

Dear CIPP members,

The officers and directors of CIPP are pleased to announce that the contract project is complete. This project was undertaken on behalf of the many CIPP members who, over the years, have asked for some kind of contract that conservators could be comfortable in using, that would provide for their particular situation, and that would provide for some commonalities that all good contracts share. Ms. Jessica Darraby, founder of the **Art Law Firm**, was engaged for the project due to her expertise in art law and legal risks facing conservators. She possesses a familiarity with what exactly our business entails, something most attorneys do not have.

Ms. Darraby has crafted a **Template for Contracting Conservation Services** that provides conservators with the legal language to help mitigate risks the conservator may face and with numerous options to fit most any situation that might arise in one's practice. Two exhibits accompany the Template: Exhibit A covers the description of the artwork/artifact and Exhibit B covers a treatment proposal. This was never intended to be a one size fits all contract. As the lack of such an item points out, the difficulty is that no one contract can serve all needs in all jurisdictions. This is exactly what it says: **A Template**. In each section, items in brackets can be chosen or deleted as suits your needs.

Any changes to the Template that you wish can be made by you and your attorney. Not everyone will need everything that is included in this contract but it's there if you need it.

Over the years CIPP has published documents (e.g., Virginia Naude's 1989 article on what a contract needs, available on the CIPP website) and had presentations at annual meetings regarding contracts. Additionally the FAIC offers an online course on Risk Management that includes a section on contracts. We know, for example, that all contracts need information on the item to be conserved, authorization, service to be provided, time frame, and fees as well as other general items. Taken together the previous publications, presentations, and online courses provide a good foundation to create a contract but, the new Template has not only the basics but also the legal language and it provides options for many situations.

To use an analogy, if previous CIPP publications and FAIC online courses provide a state map, this new Template provides a city map that allows you and your attorney to pick the specific streets you want to take to where you want to be. We appreciate your patience during this long project. We certainly hope that most of you will find it useful and encourage you to apply it as suits your needs. In the interest of making the document easier to read, it has been broken down into sections with a brief commentary provided at the beginning of each section describing what that section of the contract addresses (breaking it down this way has increased the length of the document).

**Please note that this document is a Template from which each CIPP member, *in consultation with their own attorney*, can craft a contract specifically suited to their needs and practice. Neither AIC, FAIC, CIPP nor the organizations they stand for will be responsible for any information or any consequences as a result of the use of this Template.**

-CIPP



## How to Use this Template

Virginia Naudé's 1989 CIPP article "Contracts: Who's in Charge Here" states:

If you generate the contract form you control the content and your lawyer controls the language which will enable him to defend you in court.... The process you go through to prepare a contract form will educate and inform you about matters the proprietor of a business needs to know.

Ms. Naudé then described 23 elements frequently found in conservation contracts. All of the elements she discussed and more are found in the new **Template for Contracting Conservation Services** designed for CIPP members by attorney Jessica Darraby.

The Template may seem lengthy but as you will see it is quite comprehensive. Many conservators have a contract that is only a page or two which still contains the essential elements. When you look over the Template, you'll see that Ms. Darraby has tried to include as many options as possible, to cover various situations. As you read through each section, remember that it is a **template** and should be modified to suit the needs of your practice. It is designed to give you the critical legal language as you and your attorney develop a contract for your practice. We expect that you will remove the items in brackets that do not pertain to your situation.

You may find that this template may save you both time and money when consulting your own attorney: This is especially true if your attorney is less familiar with our field. As you craft your own contract(s) you may decide that you need less protection in certain client relationships. You may find that you can design a shorter contract that has all the essential elements, using the language provided in the Template. Still, be aware that, as Ms. Naudé notes:

There may be times when your contract form may not be acceptable, such as for many government agencies. But, you will be in a good position to know how much control you have over the agreement papers presented to you if you have spent time carefully working out your own contract. You will be able to identify very specifically the areas where you are not protected if misunderstandings arise.

We urge you to take some time to review the entire contract.

FAQ's and synopsis comments regarding purpose of each section are listed below.

