

Terms and Conditions

These Terms and Conditions apply to and govern all transactions between SUNVEK and the owner of real property for which services are performed or goods are supplied by SUNVEK.

1. Individual signing on "Owner/buyer or other authorized signature" line represents that he/she is the owner or authorized agent of the owner of the real property upon which work is to be performed, and is hereinafter referred to as Buyer.
2. Estimates are valid for forty-five (45) days from date of issuance. Signature of Buyer, Estimator and Production Manager creates an agreement.
3. All work shall be performed in a good and workmanlike manner, in accordance with accepted specifications and standards of the industry.
4. Skytop, Inc (dba SUNVEK) strives to comply with regulations of the Arizona Registrar of Contractors. **A property owner that is party to this Agreement has the right to file a written complaint with the Registrar of an alleged violation of ARS 32-1154(A). The Registrar may be contacted at azroc.gov or (602) 542-1525. Complaints must be made within the applicable time period as set forth in ARS 32-1155(A).**
5. Buyer shall provide suitable access to property and water, electricity and other utilities as required to complete the work, and shall not unreasonably restrict access to property or otherwise hinder the ability of SUNVEK to complete work in a timely fashion.
6. Permits, if any, are the responsibility of the owner or authorized agent, and SUNVEK shall be held harmless for failure to obtain permits.
7. Pricing is based on work being performed during SUNVEK regular business hours, and SUNVEK shall be entitled to additional compensation if required to work during other than regular business hours. The price shall be reflected on a sales contract, to be supplemented and billed by invoices submitted by SUNVEK, and shall be due when the invoices are received.
8. Buyer consents to filing of a mechanics lien, including preliminary liens and notices, and such other instruments as SUNVEK and/or its suppliers may deem appropriate to secure payment.
9. If completion of contracted work is delayed by Buyer, its representatives, or both, for more than thirty (30) days from start of production, payment in full is due and payable immediately.
10. Buyer warrants that he/she is financially solvent and agrees to pay all invoices presented according to terms. Invoices are due upon issuance and Buyer agrees to pay all invoices upon issuance, and further agrees that thirty days after invoice issuance SUNVEK may add two percent (2%) per month from invoice date to any balance owed as a finance charge, and in event of default, Buyer agrees to pay upon demand SUNVEK's reasonable collection charges, including attorney's fees, if applicable.
11. Payments received may first be applied to finance charges assessed, if any, and the remainder to principal.
12. Buyer will provide SUNVEK thirty (30) days advance notice prior to filing for bankruptcy, and releases SUNVEK from any and all liability due to suspension of work in event of bankruptcy filing.
13. In the event the actual work surface is larger than represented on the blueprint from which an estimate was prepared, Buyer agrees to compensate SUNVEK for the additional work performed at the per square foot bid rate.
14. Change orders may be invoiced upon receipt and are due and payable immediately.
15. This agreement does not guarantee drainage, nor does it include downspouts, gutters, pipes, flashings or other materials that may be necessary to ensure drainage unless specifically stated on the agreement. Application of additional material to ensure drainage will be an additional charge.
16. Z-metal and J-weep are not included in the bid unless specifically stated.
17. Roof tear-off bids include one layer of roofing materials unless specifically stated otherwise on the bid. Removal of additional layers of roofing materials will be an additional charge.
18. Replacement of fascia or roof board, or both, is subject to an additional charge.
19. Structural repairs needing to be made that become evident upon tear-off will be subject to an additional charge. Structural repair work will need to be contracted with a company other than SUNVEK.
20. Additional charges will be agreed upon by Buyer before SUNVEK will perform additional work. A delay in agreeing upon the additional work may cause a delay in completion. Should Buyer refuse to pay for the additional work, if SUNVEK is unable to complete the work due to the non-completion of the additional work that SUNVEK believes is required, SUNVEK shall be paid by Buyer all amounts that have been invoiced up to that point, and shall have no further obligation to complete the work.
21. **LIMITATION OF DAMAGES:** SUNVEK shall not be responsible for incidental or consequential damages to the exterior or the interior or contents of the structure upon which work is to be performed, including but not limited to, damage caused by leaks before, during and after work performance, except for replacement of SUNVEK products directly caused by defects in SUNVEK workmanship. SUNVEK shall not be liable for direct or indirect business or economic losses alleged to have incurred due to services or goods supplied or installed by SUNVEK. SUNVEK shall be responsible only for the timely replacement of any defective workmanship in goods or services and for no other harm, injuries, losses, or damages of any other kind whatsoever, and SUNVEK's liability shall be limited to the invoiced amount under this agreement, and SUNVEK's liability shall not exceed the invoiced amount. Any claim for damages shall be made in writing to SUNVEK within 45 days of customer being aware of such, or may be denied. SUNVEK shall be provided opportunity to inspect and assess the validity of the claim, to determine the appropriate resolution of such claim.
22. Material warranties, if any, are those of the manufacturer. Claims for defective materials shall be made only against the manufacturer.
23. SUNVEK specifically disclaims any and all liability for mold or fungus, or both, including but not limited to byproducts, whether known to exist, could have been known to exist, or be reasonably anticipated to exist in the future, together with any alleged or actual damages incurred as a result of the alleged, threatened or actual presence of these.
24. SUNVEK is not liable to replace installed materials removed by other than SUNVEK employees for inspection purposes.
25. SUNVEK shall not be held liable for any loss, damage or delays caused by earthquakes, flooding, windstorm, heavy rains, hail, ice, or snow, disease, fires, strike, acts of war, inability to obtain materials, material changes in laws or regulations, or other Acts of God.
26. SUNVEK may take photos of job site for record keeping, and may use photos for advertising purposes without additional agreement from Buyer and without compensation to Buyer or owner, or both. SUNVEK may install one or more signs promoting SUNVEK at the job location.

