

RJ KIRKLAND CONSTRUCTION CO., INC.'S TERMS AND CONDITIONS OF SALE – COMMERCIAL

RJ Kirkland Construction Co., Inc. (RJK) and Customer hereby acknowledge and agree that any and all agreements, contracts and/or understandings between RJK and Customer shall be governed by, and subject to, the Terms and Conditions set forth below. By entering into an agreement and/or contract with RJK including, but not limited to, Proposals, Quotes, Estimates and/or Change Orders, Customer hereby acknowledges receipt and on-going acceptance of the foregoing Terms and Conditions, which may be amended from time-to-time. Customer may request a hard copy of RJK's current Terms and Conditions from RJK at any time, by sending a written request to RJ Kirkland Construction Co., Inc. 4964 Campbell Road, Willoughby, Ohio 44094, Attention: Terms and Conditions.

1. AUTHORITY OF CUSTOMER. Customer hereby represents and warrants that s/he is: (i) the legal owner of the property that is the subject of the agreement; (ii) authorized to enter into a contractual agreement with RJK; (iii) authorized to grant RJK access to the property for the purposes of performing the work and services contemplated by the agreement; and (iv) otherwise authorized to contract for, and consent to, the work and services that are the subject of said agreement. Customer further authorizes any and all joint signatories, if any, and Customer's agents, representatives, servants, employees and attorneys-in-fact to execute and deliver to RJK any and all necessary documents, including Change Orders (referred to below), in order the consummate or otherwise fulfill the agreement with RJK.

2. RESPONSIBILITIES OF CUSTOMER. It is Customer's responsibility to ensure that both the exterior and interior of the property is prepared prior to, and during, the completion of the work contemplated by the agreement. RJK shall not be responsible for any damages and/or losses resulting from the Customer's failure to comply with the instructions and responsibilities set forth in this paragraph. Customer hereby represents and warrants that s/he has been advised that the removal of permanently attached building materials (i.e., roofs, roofing materials, gutters and siding) often disturbs and can cause vibrations throughout the structure(s). As such, Customer shall be responsible for securing and/or removing all personal property and valuables from walls, ceilings and/or shelving including, but not limited to, chandeliers, paintings, plates, vases, trinkets and other personal property and Customer is hereby instructed to secure and lock away all such items. Customer hereby agrees that RJK shall not be responsible for any damage or loss related to any such property. RJK strongly recommends that the Customer disconnect all connections related to television and/or satellite reception (including cabling, wiring and hardware) in addition to all interior solar panel connections and venting (if applicable). The Customer further represents and warrants that s/he has been advised that, despite RJK's best efforts: (i) the work contemplated by the agreement may cause inconvenience and/or discomfort; and (ii) the work may inadvertently result damage. Furthermore, it is the Customer's responsibility to, prior to the commencement of any work, inspect all areas of the structure that are within four (4) inches of the roof deck for any wiring, service lines and/or improvements (i.e., HVAC lines, duct work, ventilation pipes, cable/telephone lines, water lines, etc.) and to specifically advise RJK's on-site supervisor of any specific areas and/or property of concern. RJK shall not be responsible for any damage to any such wiring, service lines and/or improvements that were not specifically identified by the Customer prior to the commencement of work.

3. RJK'S RIGHT TO CANCEL. RJK may cancel any and all agreements governed by these Terms and Conditions within the earlier of: (i) forty-five (45) days from the date of the agreement; or (ii) the commencement of the work and/or services contemplated by the agreement. In the event that the agreement with Customer is cancelled by RJK, the deposit paid by Customer (if any) will be refunded to the Customer, without interest, within ten (10) business days.

4. MATERIALS AND CHANGE ORDERS. RJK shall provide the necessary labor and materials to complete the work as specified in the agreement. RJK cannot guarantee, and shall not be responsible for, ensuring exact match (color or otherwise) of any and all materials including, roofing, gutters, siding, windows, doors, decking, railings, fasteners, flashings and/or metal work. RJK reserves the right to, in its sole discretion, substitute specified materials with materials that are of a substantially similar quality, like and kind. Customer and RJK hereby agree that any changes made to the work that is required by regulatory agencies shall constitute additional costs that are the responsibility of the Customer, unless otherwise provided for in the agreement. Additionally, if, during the performance of the work, Customer makes any changes or modifications to the specifications set forth in the original agreement, or it is determined that additional labor and/or materials are required beyond what is specified in the original agreement, Customer will be provided with a cost range and the final additional labor and/or material costs, as specified therein, will be billed to the Customer by a written Change Order.