## FAQ's

### About information in the template

#### *Who can use this Template?*

*AGREEMENT (1<sup>st</sup> page 4 paragraphs) Any conservator who is a member in good standing of the American Institute for Conservation working in accordance with the AIC Guidelines for Practice and in adherence with the AIC Code of Ethics.*

#### *Where do I find the object description and acknowledgement of authorization to treat?*

*AGREEMENT (1<sup>st</sup> page 4 paragraphs): This initial section covers the identification of the conservator's name/business, notes adherence to AIC Code of Ethics, identifies ownership and authorization to enter into agreement. A full description of the item involved may be found in Exhibit A.*

#### *Where do I find a description of conservation services and an acknowledgement of risks in conservation treatment?*

*Section I (Roman numeral one). Services*

*IA. Work Performed: Provides a description of the services that will be provided and includes condition of item upon receipt by the conservator, agreement to provide documentation, and the Client's acknowledgement of risks involved in conservation treatment.*

#### *Where are expenses to the client discussed?*

*Section IB. Fees, Expenses and Costs, Payment: Clarifies and defines the expenses the Client will be responsible for and a choice of descriptions on how those expenses are calculated.*

#### *Is there a section on time estimate for project?*

*Section IC. Time Period: Allows the conservator to provide an estimate for treatment time and advises the Client of when payment for services is due.*

#### *What happens when the client doesn't pick up the Object?*

*Section ID. Provides for notification of completed treatment and identifies whom the work will be released to, conservator's right to store artifact after 30 days if client does not acknowledge, notification that client will be obligated to pay all incurred fees for such storage, and that the storage facility may then have the right to dispose of as the law permits.*

#### *Do I have to insure the object or does the client insure? Am I protected from third party subrogation?*

*Section IE. Object(s), Insurance: Specifies that client is responsible for insurance coverage of artifact while in the conservator's possession and should provide proof of such coverage. Note that a certificate of insurance for each artifact should state that client's insurance carrier shall have no right of subrogation against the conservator.*

***Note: You should be sure to discuss subrogation issues with your attorney and insurance agent.***

*Who's responsible for packing and shipping costs for the Object?*

*Section IF. Packing, Shipping, Freight and Transport: States client's responsibility for cost of packing, shipping, and transport of artifact to and from conservator and for cost of insurance policies on Object.)*

*If I think an object may be hazardous do I have to store it at my studio?*

*Section IG. Premises Storage, Exclusions: While it will generally be the case that the conservator will store Objects in for treatment at their own studio, some items may be deemed too hazardous for the conservator to store on premises and this provides an exclusion for such cases.*

*Do I have the right to publish information about the treatment of an Object?*

*Section IH. Rights to Publish and Reproduce: Covers conservator's right to publish materials or research related to treatment of Object and notes that Client makes no warranty regarding ownership of the copyright or other intellectual property rights regarding the Object.*

*Can I be reimbursed for the travel costs associated with examination or treatment of an Object?*

*Section II. Travel: States client's responsibility to cover travel expenses related to examination or treatment of Object and in cases where conservator may be required to travel for legal proceeding regarding Object.*

*If the client publishes an image of the Object do I receive credit for conservation treatment?*

*Section IJ. Acknowledgments, Credits: Client provides credit line for conservation when Object is published in various media.*

*How liable am I for any damage due to negligence?*

*Section IK. Negligence, Gross Negligence, Limitations on Liability, Liquidated Damages: Seeks to limit conservator's liability for damages except in the case of gross negligence or willful misconduct. **Note: It is extremely important to address negligence issues in your contract. However, you must be sure to discuss this with your attorney, as not all jurisdictions allow such a clause, and some of those which do require what is deemed, in legal terms, "Magic Language."***

*Can I be taken to court regarding the treatment of an Object?*

*Section IL. Indemnification, Hold Harmless: Indemnifies and holds harmless the conservator from litigation or liability relating to Object. **Note: Your contract should include this extremely important clause.***

*What if I can't finish a treatment because a hurricane or other natural disaster has damaged my studio?*

*Section IM. Force Majeure: This clause will benefit conservators who may find their practice halted or delayed by natural or man-made disasters (e.g., war/terrorism),*

*provides for termination of project if necessary and payment of work completed to date work ceased.*

