

**Harbour Hardwood Floors, Inc. Contract for Home Improvement**

THIS AGREEMENT is between Harbour Hardwood Floors, Inc. a California corporation, California License No. 67005 ("CONTRACTOR"), whose address for notices is 7939 Silverton Avenue, Suite 808, Sand Diego, CA 92126, and \_\_\_\_\_, ("OWNER"), whose address for notices is \_\_\_\_\_. CONTRACTOR shall install flooring for OWNER at the project located at \_\_\_\_\_.

This AGREEMENT is drafted pursuant to and in compliance with Business & Professions Code Section 7159 et seq.

**Notice to Owner: You are entitled to a completely filled in copy of this agreement, signed by both you and the Contractor, before any work may be started.**

This Contract was signed by Owner on \_\_\_\_\_.

Notice of Cancellation of this Contract may be sent to CONTRACTOR at 7939 Silverton Avenue, Suite 808, Sand Diego, CA, 92126. California License No. 676005.

**NOW THEREFORE, CONTRACTOR and OWNER agree to the following terms and conditions:**

**ARTICLE 1. SCOPE OF CONTRACT**

**1.01. Scope of Work. Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed.** CONTRACTOR will furnish all work, labor, tools, equipment, supervision, scheduling, coordination, and Contract administration necessary to construct and complete in a good, timely, workmanlike, and substantial manner under the terms of this Contract the following work ("WORK"): see Attachment No. 2 entitled "Scope of the Work". CONTRACTOR shall complete Work in compliance with the plans, the terms of this Contract, and any subsequent Change Orders of modifications agreed to by both the OWNER and CONTRACTOR. Completion of work shall be defined as the date of notification to City of \_\_\_\_\_ for final building inspection verification.

**1.02. Modifications to Scope of Work.** CONTRACTOR may revise and update the Scope of Work from time to time to reflect changes in the job conditions and tasks. Such revisions are subject to the approval of OWNER, which approval shall not be unreasonably withheld.

**ARTICLE 2. TERM OF CONTRACT**

**2.01. Project Commencement and Completion.** CONTRACTOR shall begin work within \_\_\_\_\_ ( ) days after execution of this Contract and estimates that it will achieve substantial completion within \_\_\_\_\_ working days after commencement, subject to permissible delays. CONTRACTOR shall pursue the Work diligently to completion subject to weather delays, availability of goods and material, and changes in the Scope of Work.

**Approximate Start Date:** \_\_\_\_\_ **Approximate Completion Date:** \_\_\_\_\_

**ARTICLE 3. SERVICES**

**3.01. Investigation by Contractor.** CONTRACTOR will perform a preliminary investigation of the jobsite and all plans. CONTRACTOR will further investigate applicable federal, state and local building codes, laws and regulations. CONTRACTOR will assist Architect with compliance of all federal, state and local rules and regulations pertaining to this Project.

**3.02. Delay Beyond Contractor's Control.** CONTRACTOR shall be excused for any delay in completion of the Contract caused by acts of God; acts of OWNER, of OWNER's agents, or of OWNER's employees or independent contractors; inclement weather; labor trouble; acts of public utilities, public bodies, or inspectors (not related to possible defects in CONTRACTOR's performance); changes requested by OWNER; OWNER's failure to make progress payments promptly; or other contingencies unforeseen by CONTRACTOR and beyond its reasonable control. Each party agrees to use reasonable diligence to avoid such delay and to resume performance under this Contract as promptly as possible after any such delay occurs.

**3.03. Unanticipated Concealed Conditions.** If CONTRACTOR encounters adverse concealed conditions that could not reasonably have been anticipated, the additional cost incurred by such condition will become a Cost of the Work and payable by OWNER. OWNER accepts all risks of any hidden or apparent defect, contamination, or condition of the Property. OWNER shall be solely

responsible for any damage, loss or expense caused by conditions of the Property including, but not limited to, foundations sliding, sinking foundation, etc. and accepts responsibility for all losses, damages, or expenses associated with normal ground setting around the foundation of the home.

**3.04. Liquidated Damages Caused by Owner's Delay.** OWNER acknowledges that delays in the Construction can increase the cost of Work. Delays may increase interest on construction loans, increase the change that weather will cause damage to materials stored and installed on the construction site, and may lead to further delays, damages, and costs because of the construction schedule. OWNER agrees that OWNER is solely responsible for any damage, loss, or expenses caused as a result of delays caused by OWNER. Upon the request of CONTRACTOR, OWNER agrees to immediately pay, in cash, any costs and expenses incurred due to delays caused by the OWNER.

**3.05. Termination of Contract.** If for any reason, OWNER delays the Construction or fails to pay the costs associated with any delay cause by OWNER, CONTRACTOR shall have the right to terminate this Contract pursuant to paragraph 8.02, in addition to obtaining payments caused by delay as provided in this Article.

