as part of the Services, you accept that the sanding may cause damage and may alter the condition of the Property and/or surface(s) from what the condition was pre-Service. If you have any concerns about the Property and/or surfaces prior to the Commencement of the Services, you must communicate this concern to us and a plan may be agreed upon.
 - c. We recommend that the Property is repainted upon completion of the Services and/or re-testing; and
 - d. Vanished or polyurethane coated timbers are likely to deteriorate during the decontamination process.

4. Contract and Commercial Law Act 2017

- a. Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with section 226 of the Contract and Commercial Law Act 2017 (the "Act") or any other applicable provisions of that Act or any Regulations referred to in that Act.

5. Payment / Costings

- a. We will issue a valid tax invoice specifying the Price to you for the performance of Services.
- b. You must pay the Price specified for the Services as stated in the invoice within 7 days of the invoice being issued. Please note that bank cheques are no longer accepted.
- c. GST (goods and services tax imposed pursuant to the Goods and Services Tax Act 1985 and its statutory amendments) and other taxes and duties that may apply will be added to the Price (as stated in the invoice) unless they are expressly included in the Price.
- d. A 50% deposit must be paid to our nominated bank account before the commencement of works for the following:
 - i. For any Services with a Methamphetamine Decontamination component; and/or

- ii. For any Services with a Mould Decontamination & Indoor Air Quality or Fire Damage Restoration component where the value of the Services exceeds \$1,000.00 plus GST.
- e. We may delay the commencement or suspend the provision of Services until payment has been received in full.
- f. If payment of the Price is not made by the Customer by the due date as specified on the invoice, we have the absolute discretion to charge default interest on the overdue amount at the rate of 19% per annum from the date the amount fell due until the date the overdue amount is paid in full. Additionally, if an invoice remains unpaid for more than 30 days a reasonable administration fee for the costs of chasing up payment will be charged at the absolute discretion of Restate.
- g. We reserve the right to refer the Customer to a nominated debt recovery agency if an invoice is not paid within 60 days of the date of invoice issuing, to recover the outstanding fee and you will be responsible for such additional costs that may be incurred.
- h. If you fail to make payment on the due date, then without prejudice to our other rights and remedies, we may claim all reasonable costs and expenses associated with enforcing payment of the overdue amount, including any reasonable legal costs and debt collection fees associated with such collection.
- i. Payment will only be deemed to have been made until the funds have been received in full and cleared funds into our nominated bank account or otherwise specified on the invoice. Any other form of payment will not be accepted as paid until the transaction is deemed to have been honoured.
- j. All payments required by you must be made in full without any deduction or right of set-off.
- k. Any quote issued by us will be valid for 30 days from the date of issue only.
- l. If an emergency or after hours call out is made by you to us, and additional costs will apply and this will be discussed directly with you and added to the Price.

6. Personal Property Securities Act 1999 ("PPSA")

- i. Upon entry into these Terms of Trade by the Customer, the Customer acknowledges and agrees that:
 - a. The Agreement constitutes a security agreement for the purposes of the PPSA; and
 - b. Until full payment has been made to Restate for the Services supplied by Restate, Restate possesses a security interest in all materials and products supplied as part of the Services so as to secure and enforce the monetary obligations of the Customer owed to Restate for the Services previously provided.
- c. You undertake to:
 - i. Sign any further documents and/or provide further information (such information to be complete accurate and up-to-date in all respects) which we may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - ii. Indemnify and immediately reimburse us for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register; and
 - iii. Not register, permit to be registered, a financing statement or financing change statement in relation to the collateral (account) in favour of a third party without our prior written consent.
- ii. The parties agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to the Terms of Trade and this Agreement;
- iii. The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127 and 131 of the PPSA;
- iv. Unless otherwise agreed to in writing, the Customer waives its right to receive a verification statement under section 148 of the PPSA.
- v. The Customer is deemed to unconditionally ratify any actions taken by us under clauses 6(i)(i) – (iii).
- vi. Subject to any express provisions to the contrary (including those contained in this clause 6), nothing in this Agreement is intended to have the effect of contracting out of any provisions of the PPSA.