*Should I maintain the Confidentiality of my client?*

*Section IN. Confidentiality: Agreement of conservator to maintain confidentiality of client and Object.*

*Where will I find information about changes to the contract? What about when we **do** have a conflict?*

*Section II (Roman numeral two) General Terms and Provisions: General Terms and provisions are fairly self-evident. Includes how agreement may be modified or terminated, governing law information, and a section on arbitration options.*

*What makes the contract valid?*

*End of agreement (page 10 of 11): Provides a statement of understanding and agreement between the conservator and the client, signatures, identification of signers, and date.*

*The Contract refers to Exhibits. What do they contain?*

*Exhibit A: Identifies Object*

*Exhibit B: Treatment Proposal*

*Note that some items relating to terms of payment (e.g., interest charges) may be listed in Treatment Proposal rather than in Section IB.*

**AIC TEMPLATE FOR CONTRACTING CONSERVATION SERVICES  
AGREEMENT**

**DISCLAIMER**

The Template for Services Agreement was developed for the Conservators in Private Practice, a specialty group of AIC, by Jessica L. Darraby, principal in the Art Law Firm, and is provided by AIC to CIPP members only as an informational service and does not constitute legal advice. Legal advice must be tailored to the specific circumstances of each matter, individual, entity and/or situation; laws are constantly changing, and laws may vary considerably from jurisdiction to jurisdiction. Nothing provided in the Template is a substitute for the advice of competent counsel. AIC and the Art Law Firm make no claims, promises, warranties or guarantees about the adequacy, completeness, or appropriateness of the Template or portions thereof for any individual member or any particular practice or business, nor do they individually or collectively, claim, promise, warrant or guarantee that the Template or portions thereof are appropriate for the particular needs or requirements of any member, practice or business. No attorney-client relationship is created between the Art Law Firm and any member, person or entity by access to the Template and/or use of any information contained or recited in the Template.

This Agreement is made on this \_\_\_\_\_ day of \_\_\_\_ 20\_\_, by and between \_\_\_\_\_ [hereafter the “Conservator”][use your own ID], a \_\_\_\_\_ [describe form of business organization], located at \_\_\_\_\_ [hereafter the “Premises”], and \_\_\_\_\_ [hereafter the “Client”], a resident of the State of \_\_\_\_\_, [[describe entity or organization if applicable], [doing business as] [residing][conducting business at]\_\_\_\_\_, collectively referred to as the “Parties,” for the purposes of examining, evaluating, scientific investigation, testing and treating works of art, decorative arts, and/or other objects \_\_\_\_\_ [specify for your practice] [artworks][other], described in detail herein, in consideration of the mutual undertakings set forth herein and on the following terms and conditions:

Conservator warrants and represents that s/he is a member in good standing of the American Institute for Conservation of Historic and Artistic Works [AIC] and provides services, including but not limited to, examination, evaluation, scientific investigation, testing and treatments of, in, on and for object(s), in accordance with AIC *Guidelines for Practice* and adherence to the AIC *Code of Ethics*.

Client warrants and represents that [s/he] [it] has legal title to the objects described in detail [in this Agreement] [in the Object List attached hereto as Exhibit A, made a part hereof and incorporated in full by reference][in the Treatment Plan/ Proposal/Report attached hereto as Exhibit B, made a part hereof and incorporated in full by reference], hereafter collectively referred to as the “Object(s)” [other], or is the authorized agent for person(s) holding legal title to the Object(s), and Client further warrants and represents that it has the sole and exclusive binding authority to execute this Agreement;

Client seeks conservation services for the Objects by Conservator, including but not limited to, examination, evaluation, scientific investigation, testing and treatments of, in, on and for the Object(s), and hereby retains Conservator to provide such services for the Object(s) that are the subject of this Agreement.

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AIC Template for Contracting Conservation Services Agreement

**I. Services**

**A. Work Performed**

(i) The Conservator agrees to undertake and to perform [] examination, evaluation, scientific investigation, testing, and treatments for the Object(s) described and recited [below][in Exhibit A, attached hereto, made a part hereof and incorporated in full by reference][in the Treatment Plan/Proposal/Report attached hereto as Exhibit B, made a part hereof and incorporated in full by reference.], according to the fee and payment schedule [provided in Section I, Paragraph \_\_\_][Treatment Plan/Proposal/Report][other].