27. **RIGHT TO CANCEL:** This contract may be canceled by Buyer without penalty within three days of signing or prior to work commencement, whichever comes first. In event of cancellation, any down payment may be retained by SUNVEK as a fee for the costs associated with establishing the agreement and Buyer agrees this is reasonable.
28. **NO WARRANTY.** This agreement does not itself set forth any warranty. Warranties, if any, are sole and separate contracts.
29. As may be identified in a separate document, if any, SUNVEK labor warranty extends from date of substantial completion for the quoted time period. If no time period is quoted, repairs are warranted for one (1) year and other work for two (2) years.
Warranty is valid only upon receipt of payment in full.
30. The laws of the State of Arizona shall govern this agreement. Jurisdiction is Maricopa County, Arizona.
31. The parties agree this is a fully integrated agreement, that no other agreements govern this transaction, and that any prior verbal or written agreement is superseded by this agreement. If a court or arbitrator determines there exists a material conflict between the Terms and Conditions of this agreement and the laws of the State of Arizona, this agreement and its Terms and Conditions shall be amended only to the extent necessary to comply with the laws of the State of Arizona; no other change in any other Terms and Conditions is permitted. If a court or arbitrator finds any term or condition to be unreasonable or unenforceable, only those parts of this agreement that are found to be unreasonable or unenforceable may be severed from this agreement and all other parts of this agreement shall remain unaffected and shall remain fully valid.
32. The waiver by SUNVEK or the failure of either party to enforce any of the Terms and Conditions shall not be deemed a waiver of any of the other Terms and Conditions.
33. Agreement to charge credit card. Buyer agrees to provide SUNVEK with a credit card to charge progress payments when due, as invoiced, and agrees SUNVEK may charge the credit card for a particular payment should Buyer fail to submit payment by another method within five (5) business days of being billed for the work by SUNVEK pursuant to invoice.
34. These terms and conditions may not be modified in any way unless any such modification is in writing and signed by SUNVEK.
35. Buyer's signature on the Proposal and Installation Agreement indicates Buyer has read, understands and accepts the Terms and Conditions of this agreement.
36. **IN EVENT OF A DISPUTE:**

(A) If a dispute arises under this Agreement, the parties hereby agree that prior to the initiation of any regulatory, mediation, or arbitration proceedings, to conduct, in good faith, an informal, face to face meeting to discuss settlement or resolution of the dispute. If such a face to face meeting does not result in a mutually agreeable resolution, then the parties agree to mediate their dispute, in good faith, before the American Arbitration Association under its then current mediation rules, prior to filing any arbitration proceeding. If mediation is successful, it will be binding.

(B) Buyer agrees that this requirement to meet in a face to face meeting with SUNVEK includes claims of poor workmanship and shall be attempted before Buyer files a claim with the Registrar of Contractors. This requirement to meet in person is a precondition to Buyer filing any claim with the Registrar of Contractors in order to provide SUNVEK with advanced notice of the allegations and an opportunity to investigate and address the allegations before any such claim is filed. This precondition, however, does not apply if the deadline for filing a claim will expire before SUNVEK would have a reasonable opportunity to investigate and respond to the allegations.

(C) All applicable statutes of limitations and of repose will be tolled during the period when informal resolution and then mediation is being actively pursued.

(D) (1) After exhausting the requirements of mediation, as set forth above, any of the parties may initiate an arbitration proceeding. The parties agree that any dispute arising out of or in connection with this Agreement shall be submitted to binding arbitration before the American Arbitration Association, pursuant to its construction rules then in effect. The arbitration proceeding shall be conducted by one arbitrator in the metropolitan Phoenix, Arizona area. The arbitrator shall have the authority to enter injunctive relief and to award damages and reasonable attorneys' fees, costs, and expenses (including AAA fees and costs) in his or her sole discretion. Any party to the arbitration proceeding may confirm the arbitration award in a court of competent jurisdiction and, the other party may raise defenses as may be allowed under law, and upon confirmation of the award, the prevailing party may enforce the award and judgment in accordance with applicable law.

(2) By agreeing to this arbitration provision, the parties hereby acknowledge that they are waiving their rights to a trial in a court of law, including the right to a jury trial. They also are agreeing to limited rights of appeal, as set forth in the applicable state or federal statutes regarding confirmation of arbitration awards.

(3) The decision of the arbitrator shall be final and binding upon the parties, subject only to grounds for vacature as set forth in the Federal Arbitration Act and its progeny. Judgment to enforce the decision of the arbitrator, whether for legal or equitable relief, may be entered in any court having jurisdiction thereof, and the parties hereto expressly and irrevocably consent to the jurisdiction of the Arizona Courts for such purpose. In the event a dispute is submitted to arbitration pursuant to this provision, the prevailing party shall be entitled to the payment of its, her, or his reasonable attorneys' fees and costs, as determined by the arbitrator.

(E) Each of the parties shall keep all disputes, all mediation proceedings, and all arbitration proceedings, together with any settlements or awards, strictly confidential, except for disclosures of information required by applicable law or regulation.