7. Construction Contracts Act 2002 ("CCA")

- a. For the purposes of this clause the definition of "payment claim", "payment schedule", "scheduled amount", "construction work", "construction contract", "adjudicator" are as specified in the CCA. Where the nature of the Services provided is covered by the CCA, you expressly acknowledge and agree that:
 - i. We may suspend works within five (5) working days of written notice of its intent to do so if the following circumstances apply:
 - a. The Customer has not paid a claimed amount in full by the due date of its payment, and no payment schedule has been provided by the Customer (being the party who is claimed to be liable for the payment); or
 - b. A scheduled amount has not been paid in full by the due date of its payment even though a payment schedule given by the Customer indicates a scheduled amount that the Customer proposes paying to us; or
 - c. The Customer has not complied with an adjudicator's determination that the Customer must pay an amount to us by a particular date; and
 - ii. on the occurrence of any one of those events we are deemed to have given notice to the Customer of our intention to suspend the carrying out of construction work under the construction contract under section 23(2)(b), section 24(2)(b) or section 59(2)(b) of the CCA, or as the case may be.
- b. Where we have lawfully suspended work and/or the Services in accordance with this Agreement, then without prejudice to our other rights and remedies we:
 - i. Are not in breach of this Agreement; and
 - ii. are not liable for any loss (including loss of profit), cost, expense or damage whatsoever suffered or alleged to be suffered, by you or by any person claiming through you; and
 - iii. Are entitled to an extension of time to complete the work/Services provided for under this Agreement; and
 - iv. Reserve all rights under this Agreement including the right to terminate this Agreement, and may at any time lift the suspension, even if the amount has not been paid or an adjudicator's determination has not been complied with; and
- c. If we exercise the right to suspend the work/Services, exercising that right does not:
 - i. Affect any rights that would otherwise have been available to us under this Agreement and the Contract and Commercial Law Act 2017; or
 - ii. Enable the Customer to exercise any rights that may otherwise have been available to the Customer under the CCA as a direct consequence of Restate suspending work under this provision.

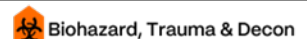
8. Consumer Guarantees Act 1993

- a. Where you are engaging us to perform the Services for trade or business, you acknowledge and agree that the Consumer Guarantees Act 1993 does not apply.

9. Limitation of Liability

- a. We will not be liable to you for any direct or indirect loss, cost, expense or damage, including without limitation; economic loss, loss of profits or savings (or for any direct or consequential loss or damage), however caused relating to the supply of the Services or for any inability to provide the Services or to continue to provide the Services.
- b. Without limiting the application of clause 9.a. above, we have no liability to you for any matter in relation to the Services as a result of and/or due to any of the following (which is not intended as an exhaustive list):
 - i. Fair wear and tear to the Property arising from the normal provision of the Services; or
 - ii. Unavailability of power or water or insufficient lighting; or
 - iii. Interference by a third party; or
 - iv. Damage or loss due to external causes, including accident, abuse, misuse, failure to perform preventative maintenance, usage not in accordance with any instructions, directions, recommendations we provide and/or any user/maker/guide and/or user directions supplied;
 - v. Inability to access the Property; or
 - vi. Delay, default, non-performance or termination of the Services due to any circumstance out of our control including (without limitation) any act of God, terrorism, fire, natural disaster, accident, act of government, strikes, weather conditions, traffic congestion or supply disruption of materials required for the Services; or
 - vii. Incorrect information provided by you or failure to comply with any instructions provided by us.
- c. Our liability (and your sole remedy) to you whether in contract, tort or otherwise in respect of all claims for loss, damage, costs, expenses or injury arising directly or indirectly from any defect or non-compliance in the Services, a breach of our obligations under this Agreement or from any of our acts or omissions is limited to the maximum extent permitted by law in each case to the lesser of:
 - i. Resupplying that part of the Services giving rise to such liability; or
 - ii. Refunding you that part of the Price paid relating to that part of the Services for which we are held liable.
- d. All claims must be made in writing to us and are subject to verification. Claims for any loss, damage, cost, expense or injury arising out of the supply of the Services, must be brought with 48 hours from the Customer becoming aware or where the Customer ought to have been reasonably aware of the circumstances giving rise to the claim.
- e. As mentioned, we are an independent franchised operator of Restate New Zealand HQ Limited (which is the "Franchisor" for Restate) and we are solely responsible and liable to you for all aspects of the Services and other obligations owed to you under this Agreement. You further acknowledge and