(ii) The condition of the Objects at the time of [inspection][preparation of the Treatment Plan/Proposal/Report][preparation of the Condition Report(s)][execution of this Agreement][other] is based upon a visual inspection, unless otherwise specified, as described in [Exhibit A object list][Exhibit B Treatment Plan/Proposal/Report][other].

(iii) The Conservator shall provide the Client, [upon payment in full][completion of the work performed][upon payment of a Costs bill][other] the following documentation of the services provided in the following formats: [condition report(s)][conservation report][photographs, videotapes, CDs, slides, digital images [of \_\_\_\_\_][other]. The documentation described in this Subparagraph, upon satisfaction of the conditions of payment specified, shall be the property of \_\_\_\_\_ [client][other], [but/and] the Conservator shall have the right [pursuant to Section I, Paragraph H] to use such documentation, in full or in part, for purposes of [promotion, scholarship, publications, other] by the Conservator or others designated by him, providing that [Client's name is redacted][other conditions] [and][the Object(s) is [identified] [described][acknowledged] as:\_\_\_\_\_]. [Note 1]

(iv) The Client acknowledges that there are risks attendant to the services performed under this Agreement due to intrinsic characteristics of the Object(s), and prior conditions affecting the Objects, including but not limited to [list] materials, construction, and composition [other] [latent defects][other defects] [inherent vice][age][previous treatments, prior restoration] [flaws] [other], which may adversely affect the outcome and result, and the Client hereby agrees to accept and assume all risks related to the Objects and the work performed by Conservator under this Agreement.

**B. Fees, Expenses and Costs, Payments**

The Client agrees to pay the Conservator all fees, expenses and costs for work performed on the Objects(s) under this Agreement, and related thereto, as provided [below] [in accordance with the fee and payment schedule recited [below][in the Treatment Plan/Proposal/Report][other] and the [costs bill][other].

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AIC Template for Contracting Conservation Services Agreement

The fee for services is based upon a project rate [below] [in accordance with the fee and payment schedule recited in the Treatment Plan/Proposal/Report][other] that [includes][excludes] expenses and costs [which are itemized in separate [costs bill] [other] OR

The fee for services is based upon an hourly rate of \$\_\_\_\_\_ for [Senior] Conservator [on the Premises][on site][other][including/excluding travel] and an hourly rate of \$\_\_\_\_\_for [assistants][technicians][other] [on the Premises][on site][other][including/excluding travel] that [includes][excludes] expenses and costs [which are itemized in separate costs bill [other]. **[Note 2]**

C. Time Period

[The Conservator estimates that the total hours to perform work under this Agreement will not exceed [ ], and agrees to notify the Client in the event that the work performed may require more than \_\_\_[number of hours] [percentage] in excess of this estimate. The Conservator shall invoice the Client [quarterly][monthly] [other], including costs and expenses [prepaid][reimbursed], and payment shall be due on such invoices upon receipt [30 days]. The Conservator shall maintain Object(s) at the Premises, unless otherwise agreed, period of the time that the work is performed pursuant to Section I, Paragraph A [or for the period of time recited [below] [in the Treatment Plan/ Proposal/Report][other], or such reasonable period of time required to complete such services. [The estimated completion date for the Object(s) is \_\_\_\_\_, 20\_\_\_; the Client acknowledges this time period is merely an estimate, and failure of the Conservator to comply with this time period estimate shall not constitute a material breach of this Agreement.]

D. [Notification [and Client Acknowledgement of Work Performed]

The Conservator shall notify the Client of the date when the Object(s) are ready for [delivery][retrieval] in accordance with the Notice provisions described in Section II, Paragraph K of this Agreement. [The Client shall acknowledge in writing [below][on Treatment Plan/Proposal/Report][other document] that the Conservator has duly completed the work performed on the Object(s) pursuant to this Agreement.] [No Object(s) shall be released from the Premises or other location to the Client until such acknowledgement is executed [and payment is complete][other] and Objects shall only be [released to][retrieved by] the Client [unless otherwise agreed in writing by the Parties].

