|  |  |
| --- | --- |
| 120 Main Ave., Suite B, Sacramento, CA 95838 | (916) 878-1751 |

**SERVICE AGREEMENT**

This Service Agreement (the “Agreement”) shall be effective as of April 3, 2024 (the “Effective Date”), and is entered into on behalf of Scorpion Cleaning Service, Inc. (“SCS”) on the one hand, and Acme Property Group LLC (“Customer”) on the other. SCS and Customer may collectively be referred to in this Agreement as the “Parties,” or individually as a “Party.”

 **The Project**. SCS shall perform its below-defined Services at Customer’s property located at:

4573 Pine Ave.

Long Beach, CA 90807

(the “Property”). The term “Project” shall refer to: (i) the comprehensive scope of work encompassing the below-defined Services to be performed by SCS at the Property under this Agreement; and (ii) when and if applicable, any additional Services that the Parties may subsequently agree to in writing.

 **Term & Termination**. Unless otherwise terminated by a Party in the manner set forth below, this Agreement shall commence on the above-referenced Effective Date and continue for two years (the “Initial Term”). Notwithstanding the two-year Initial Term for this Agreement, this Agreement may terminate prior to the end of the Initial Term, or prior to the end of any below-defined Renewal Term(s), as follows: (a) SCS may terminate this Agreement at any time without prior notice if Customer is more than 30 calendar days’ late on any payment owed to SCS under this Agreement; (b) either Party may terminate this Agreement if the other Party fails to cure a default under this Agreement (other than for non-payment) within 30 calendar days’ written notice from the non-breaching Party; or (c) either Party may terminate this Agreement for any reason upon providing the other Party with at least 60 calendar days’ written notice of its decision to terminate. The written notice referenced in “(b)” shall contain a clear description of the breach(es) that the breaching Party is alleged to have committed. During the notice period referenced in “(c),” the Parties shall continue performing their respective obligations under this Agreement. Upon termination of this Agreement, SCS shall be entitled to compensation for all Services performed through the date of termination.

 **Auto-Renewal**. Unless otherwise terminated in the manner set forth above, this Agreement shall renew automatically for additional one-year terms (“Renewal Term(s)”) unless either Party provides written notice of termination to the other Party not less than 30 calendar days’ prior to the end of the then-current Term or Renewal Term. The Initial Term and Renewal Term(s) shall collectively be referred to in this Agreement as the “Term.” Scorpion will provide Customer with written notification of the impending auto-renewal of this Agreement approximately 45 calendar days prior to the end of the Term. Customer may terminate this Agreement within the 30 calendar days’ permitted by sending written notice to SCS via: (a) certified mail, return receipt requested; (b) a nationally recognized delivery service (e.g., FedEx, UPS, etc.) requiring a signature upon delivery; or (c) via email addressed to: *\*\*\*\*\*\*@\*\*\*\*.com*. This auto-renewal provision is intended to comply with Business and Professions Code section 17600 et seq.

 **Services**. SCS will provide Customer with power washing services to the following areas of the Property (collectively, the “Services”):

— Parking Areas (excluding indoor parking garages/structures)

— Pavers/Walkways/Sidewalks

— Concrete/Stucco

— Alleys

— Courtyards

— Awnings

— Buildings/Facades

— Windows

— Dumpsters/Dumpster Pads

— Compactors/Compactor Pads

— Sanitization (including disinfecting of all surfaces in affected areas in compliance with applicable laws)

— Roofs

— Equipment

— Hazmat/Bio Hazard Rooms/Areas

— Kitchen Vents/Hoods

— Driveways

— Loading Docks

— Eaves

— Outdoor furniture (e.g., tables, chairs, sunshades/umbrellas)

— Solar Panels

— Decks/Balconies

— Brickwork

— Stonework

— Siding

— Fencing

— HVAC units

— Sports Courts (e.g., tennis, pickleball, basketball courts)

 **Revisions/Limitations/Notes**. As to the areas/elements identified above, the Parties further agree as follows:

Client agrees to provide SCS the right to use and access to on-site water supply as needed to perform the Services. Such water usage shall be provided to SCS at no charge. If, however, SCS must ever, in its reasonable discretion, rely on an exterior water source, Client shall SCS its actual costs in obtaining, transporting, and/or using such a water source. Client shall be solely responsible for ensuring that the on-site water supply is in good working order prior to and during SCS’s performance of the Services. Additional charges shall apply if such on-site water is not in working order when SCS attempts to perform the Services.

 **Scope of Services**. Within the areas/elements identified above, SCS’s Services shall address each of the following:

— Oil/Grease Stains and Residue

— Food Residue

— Plant Material

— Graffiti Removal

— Mold/Mildew (outdoor only; no indoor washing or remediation of any kind)

— Moss

— Algae

— Chewing Gum

— Rust

— Chemicals (excluding hazardous chemicals that require a license to transport or remediate)

— Bio-Hazards (e.g., human waste, blood, saliva, semen, etc.)