SJG-113988-1-57-V5



agree that the Franchisor has no liability to you whatsoever for any loss, cost, claim, expense or damage and howsoever arising suffered by you in respect of any aspect of the Services (including, without limitation, any work or services, the arrangements between you and us, the termination of Agreement, and/or any failure or breach by us of the obligations owed to you under this Agreement.

10. **Confidentiality**
 - a. We agree to keep the terms of this Agreement confidential as well as the Services undertaken on behalf of the Customer. The exception is for the purpose of performing the Agreement or as required by law.
11. **Site Security / Access**
 - a. You will ensure that clear access to and from the Property (where the Services are to be undertaken) and that access is suitable to accept our vehicles and/or equipment which may be deemed necessary by us to undertake the Services. You shall pay the cost of replacement, repair or rectification to any path, driveway and/or access routes that may be damaged whilst we are accessing the Property. You shall be liable for any reasonable costs we incur associated with any delays due to inaccessibility to the Property unless otherwise specified in the Work Proposal. You must ensure that any security system is disarmed prior to the provision of the Services (or alternatively provide us with the codes for the security system so we can disable and/or enable the same). We will not be liable to you for any issues arising from the security system all such responsibility remains with you.
 - b. Access to the Property must be safe and unobstructed (including but not limited to roof cavities and foundation spaces). If a minimum clearance (of industry standard) is not available, the area of inspection must be within our unobstructed line of vision.
 - c. You agree to procure that we shall have uninterrupted and full access to the worksite until the Services have been completed and all of our equipment has been removed.
 - d. You and/or any third party acting on your behalf, accept for safety reasons that access to our work area and machinery to inspect our work/access the Property during the Service period must be by appointment only, and requests must be made in person to a director of Restate/person in charge with the date and time to be agreed. In any such event, you and/or third party must be accompanied by one of our employees at all times whilst onsite.
 - e. You are solely responsible for the Property being secure during the time we are onsite including any re-testing of the Property (if required).
 - f. Should you and/or third party gain access to the Services/the Property area without obtaining our prior permission, the Services shall be deemed complete and the invoice issued and we will not be held responsible for any re-contamination during the period of the Service.
 - g. You must ensure that power, adequate lighting and water are accessible for our use (free of charge) for the period of the Services.
12. **Compliance with the Law**
 - a. The parties shall comply with the provisions of all statutes, regulations and by laws and other public authorities that may apply to the Services.
 - b. All subsequent lab testing required as a part of any Services shall be carried out by a registered IANZ (International Accreditation New Zealand) facility.
 - c. You must ensure (at your own cost and expense) that the site and Property is safe and that all hazards that may present a danger and/or harm to us and/or our employees have been removed. You must disclose the existence or previous existence of asbestos and/or hazardous materials and ensure these are safely removed and tested before the Services commence.
 - d. You must obtain (at your own cost and expense) any licenses and approvals that may be required for the Service.
13. **Mould Warranty**
 - a. We provide a conditional six (6) month warranty that mould will not return to areas that we have treated (with such warranty period commencing from the date the treatment is performed to the treated areas) as part of any Mould Remediation Services that we undertake (unless excluded in writing in this Agreement). The following conditions apply to the warranty and must be complied with by the Customer for the Mould Warranty to be valid:
 - i. The cause / source of the problem has been rectified by us and the recommendations outlined in the Services report (where one is supplied) have been complied with in full including all required repairs and inspections attended to; and
 - ii. No acts of nature and/or natural disaster have occurred within the Property following the Services such as flooding, storm damage, roof damage or other like damage; and
 - iii. No alterations or repairs have been made to the Property which includes the area that the Services was undertaken; and
 - iv. Any issues, concerns or questions the Customer has had in relation to the Services have been notified to Restate within 5 working days of completing the Services; and
 - v. The Services invoice has been paid in full as per the terms of payment specified in this Agreement.