[In the event the acknowledgement under this Paragraph is not executed by the Client within Thirty (30) [other] days from notification as provided in herein, [and required payment made], Client authorizes Conservator to store the Object(s)[at Client’s cost and expense], and hereby assigns Conservator the exclusive right to store the Object(s) [at an off-site facility selected by the Conservator][the Premises][other], and the Conservator shall have the continuing and future right to store the Object(s) [at an off-site facility] []. The Client is hereby obligated to pay, any and all fees, costs, charges



**PROPRIETARY AND CONFIDENTIAL**

AIC Template for Contracting Conservation Services Agreement

and penalties for such storage, including but not limited to, all those incidental to packing, shipping, freight, transit and insurance to, from and at such facility or location].

[Client further acknowledges that any storage of the Objects under this Paragraph arranged by Conservator shall be only for the minimum period of time required [by the storage facility][specify time period at Premises][specify time period at other location], and thereafter the Objects so stored shall be [subject to the policies and practices, charges, costs, fees, interest, and penalties of the off-site storage facility [other], and subject to its rights to sell, destroy or otherwise dispose of objects or goods] **[Note 3]**

E. Object(s), Insurance

The Client warrants and represents that it maintains at its cost and expense policies of insurance for casualty and loss to the Object(s) on an All Risk basis, including Earthquake and Flood, for each and every Object under this Agreement, and further represents and warrants that said policy shall remain in full force and effect for the Time Period and duration of this Agreement, including but not limited to, any period of time the Object(s) are at the Premises, and in transit, and delivery to and from the Premises, and at other locations or facilities designated by the Conservator, in the amount of the [appraised value] [other scheduled value] [recited in Exhibit B]. The Client shall further provide proof of such insurance to the Conservator [upon request][in the form of a Certificate of Insurance]. [Each Certificate of Insurance shall clearly state the following: "The policy(is) has/have been endorsed to provide for thirty (30) days advance written notice to the Conservator in the event of cancellation or material change."] [In addition, each certificate of insurance shall provide that Client's insurance carrier(s) shall have no right of subrogation against Conservator] [other waiver of subrogation]

F. Packing, Shipping, Freight and Transport

The Client shall be responsible for the fees, costs and charges for packing, crating, shipping, freight and transport of Object(s), and any other reasonable fees incident thereto, to and from the Premises, including all policies of insurance for the Object(s) described in Section I, Paragraph E, during such times and at such locations, unless otherwise previously agreed in writing by the Conservator and the Client.

G. Premises Storage, Exclusions

The Conservator shall maintain and store the Object(s) at the Premises for the Time Period of this Agreement under conditions appropriate for storage of Object(s) of that kind, [pursuant to prevailing standards of care] [consistent with custom and usage in the trade] [other]. Client agrees that the Conservator, in its sole discretion, and upon reasonable notification, may exclude from its storage obligations at its Premises certain Object(s) under this Paragraph because of size, volume, bulk, condition, components, inherent materials, chemical structure, [other] or for any other reason the Conservator deems appropriate.

**PROPRIETARY AND CONFIDENTIAL**

AIC Template for Contracting Conservation Services Agreement

H. Rights to Publish and Reproduce

The Conservator shall have the right to publish [any and all materials][research] relating to [treatments][other][work performed] under this Agreement [identify] [in any platform], [in addition to the rights of use in the documentation provided to the Client described in Section I, Paragraph A, Subparagraph (iii)], and Conservator shall have the right to use photographs, videographs, compact disks, digitized images, recordings [other] or otherwise reproduce images of the Object(s) [prior to][during][after][conservation, for such platforms, as the Conservator deems appropriate, [at its own cost][at the Client’s cost][in accordance with scheduled costs on the Costs Bill][other], for academic, pedagogical, promotional or other related purposes and uses, including reproduction in whole or in part, in any media, or by any other means now known or later developed. The Conservator acknowledges that the Client makes no warranty or representation regarding ownership of the copyright or any other intellectual property rights in, of, or for the Object(s).