5. LIMITATION OF LIABILITY AND DISCLAIMER OF EXPRESS AND IMPLIED WARRANTIES. Except as expressly set forth in writing by RJK, neither RJK nor any of its respective agents make any warranties of any kind, either express or implied, of merchantability, suitability or fitness for a particular purpose with respect to work, products and/or services provided under the agreement. RJK's cumulative liability to Customer and all other parties for any loss or damages resulting from any claims, demands, or actions arising out of or related to the agreement shall not exceed the total amount paid to RJK under the agreement. RJK shall not be liable for any special, incidental, consequential, exemplary, punitive or other indirect damage, or for lost profits arising out of the products or services provided herein, even if RJK has been advised of the possibility of such damages. Some jurisdictions do not allow for exclusion of implied warranties or limitation of liability for incidental and/or consequential damages, so the above limitations and/or exclusions may not apply. In the event that the above referenced limitation of liabilities and/or disclaimer of warranties are prohibited by law, the parties agree that the liability of RJK and its respective agents shall be limited to the greatest extent permitted by law.

6. RJK LIMITED WARRANTY. Subject to the conditions set forth below, Customer will be provided with a sixty (60) month limited warranty for all labor costs associated with the work performed by RJK in connection with the agreement, which shall immediately commence on the day that the work that is the subject of the agreement is completed. The limited warranty provided by RJK relates to defects in workmanship only and does not cover material/product defects, including, but not limited to, caulking materials, sealant, reflective coating, painting surfaces, metal materials, or damages caused by: (i) Customer's failure to perform normal maintenance; (ii) any condition created by, or resulting from, work performed by anyone other than RJK; (iii) inadequately ventilated or non-ventilated structures and/or roof decks; (iv) existing HVAC and/or insulation systems; (v) ice back up or ice damming; (vi) fungus, moss, lichens, mold, mildew, moisture or other naturally occurring conditions, such as discoloration, shading, staining and/or rot; and/or (vi) acts of God. In order for the RJK limited warranty to be effective, Customer must have: (1) paid, in full, all sums owed to the RJK under the agreement; (2) provided written notice to RJK: (a) for any defect, failure or problem related to water, including leaking and/or ponding, immediately but no later than twenty-four (24) hours after Customer's discovery; (b) for any defect, failure or problem not related to water but related to the work performed by RJK, within three (3) business days of Customer's discovery, all such notices shall be sent to RJK at: RJ Kirkland Construction, Co., Inc. 4964 Campbell Road, Willoughby, Ohio 44094, Attention: Claims Administrator; and (3) Customer shall not permit any party, other than RJK, to, in any way, alter or repair any work previously performed by RJK. Customer's failure to strictly adhere to the preceding instructions and directions shall result in the RJK limited warranty being rendered null and void. Upon receipt of notice of a claim by Customer, RJK will schedule a service call whereby a RJK representative will view the condition of the property and make a determination as to whether Customer is entitled to coverage under the RJK limited warranty. In the circumstance of a service call concerning a condition that is not the subject of coverage, RJK will provide Customer with a free written estimate, assuming the remedial work falls within the scope of services provided by RJK. If the remedial work does not fall within the scope of services provided by RJK, or the Customer elects not to proceed with the work set forth in the written estimate, Customer shall be responsible for paying a service call fee of One Hundred Seventy Dollars (\$170.00) plus an hourly fee of Eighty-Five Dollars (\$85.00) for all service calls that exceed two (2) hours, including driving time.

7. MANUFACTURER WARRANTY. The materials utilized in connection with the work may, or may not, be subject to a manufacturer warranty against certain defects. Customer hereby acknowledges and agrees that RJK has no responsibility with respect to coverage and/or liability related to any and all warranties offered by manufacturers. Warranties related to materials vary significantly by manufacturer and the specific product types and specifications of the materials selected by the Customer. Additional information concerning manufacturer warranties may be obtained from literature supplied by the manufacturer or by visiting the website of the appropriate manufacturer: Carlisle (www.carlisesyntec.com), CertainTeed (www.certainteed.com), Versico (www.versico.com), Mule-Hide (www.mulehide.com) and/or Uniflex (www.uniflexroof.com).

