

PCG GUTTERS | TERMS AND CONDITIONS OF SERVICE

1. INTRODUCTION. Our estimate is based upon our reasonable judgment and expires after 30 days. The following are our Terms and Conditions of Service. These Terms and Conditions of Service, together with the estimate above, form an agreement (“Agreement”). Even if this Agreement is not signed, through oversight, or because it is misplaced, or any other reason, you understand that unless we otherwise agree in writing, any work we do for you is subject to the Terms and Conditions of Service set forth in this Agreement. Therefore, we ask that you review the Agreement carefully and contact us promptly if you have any questions. We suggest that you retain a copy of the Agreement. We and you are defined above and referred to collectively herein as the “parties,” and each individually as a “party.”

2. SERVICES. We shall provide you with such services (the “Services”) as may be requested by you from time to time during the Term (as defined below) and as specifically described in the above. You acknowledge that our obligations under this Agreement are limited to providing the Services identified in the above. We are not responsible for and shall not be liable for: fascia rot, soffit rot/damage, rafter tail rot/damage, utility line removal or other repairs or preparatory work needed before services can be performed; unforeseen conditions discovered after Services begin; vermin, pests or other infestations; the performance, acts, omissions, or breaches of contract of any party providing goods or services to you, including, any vendor, or supplier, and delays of any kind (including delays in obtaining permits, licenses, approvals, installation or delivery); errors or omissions in materials or design; nor cost overruns or changes, whatsoever. Title and risk of loss to materials furnished by us during performance of the Services shall pass to you upon delivery, subject to our right to a purchase money security interest until you have paid for such materials.

3. CERTAIN CONSENTS. You authorize and consent to our taking the steps we deem necessary to comply with all applicable federal, state and local safety regulations and industry standards relative to fall protection applicable to work being conducted on elevated surfaces or in areas with the potential for falls including, without limitation, the use of lifelines, lanyards, and climbing devices attached to your roof or ridge line. You further authorize and consent to our placing any yard sign advertising our services on your lawn that is permitted by applicable zoning and other regulations.

4. FEES AND PAYMENT. You shall pay to us the fees set forth; plus, other amounts described in this Section (collectively the “Fees”). You must pay us ninety (90%) of the total fees due at the time you request a delay in our Services for any reason. Except to the extent provided above, you shall pay Fees for all Services on a time and materials basis pursuant to our then current rates. You shall compensate us for all costs and other overhead and expenses that are incurred by us in providing the Services including, without limitation: (i) required permits, licenses, and approvals; (ii) materials and services; (iii) contractor subcontractor, supplier and other fees and costs we incur on your behalf; and (iv) all other costs and expenses incurred in providing the Services. All Fees are fully earned upon signing the Agreement and are nonrefundable. You shall make payment as indicated above, but in no event later than five (5) days after the date of completion of Services unless we agree otherwise in writing. Thereafter, we may impose a late charge of 1% of the unpaid balance of the invoice per month. You also agree to pay for all cost of collection, including but not limited to, collection agency costs, court costs, and reasonable attorney fees, due to your failure to make payments under this Agreement when due. Any deficiencies in the Services must be identified in a written rejection within ten (10) business days of receipt of the applicable invoice, otherwise, payment shall constitute acceptance of the Services, such that we are deemed to have met all requirements set forth in this Agreement.

5. TERM AND TERMINATION. This Agreement will commence upon the parties signing and remain in effect until all Services described in the Agreement are completed (the “Term”). We may terminate this Agreement at any time if you fail to make any payment when due or you are in material breach of this Agreement, effective upon written notice to you. Expiration or termination of this Agreement will not excuse you of your obligation to pay us any Fees or other monies that have accrued as of the effective date of expiration or termination. This Agreement and the payment of Fees is noncancellable.

6. WARRANTY. We shall perform the Services in accordance with a reasonable standard of care or skill consistent with applicable industry standards. If a court of competent jurisdiction determines that we have breached the applicable standard 7 of 11 This document is not an invoice. Pricing is valid for 30 Days of care, your sole and exclusive remedy shall be for us to reperform the Services or, at our option, refund the amount actually paid for such Services found to be deficient. All installation of gutters, hangers, corners, end caps, elbows and downspouts performed by Supplier (“Installation Work”), will include the following Limited Warranty (“Limited Warranty”). Subject to the conditions and exclusions set forth below, all Installation Work will be free from material defects in our workmanship for a period beginning on the date of completion of the Services and lasting for ten (10) years for Installation Work that includes our approved gutter guard system, and five (5) years for all other Installation Work (as applicable, the “Warranty Period”). Your sole and exclusive remedy and our sole and exclusive liability under this Limited Warranty will be for us to repair or replace the deficiency or, at our option, to refund the amount paid for the deficient Installation Work. This Limited Warranty does not apply to materials, components, supplies, parts, or goods manufactured by a party other than us (the “OEM”), including that the Limited Warranty does not cover defects in the finish, color, chipping, or blistering of gutters. All such materials will be governed solely by the OEM’s warranty, and your sole recourse with respect to such materials will be under the OEM’s warranty to the extent the warranty is transferrable to you. This Limited Warranty does not apply to any damage, failure or other issues caused by your failure to comply with our and/or the OEM’s instructions, requirements or warranty conditions including, without limitation, to regularly maintain and remove debris from all parts of the gutter system, refrain from altering or repairing the gutters except by us and notify us of your claim within the Warranty Period. THE EXPRESS WARRANTIES IN THIS AGREEMENT ARE THE ONLY WARRANTIES WE MAKE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. WE HEREBY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

7. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, WE WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES. OUR CUMULATIVE LIABILITY TO YOU OR ANY THIRD PARTY UNDER ANY CLAIM FOR LOSS OR LIABILITY BASED ON, RESULTING OUT OF, OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OR BREACH OF THIS AGREEMENT SHALL IN NO CASE EXCEED THE AMOUNT OF THE FEES THEN DUE AND OWING BY YOU TO US. EXCEPT FOR CLAIMS ARISING FROM YOUR NONPAYMENT OF FEES OR OTHER AMOUNTS DUE US, ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL BE BARRED UNLESS A JUDICIAL PROCEEDING IS COMMENCED WITHIN ONE (1) YEAR FROM WHICH THE PARTY ASSERTING THE CLAIM KNEW OR SHOULD HAVE KNOWN OF THE FACTS GIVING RISE TO THE CLAIM.

8. FORCE MAJEURE. Neither party shall be held responsible or liable for any loss, damage or delay caused by accidents, strikes, fires, pandemic, government action, floods or other circumstances or other causes beyond its reasonable control (each, a “Force Majeure Event”). A party’s performance under this Section will be suspended only for so long as the Force Majeure Event exists. Notwithstanding the foregoing, a Force Majeure Event will not excuse your duty to make timely payment due under this Agreement.

9. FRENCH DRAINS. You agree to inform us or provide a map of any and all subsurface systems in the ground around which we will be excavating for French Drains. We will not be responsible for any damage to any subsurface systems including, but not limited to irrigation, fiber optic, gas, electric or water lines. By accepting this agreement, YOU RELEASE US FROM ANY LIABILITY FOR ANY DAMAGE TO A SUBSURFACE SYSTEM OR ANY DAMAGE RELATING TO OR RESULTING FROM A SUBSURFACE SYSTEM. FURTHER, YOU INDEMNIFY AND DEFEND US FOR ANY LIABILITY (INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES AND RESULTING FEES AND EXPENSES) RESULTING FROM YOUR FAILURE TO PROPERLY DISCLOSE ALL SUBSURFACE SYSTEMS LOCATED AROUND THE AREA WHERE WE WILL BE EXCAVATING.

10. MISCELLANEOUS. This Agreement embodies the entire agreement and understanding between the parties and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. We provide the Services as an independent contractor and are not your agent, joint venturer, partner, representative, or employee. If you are signing this Agreement as a business entity, then the liability of the business entity and each person signing this Agreement shall be joint and several. Except as to payment of Fees, time is not of the essence in relation to any obligation under this agreement. Any notice required or permitted to be given by this Agreement shall be in writing and delivered by a nationally recognized 8 of 11 This document is not an invoice. Pricing is valid for 30 Days overnight courier of general commercial use and acceptance to the contact person for the recipient party at the mailing address above and shall be deemed delivered upon receipt or, if receipt is refused, upon tender of delivery. This Agreement shall be governed by and construed in accordance with the laws of the state where our principal office is located without regard to conflict of law principles, and the parties agree that all actions must be commenced in a state court of general jurisdiction closest to our principal office. No amendment, waiver or consent shall be valid unless in a writing signed by all parties. The headings of the sections and paragraphs are for convenience only and do not define, limit, or construe the contents of these sections or paragraphs. Obligations and rights that, by their nature, are intended to survive termination or expiration of this Agreement shall so survive. This Agreement can be executed in multiple counterparts by facsimile or electronic transmission, and each will be deemed an original. We are not responsible for damaged or faulty fascia boards, furring strips, and/or stucco such as soffits and walls being hollow. In the event that during the installation Process, damages that may occur during the fastening of the gutters system and accessories to the existing building surfaces such as walls, fascia and stucco will not be the responsibility of PCG Metals, and will be the responsibility of the owner.

YOU MAY CANCEL THIS AGREEMENT, WITHOUT PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM SIGNING BY SENDING WRITTEN NOTICE TO US.