 - b. (the Mould Warranty)
Without limiting the application of matters referred to at clause 13.a. above, the Customer acknowledges and agrees that the Mould Warranty will not apply in certain situations such as:
 - i. Any mould removal Services where the mould has been caused by condensation from the windows; or
 - ii. Where any invoice relating to the Services is not paid in accordance with the terms of this Agreement.
 - c. To the maximum extent permitted by law, our warranty is limited to those as stated in clause 13.a. and b. Any implied terms or warranty (including any warranty under Part 3 of the New Zealand Contract and Commercial Law Act 2017) are expressly excluded.
14. **General**
 - a. We reserve the right to review and/or amend the terms and conditions of this Agreement at any time by disclosing this to the Customer in writing. Such changes shall be deemed to take effect from the date on which the Customer accepts such changes.
 - b. If the Customer comprises more than one person, then all parties connected with the Customer (whether individual or another entity) will be jointly and severally liable to us in relation to any unpaid invoices.
 - c. The Customer may not set off against an invoice issued by us for any amount.
 - d. The illegality, invalidity or unenforceability of a provision of this Agreement under any law shall not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of any other provision of this Agreement.
 - e. The failure of either party to enforce any provision of this Agreement shall not be treated as a waiver of that provision, nor shall it affect the party's right to enforce that provision. If any provision of this Agreement shall be invalid, void, illegal or unenforceable that validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
 - f. This Agreement is governed by the law of New Zealand and is subject to the sole jurisdiction of the Courts of New Zealand.
 - g. We will not be liable for any delay or failure to perform the Services arising from an act of god, war terrorism, industrial action, fire, flood, storm or any other event beyond our reasonable control and any timeframes applying to our obligations will be extended as reasonably necessary.
 - h. You may not assign or transfer your rights under this Agreement unless agreed by us in writing. We may assign, license or subcontract all or any part of our rights and obligations under this Agreement.
 - i. You agree that we may take and utilise photos and videos of the Services (but on the condition that we do not identify you) on our website and in our other marketing.
 - j. You agree to take all reasonable steps to provide a safe working place for us and our staff/contractors. We do not assume any obligation of yours under any applicable health and safety legislation or regulations (including without limitation the Health and Safety at Work Act 2015), and for the purposes of any such legislation and regulations, you will at all times remain the party who controls the place of work.
 - k. You authorise us to collect, enquire, retain and use information about you for the purpose of: enforcing our rights under these terms and conditions; marketing materials and services to you from time to time; and establishing and maintaining the relationship between you and us. We will comply with our obligations under the Privacy Act 2020 at all times, and you will have the right to request a copy of the information about you held by us and to request the correction of any incorrect information we hold.
 - l. Any reports commissioned by us have been done so exclusively for the Customer and no other party may rely on the advice in any such report other than the Customer.
 - m. The parties agree to use all reasonable endeavours to discuss and resolve in good faith any disputes or differences which may arise between them, and that if such disputes or differences cannot be resolved by the parties themselves within a reasonable period, the parties will then seek to resolve any differences through mediation. Any party who claims that a dispute has arisen must give written notice to the other party specifying the nature of the dispute. On receipt of such notice, the parties must: co-operate and use reasonable endeavours to resolve the dispute as quickly as possible; and if the dispute is not resolved within 14 days of receiving the notice (or any further period as the parties may agree in writing), refer the dispute to the Disputes Tribunal or mediation. Mediation shall be conducted in terms of the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc. The mediation shall be conducted by a mediator and at a fee agreed by the parties, failing agreement between the parties, the mediator shall be selected, and the mediator's fee shall be decided, by the President for the time being of the Arbitrators' and Mediators' Institute of New Zealand Inc.
 - n. Both parties warrant they have the power to enter into this Agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Agreement creates binding and legal obligations on them.