#### ARTICLE 4. COMPENSATION AND COSTS

**4.01. Contract Price:** \_\_\_\_\_.

**4.02. Down Payment.** Owner shall pay Contractor a down payment of \_\_\_\_\_.

**IF A DOWN PAYMENT WILL BE CHARGED, IT MAY NOT EXCEED THE LESSER OF \$1,000.00 OR TEN PERCENT (10%) OF THE CONTRACT PRICE, WHICHEVER IS LESS.**

**4.03. Schedule of Progress Payments.** OWNER will pay CONTRACTOR the sum of \$ \_\_\_\_\_ in installments as follows:

Payment No. 1:

Payment No. 2:

Payment No. 3:

**The schedule of progress payments must specifically describe each phase of work, including the type of work and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, THE CONTRACTOR MAY REQUIRE A DOWNPAYMENT.**

If payments are to be made through a construction lender, OWNER represents that the construction loan fund is sufficient to pay the Contract price and any extra work that may be ordered by OWNER, and OWNER will do everything possible to expedite payments.

**4.04. Request for Payment.** CONTRACTOR shall submit a request for payment to OWNER and OWNER shall make progress payments within 5 days of request. If those days are Sundays or holidays, then performance shall be postponed until the next succeeding day that is not a holiday. The request for payment must be accompanied by supporting data in such form and substance as OWNER may require to confirm that the claimed portion of the work has been properly performed. If OWNER fails to remit payment within fifteen (15) days of the request for payment, interest shall accrue on the outstanding balance at a rate of 2% per month until paid in full.

**4.05. Labor and Material.** CONTRACTOR shall pay all valid charges for labor and material furnished to CONTRACTOR or its subcontractors and used in the construction of the project, but is excused from this obligation to the extent that OWNER may be in arrears in making progress payments to CONTRACTOR. If CONTRACTOR fails to pay for work or materials furnished under this paragraph and, as a result, mechanics liens are recorded or threatened against the project, then OWNER may make such payments in good faith on CONTRACTOR's behalf, and CONTRACTOR shall on demand reimburse OWNER for the amount actually paid. If OWNER settles or purchases such claims at a discount, CONTRACTOR shall be entitled to the benefit of the discount.

**4.06. Allowances.** If the Contract price includes allowances and if the cost of materials, fixtures, or equipment covered by the allowance is either greater or less than the allowance, then the Contract price shall be increased or decreased accordingly. Allowances include only the cost of materials, fixtures, or equipment. All costs of installation is included in the Contract Price and not the allowance.

**4.07. Release from Claim or Mechanics Lien for Work that Has Been Paid For.** Upon satisfactory payment being made for any portion of the work performed, the CONTRACTOR shall, prior to any further payment being made, furnish to OWNER a full and unconditional release from any potential lien claimant or mechanics lien authorized pursuant to Sections 9400 and 9404 of the Civil Code for that portion of the work for which payment has been made.

**4.08. Mechanics Lien Warning.** Anyone who helps improve your property, but who is not paid, may record what is called a mechanics lien on your property. A mechanics lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a 'Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or other persons you contract with directly or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Internet Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.

#### **ARTICLE 5. CHANGE ORDERS**

**5.01. Extra Work and Change Orders.** The OWNER may not require the CONTRACTOR to perform extra or change order work without providing written authorization prior to the commencement of any work covered by the new change order. Extra work or a change order is not enforceable against the OWNER unless the change order also identifies all of the following in writing prior to the commencement of any work covered by the new change order: (1) the scope of the work encompassed by the order; (2) the amount to be added or subtracted from the Contract; and (3) the effect the order will make in the progress payments or the completion date. CONTRACTOR'S failure to comply with these requirements does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

If OWNER orders work added or deleted, the Contract Price shall be increased or reduced accordingly. The Contract Price shall not change until CONTRACTOR approves of such changes. As the extra work progresses, payments for extra work will be made concurrently with progress payments made under the payment schedule.

**5.02. Note about Extra Work and Change Orders.** Extra work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of any work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments.

#### **ARTICLE 6. OWNER OBLIGATIONS**

**6.01. No Financing Condition.** This Contract is effective immediately and is not subject to conditions precedent, including any condition regarding financing, building department approval, satisfactory soils tests, or any other happening or event. OWNER represents that OWNER has arranged adequate financing to pay for the work to be performed under this Contract.

**6.02. Use of Insurance Proceeds.** If the project is destroyed or damaged by fire, storm, flood, landslide, earth movement, subsidence, or earthquake, or by theft or vandalism, then the OWNER shall pay for any work done by CONTRACTOR in rebuilding or restoring the project as extra work, and OWNER may use insurance proceeds for such payments if they are available.

#### **ARTICLE 7. CONTRACTOR OBLIGATIONS**

**7.01. Corrective or Repair Work.** If corrective or repair work of a minor nature remains undone by CONTRACTOR after the project is ready for occupancy, CONTRACTOR shall perform the work expeditiously and OWNER shall not withhold any payment pending completion of such work.

**7.02. Right to Stop Work.** CONTRACTOR may stop work if any payment, including any payment for extra work, is not made to CONTRACTOR as agreed to under this Contract. If such nonpayment occurs, CONTRACTOR may keep the job idle until all payments are received.