I. Travel

The Client agrees to pay the Conservator [or to reimburse the Conservator] for payments made, for reasonable travel expenses and related costs under this Agreement, where such travel is [required for the Conservator to inspect the Object(s) in situ], [in a location more than { } miles from the Premises] [or in all instances][specified instances], [including such travel costs and expenses for [assistants, associates, other employees, contractors]. The Client further agrees to pay the Conservator, or to reimburse the Conservator for payments made, for reasonable travel expenses and related costs if the Conservator is required to testify or to participate in a deposition or other legal proceeding relating to the Object(s) or the services performed under this Agreement.

J. Acknowledgments, Credits

The Client agrees that it will acknowledge the work performed by the Conservator in the form of a credit line substantially as follows: “Conservation treatment by \_\_\_\_\_, [city/state],” when the Object(s) is/are reproduced in books, journals, magazines, periodicals, scientific and scholarly works, on the internet, websites, or any other media, [and Client further agrees to use its best efforts to request others using images of the Object(s) in the same manner to provide said acknowledgement].

K. Negligence, Gross Negligence, Limitations on Liability, Liquidated Damages

**The Client further agrees that the Conservator, in performing services under this Agreement [MAGIC LANGUAGE specifying negligent acts], shall not be liable to the Client for loss or damage to the Object(s) in its possession, custody or control, regardless of the cause of any such loss or damage including negligence by the Conservator or others, except for gross negligence or willful misconduct by the Conservator. [Note 4]**

**PROPRIETARY AND CONFIDENTIAL**

AIC Template for Contracting Conservation Services Agreement

[The parties further agree that to the extent any loss or damage to the Object(s) occurs that is not otherwise excluded by this Agreement, damages shall be deemed to be a total amount] not to exceed [\_\_\_] percent of the [project fee][total][percentage][hourly fees] charged for the services performed under this Agreement, and such agreed-upon amount shall only be applicable in circumstances where Conservator, in its discretion, has completed the treatment [other] proposed herein. Conservator is not liable for any damages in any amount under this Agreement in the event Client retrieves the Object(s) or terminates this Agreement prior to the aforementioned completion of treatment [or the Agreement is terminated pursuant to Section II, Paragraph G of this Agreement.] [**Note 5**]

L. Indemnification, Hold Harmless

The Client shall indemnify, defend and hold harmless the Conservator, its principals, agents, employees, representatives, successors and assigns from and against any and all claims, actions, litigation and liability, arising out of or relating to the Object(s) or this Agreement, including without limitation all losses, liability, damages, penalties, costs, fees and expenses, including those of attorneys, professionals, experts, witnesses and others.

M. [Force Majeure]

In the event either Party is delayed or prevented from performing under this Agreement due to any cause beyond its reasonable control, including but not limited to, actual, impending or expected attack by any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval or air forces or by such forces or by any weapon of war, insurrection, rebellion, revolution, strike, labor or civil unrest or dispute, embargo, blockade, work stoppage, delay, protest, nuclear attack, terrorist strike, or acts of God, seizure or destruction under customs regulations, confiscation by order of any government, legal process or public authority, such delay shall be excused during the continuance of such delay, and the period of performance shall be extended to such extent as may be reasonable to perform after the cause of delay has been removed. [In the event any such delay continued for a period of more than [thirty (30)][#] days, or performance cannot be completed as a result of an event under this Paragraph, Client or Conservator may terminate this Agreement upon written Notice to the other party pursuant to Section II, Paragraph K. In the event of any such termination, [specify terms][Client shall pay for work performed through the effective date of termination][other].

N. Confidentiality

Conservator agrees to maintain confidential the [specify] [client names][object title/description] [other][publication section][exception for court order, legal process].

## **PROPRIETARY AND CONFIDENTIAL**

### AIC Template for Contracting Conservation Services Agreement

## **II. General Terms and Provisions**

### A. Entirety of Agreement

This Agreement constitutes the entire agreement between the parties concerning the subject matter herein and supersedes all prior understandings, communications and agreements between the parties on such subject matter herein.

### B. Written Amendment

This Agreement may not be modified, changed or revised, unless otherwise expressly authorized herein, in the absence of a writing signed and dated by both parties reciting such modification, change or revision.