8. FORCE MAJEURE. In the event that RJK is delayed or hindered in, or prevented from, its performance of any obligation of the agreement as a result of strikes, lockouts, shortages, or failure of supply of labor, fuel or materials, acts of God, causes associated with weather, acts, or requirements of any public authority, enemy act, act of war, act of terrorism, civil disorder or commotion, fire or other casualty, or any of cause of circumstance beyond the reasonable control of RJK, then the performance of such obligation(s) shall be excused for the period of such delay, hindrance or prevention and the period for the performance of such obligation shall be extended by the number of days equivalent to the number of days of such delay.

9. RJK QUOTES/ESTIMATES. Any and all quotes and/or estimates provided to the Customer by RJK are subject to Customer's acceptance of these Terms and Conditions. Any and all quotes/estimates provided by RJK that are older than thirty (30) days is subject to price changes, if applicable, when converted to an order.

10. PAYMENT TERMS. All payments made under the agreement shall only be made payable to RJK. Any and all balances owed by Customer shall be immediately due and owing upon completion of the work as set forth in the agreement. Customer fail to timely pay the balance owed, in full, within fifteen (15) days of the completion of the work, the Customer shall be subject to, and agrees to pay, a one-time late fee of Forty Dollars (\$40.00) plus interest shall be charged on all outstanding amount at the rate of one- and one-half percent (1.5%) per month (18% APR). If Customer provides RJK with a check, or authorizes RJK to collect a pre-authorized payment, electronic payment, or any other form of payment that is returned due to insufficient funds, or payment is otherwise declined, Customer shall be subject to, and agrees to pay, RJK an additional processing fee of Forty Dollars (\$40.00) for each such occurrence. In the event that Customer fails to satisfy the total balance owed within sixty (60) days of the completion of the work, RJK reserves the right to take any action permitted under law and, in the event that legal proceedings are commenced, RJK shall be entitled to recover any and all costs and expenses, including reasonable attorneys' fees, incurred as a result of Customer's failure to meet the payment terms set forth herein or otherwise enforcing these Terms and Conditions.

11. CHOICE OF LAW AND VENUE SELECTION. Any and all agreements between RJK and Customer shall be governed by the laws of the State of Ohio, without regard to conflicts of law provisions. Both RJK and Customer hereby agree to the jurisdiction of the Court of Common Pleas of Lake County, Ohio for purposes of adjudicating any action arising out of any and all agreements between RJK and Customer and hereby waive, to the fullest extent permitted by law, any objection to the laying of venue therein. Notwithstanding the foregoing, RJK reserves the right to bring suit in any other jurisdiction that RJK determines, in its sole discretion, to be appropriate.

12. NON-WAIVER. The failure by either party to require the strict performance of any obligation assumed by the other party under these Terms and Conditions, or the failure of either party to exercise any right or remedy to which it is entitled, shall not constitute a waiver nor cause a diminution in the rights or obligations set forth in the agreement including, without limitation, these Terms and Conditions. None of the provisions of these Terms and Conditions shall be held to have been waived by any act or knowledge of the parties, and may only be waived by a written instrument executed by the party to be bound thereby. Waiver of any default shall not constitute a waiver of any other or subsequent default.

13. AMENDMENTS. RJK hereby reserves the right to amend, revise, modify and/or change, in its sole and complete discretion and upon thirty (30) days written notice to Customer, any term or provision of the agreements and these Terms and Conditions. No amendment, revision, modification and/or change to the agreement shall be effective unless it is in writing and executed by a duly authorized representative of RJK.

14. ENTIRE AGREEMENT. The agreement between RJK and Customer (i.e., Proposal, Quotes, Estimate or Change Order) shall be subject to these Terms and Conditions and shall constitute the final, complete and exclusive agreement between the parties with respect to the services or products described therein, and supersedes any prior or contemporaneous oral or written agreement(s), proposal(s), warranties and representations. These Terms and Conditions shall prevail over any conflicting or additional terms of any and all quote(s), order(s), invoice(s), or other communications, whether oral or written.

15. SEVERABILITY. If any provision of this Agreement is held invalid, the remainder of the Agreement shall continue in full force and effect.