**7.03. Contractor and Subcontractor's License Notice.** Contractors and subcontractors are required by law to be licensed and regulated by the CSLB, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within 4 years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the registrar, Contractors State License Board, P.O. Box 26000, Sacramento, CA 95826.

#### **ARTICLE 8. TERMINATION**

**8.01. Termination on Default by Contractor.** If CONTRACTOR unreasonably fails to keep the job on schedule, uses substandard materials, employs substandard work, proceeds in an unsafe manner, allows a claim, lien or stop notice to be recorded or filed without causing the same to be released, fails to meet the insurance requirements of this Contract, or otherwise fails to perform under this Contract, OWNER may give CONTRACTOR ten (10) days written notice of default. If CONTRACTOR fails to cure the default within seven (7) days of default, OWNER may terminate CONTRACTOR's performance and eject CONTRACTOR from the Project. Upon termination, OWNER shall pay CONTRACTOR all amounts due and owing to compensate CONTRACTOR all past work completed.

**8.02. Termination on Default by Owner.** If OWNER fails to make the jobsite available to CONTRACTOR or fails, without valid excuse, to make a payment to CONTRACTOR when it is due, CONTRACTOR may give OWNER ten (5) days written notice of Default. If OWNER fails to cure the default within seven (5) days of default, CONTRACTOR may stop work and terminate this Contract.

#### **ARTICLE 9. GENERAL PROVISIONS**

**9.01. Assignment.** Neither party may assign this Contract, or payments due under the Contract, without the other party's written consent.

**9.02. Arbitration of Disputes.** Any controversy that develops between CONTRACTOR and OWNER with regard to matters arising out of, or relating to, this Contract, and that the parties do not promptly resolve, shall be decided by arbitration administered by and in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association unless the parties agree otherwise in writing. The Paragraph shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered on it in any court of competent jurisdiction.

**NOTICE:**

**BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE BUSINESS AND PROFESSIONS CODE OR OTHER APPLICABLE LAWS. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY. WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.**

Owner's Initials: \_\_\_\_\_

Contractor's Initials: \_\_\_\_\_

**9.03. Time of the Essence.** All time limits stated in this Contract are of the essence to this Contract, and failure to comply with this provision in a timely manner, including payment provisions set forth herein, shall be a material breach of this Contract. Unless otherwise expressly stated, all references in this Contract to days mean calendar days.

**9.04. Attorney Fees.** If either party becomes involved in arbitration or litigation arising from this Contract or the performance of it, the court or tribunal in such arbitration or litigation or in a separate suit shall award reasonable costs and expenses of arbitration and litigation, including expert witness fees and attorney fees, to the prevailing party or parties.

**9.05. Entire Agreement.** This Contract constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed under this Contract exist between the parties. This Contract can be modified only by an agreement in writing signed by both parties.

**9.06. Governing Law.** This Contract shall be construed in accordance with, and governed by, the laws of the State of California. This paragraph shall not prevent application of the Federal Arbitration Act to any dispute that may arise under this Contract.

**9.07. Notice.** Any notice required or permitted under this Contract shall be deemed given, if in writing, on the earlier of delivery or five (5) days after deposit in the U.S. Mail, first-class postage prepaid, and addressed to the party at the address shown in this Contract, although such address may be changed by written notice from one party to the other as necessary.

**9.08. Three-Day Right to Cancel:** The law requires that the Contractor give you a notice explaining your right to cancel. Initial here if Contractor has given you a "Notice of Three-Day Right to Cancel." \_\_\_\_\_ Owner Initials.

**9.09. Information about the Contractors' State License Board (CSLB).** CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees. For more information: Visit CSLB's Internet Website at [www.cslb.ca.gov](http://www.cslb.ca.gov) / Call CSBL at (800) 321-CSLB (2752) /Write CSLB at P.O. Box 26000, Sacramento, CA 95826.

***I hereby agree to all of the above terms and conditions:***

**OWNER**

Date: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

**CONTRACTOR**

Date: \_\_\_\_\_

Harbour Hardwood Floors, Inc.,  
*a California Corporation*

By: \_\_\_\_\_

Name: Etienne Basson, *President*

Contractor's License No. 676005

ATTACHMENT NO. 1

**NOTICE OF THREE-DAY RIGHT TO CANCEL**

You, the Owner, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the Contractor at the Contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For you part, you must make available to the Contractor at your residence, in substantially as good condition as you received them, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the Contractor's instructions on how to return the goods at the Contractor's expense and risk. If you do make the goods available to the Contractor and the Contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the Contractor, or if you agree to return the goods to the Contractor and fail to do so, then you remain liable for performance of all obligations under the Contract.

Owner hereby acknowledges receipt of this Notice: \_\_\_\_\_  
Owner Dated

**NOTICE OF CANCELLATION**

Transaction Date: Owner received a copy of the fully executed Contract on \_\_\_\_\_.

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to: Harbour Hardwood Floors, Inc. at 7939 Silverton Avenue, Suite 808, Sand Diego, CA, 92126, not later than midnight of the third day following the transaction date.

I hereby cancel this transaction. \_\_\_\_\_  
Owner Date

ATTACHMENT NO. 2

**SCOPE OF WORK**