### C. Severability

If any term or provision of this Agreement shall be held invalid, illegal, unlawful or unenforceable for any reason whatsoever by a Court of competent jurisdiction, such invalidity, illegality, unlawfulness or unenforceability shall not affect any other term or provision in this Agreement, which shall remain in full force and effect, and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same has been held such invalid, illegal, unlawful or unenforceable, had never been contained herein.

### D. Survivability

This Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, beneficiaries and representatives of the parties. **[Note 6]**

### E. Good Faith Efforts

The parties agree to execute all documents related to this Agreement and to complete all forms and provide all relevant information in a timely manner.

### F. Disclaimer of Guaranty

Nothing in this Agreement and nothing in the Conservator's statements shall be construed as a guaranty or a promise about the success or effectiveness of any treatment or any outcome. The Conservator make no such guarantes or promises. Any comments by the Conservator are expressions of opinion only.

### G. Termination **[Note 7]**

### H. Governing Law, Choice of Law, Forum

This Agreement shall be construed, interpreted, governed by, enforced, and performed according to the laws of the State of \_\_\_\_\_ and the laws of the United States of America. The choice of law shall be the laws of the State of \_\_\_\_\_ and the laws of the United States of America. Any legal actions or proceedings, or arbitration initiated under or arising from this Agreement, shall be filed and conducted within the State of \_\_\_\_\_ and within the County of \_\_\_\_\_, and shall venue in the federal court of the \_\_\_\_\_ District of \_\_\_\_\_.

### I. [Arbitration I]

Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in [name the city in which Conservator does business][other] before (one) arbitrator. At the option of the first to commence an arbitration, the arbitration shall be administered either by JAMS pursuant to its Streamlined Arbitration

## **PROPRIETARY AND CONFIDENTIAL**

### AIC Template for Contracting Conservation Services Agreement

Rules and Procedures, or by the American Arbitration Association, pursuant to its Commercial Rules of Arbitration. Judgment on the award may be entered in any competent court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

(Optional) Allocation of Fees and Costs: The arbitrator may, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.

#### [Arbitration II]

Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in [name the city in which Conservator does business][other] before (one) arbitrator. [The arbitration shall be administered and settled by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. Judgment on the award may be entered in any competent court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.] OR [The arbitration shall be administered and settled by the American Arbitration Association, pursuant to its Commercial Arbitration Rules. Judgment on the award may be entered in any competent court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.]

(Optional) Allocation of Fees and Costs: The arbitrator may, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.

#### J. Headings

The headings herein are inserted for convenience only and in no way define, limit or enlarge the scope or meaning of this Agreement, or any of its provisions, terms or conditions.

#### K. Notices

All notices given or provided under this Agreement or relating thereto shall be in writing, recited in English, and sent by express delivery service to the address of the respective party provided hereinabove, except as expressly excluded herein, and such delivery shall require signature by the recipient.

#### L. Gender Neutrality

All references to "s/he" in this Agreement are solely for the convenience and efficiency of drafting.

#### M. Time of the Essence

Time is of the essence for each and every provision and paragraph of this Agreement.

#### N. Counterparts

This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed an original, and such counterparts collectively shall constitute one and the same Agreement.

**PROPRIETARY AND CONFIDENTIAL**

AIC Template for Contracting Conservation Services Agreement

**THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND CONDITIONS AND AGREE TO THEM AS EVIDENCED BY THEIR SIGNATURES BELOW. CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.**

By: \_\_\_\_\_  
Name [print]:  
Title:

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

By: \_\_\_\_\_  
Name [print]:  
Title:

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

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Note 1: This provision applies only to the documentation specified in this subparagraph that the conservator provides to the client upon conclusion of the assignment or in conjunction therewith. Paragraph H applies to any materials, documents, records, work product, etc. that the conservator prepares, creates, etc. during the assignment which are **not** specified in this paragraph and are **not** provided to the client at the conclusion of the assignment. Provisions may be merged, deleted, adapted, modified according to individual business practices.

Note 2: Business practices vary among conservators as to how the client is charged, billed, invoiced, interest charges, cost schedules, minimum charges, retainer payments, etc. Billing in [\_\_\_ fractions of an hour] [quarter hour][tenths of an hour] and such details are appropriate outside the template.

State law regulates such business practices, and may implicate consumer protection, installment financing, etc. These details are more appropriately provided to a client in invoices, monthly statements, bills of sale, cost schedules, or other documents.

Note 3: Neither the conservator nor any agreement between the conservator and the client regulate conduct of third parties, including any storage facility. Good business practices regarding payment structures will reduce economic exposure for unclaimed goods. State law governs long-term failure to recover personal property, including abandonment, declaratory relief to declare ownership, transfers of title and other remedies and relief. The notification of completion document can recite a provision of Conservator’s rights and remedies for abandoned property and such other legal and equitable relief as proper under the laws of the State of \_\_\_\_\_.].

Note 4: Negligence may be waived in a majority of states, and those states may require specificity [magic language] regarding the acts of negligence. Each jurisdiction may have its own requirements that waiver provisions be bold and/or in all capital letters.

Note 5: Not all states permit liquidated damages.

**PROPRIETARY AND CONFIDENTIAL**

AIC Template for Contracting Conservation Services Agreement

Note 6: Business practice provisions for performance upon conservator incapacity, long term illness or death.

Note 7: Business practices vary among conservators as to what facts will trigger a cancellation of the contract. Recite terms and conditions that constitute grounds for termination and effects, e.g., payments, reimbursements, etc.

**PROPRIETARY AND CONFIDENTIAL**

AIC Template for Contracting Conservation Services Agreement

**Exhibit A [use your own form, or adapt Exhibit A to your practice]**

Description of Object(s) [List on additional sheets or according to your inventory system]

**NOTE:** The description recited herein is obtained by the Conservator from the Client or from information provided by the Client, and any patent signatures, marks, or other identifying marks on the Object that the Conservator has personally reviewed during a visual inspection. **The description does not create or constitute an authentication of the Object or any portion thereof, and the Conservator makes no warranty, representation, statement or guarantee regarding the description of the Object(s) in this Exhibit A and relating to the entire Agreement, and any use made of the description of the Object(s) for purposes of authenticating or warranting authorship, date, or value by the Client or any other person is not authorized by the Conservator.**

The Parties hereby agree that on \_\_\_\_\_, 20\_\_\_\_, the Object(s) that is/are the subject of this Agreement [have been visually inspected by the Conservator][at \_\_\_\_\_ {location}] is/are described as follows:

Title [untitled][subject matter][other]

Artist [unidentified]

Year

Medium, materials

Dimensions

Insured value [Appraisal within \_\_ years required]

Appraisal value [Date of appraisal]

Present condition of the following on the date hereinabove:

Object

Mount

Frame

Base

Pedestal

Components

Other

Photographs, Slides, Transparencies, Other attached: [yes][dates] [ID] [no]

Other information



**Exhibit B Treatment Proposal**

**Object: [inventory number from Exhibit A or repeat description]**

1. Visual Examination: This Treatment Proposal is based upon a preliminary visual examination of \_\_\_\_\_ [hereafter the \_\_\_\_\_] performed on \_\_\_\_\_, 20\_\_ made at the following location:

2. Scientific Examination:  
Proposed Treatment Test(s): [Specify the tests here, on a per assignment basis]  
Tests actually performed: [Specify tests and dates]

Photographs, Slides, Visuals, Transparencies, {CD, audio, other} attached [yes] [no] [and Identify]

3. Condition: Based upon the visual examination recited in Paragraph 1 and the treatment tests performed in Paragraph 2, and those two factors alone, the condition on the day of the visual examination [ ] is as follows:

4. Proposed Treatment: The Conservator recommends the following treatment(s):

5. Estimate of Costs and Fees: \$\_\_\_\_\_

These costs and fees reflect an estimate based upon limited testing proposed. The Conservator shall notify Client if circumstances require [ ] [a substantial increase in the estimate] [[\_\_\_\_\_ above the hours estimated]] [other].

6. Payment Schedule:  
\$----- is due \_\_\_\_\_ upon execution of this Agreement  
\$----- is due \_\_\_\_\_ [specify terms]  
\$----- is due \_\_\_\_\_ upon execution of Client Acknowledgement  
hereinbelow