 **Revisions/Limitations/Notes**. As to the specific types of residue/messes identified above, the Parties further agree as follows:

Client agrees to provide SCS the right to use and access to on-site water supply as needed to perform the Services. Such water usage shall be provided to SCS at no charge. If, however, SCS must ever, in its reasonable discretion, rely on an exterior water source, Client shall SCS its actual costs in obtaining, transporting, and/or using such a water source. Client shall be solely responsible for ensuring that the on-site water supply is in good working order prior to and during SCS’s performance of the Services. Additional charges shall apply if such on-site water is not in working order when SCS attempts to perform the Services.

 **Frequency of Service**. SCS will perform the Services for Customer once every month.

 **Additional Site Visits**. \*\*\*

 **Access to the Property**. If applicable, Customer shall make the property available to SCS’s representatives and/or any contractors/vendors Customer hires to perform work on the Project, including, as necessary, the provision of a key, access code, and/or other access-granting device. Customer shall also remove all unsafe conditions from the Property (or at least notify SCS of such conditions) that could harm SCS’s representatives, including, but not limited to, ensuring that all of Customer’s animals are adequately restrained or are otherwise incapable of interacting with any individual performing the Services. If SCS is, at any time, unable to gain access to the Property to perform any previously scheduled Services because of a denial of access or the presence of a dangerous condition, Customer shall be charged $150, or the time spent traveling to and from the Property, whichever is *greater*.

 **Post-Completion Photography**. In SCS’s sole discretion, at the conclusion of the Project, Customer shall permit SCS to schedule a professional photographer to style and shoot the completed Project (at SCS’s sole expense).

 **No Responsibility re City Codes/Permits**. Unless otherwise explicitly stated above, SCS shall have no responsibility or obligation to apply for or ensure receipt of any permits required under federal, state or local laws, rules, or regulations, nor shall SCS be required to ensure that any aspect of the Project complies with any federal, state, or local laws, rules, or regulations. Customer acknowledges and agrees that such responsibilities lie solely with Customer and/or Licensees employed by Customer, whichever the case may be.

 **No Responsibility re City Codes/Permits**. Unless otherwise explicitly stated above, SCS shall have no responsibility or obligation to apply for or ensure receipt of any permits required under federal, state or local laws, rules, or regulations, nor shall SCS be required to ensure that any aspect of the Project complies with any federal, state, or local laws, rules, or regulations. Customer acknowledges and agrees that such responsibilities lie solely with Customer and/or contractors, vendors, or consultants employed by Customer, whichever the case may be.

 **No Responsibility for Defects/Installation**. Customer shall inspect all items (e.g., furnishings, accessories, etc.) ordered through SCS immediately upon delivery and/or installation and communicate the nature of any complaints or defects of such items to SCS in writing within three calendar days of such delivery/installation. While SCS will work with Customer to address the defect or failure, Customer acknowledges and agrees that at no time will SCS bear any liability for any defective items delivered or installations made by anyone other than SCS.

 **Change Orders**. SCS shall perform only the Services specified above. If Customer wishes to modify the scope of work—e.g., request additional Services during the course of the Project—SCS has the right to condition its performance of such additional work on Customer’s execution of a change order (the “Change Order”). Once signed, a Change Order shall become a part of this Agreement. Notwithstanding the foregoing, if, at Customer’s request, SCS does perform additional work not already specified above, SCS shall be entitled to full payment for such additional work despite the fact that the Parties did not sign a Change Order. All such additional Services shall be charged in minimum increments of 15 minutes at the per-professional hourly rate of $150.

 **Change Orders**. SCS shall perform only the Services specified above. If Customer wishes to modify the scope of work—e.g., request additional Services during the course of the Project—SCS has the right to condition its performance of such additional work on Customer’s execution of a change order (the “Change Order”). Once signed, a Change Order shall become a part of this Agreement. Notwithstanding the foregoing, if, at Customer’s request, SCS does perform additional work not already specified above, SCS shall be entitled to full payment for such additional services despite the fact that the Parties did not sign a Change Order.

 **Estimated Budget**. Prior to commencing work on the Project, the Parties will agree upon an estimated budget. While SCS will be conscientious of the estimated budget in performing the Services, Customer acknowledges and agrees that SCS shall not be responsible for any increase(s) in the estimated budget arising out of price increases of items selected or unexpected work that SCS must perform (e.g., preparing an area for delivery of new furnishings, waiting time, etc.). If Customer requires a reduction in the estimated budget during the Project, Customer must provide immediate written notice to SCS. If such a change in the estimated budget impacts the scope or extent of any of the Services, Customer acknowledges that Customer will be charged for any additional work that such changes necessitate.

 **Pricing**. Items sourced through SCS’s trade resources not only help to ensure the best quality and value available under Customer’s budget, but are competitive with retail pricing. If SCS’s pricing for a specific item is higher than the retail price for that item, SCS may provide Customer with the details to purchase that item on their own. While SCS will endeavor to provide Customer with accurate estimates and pricing of goods, Customer acknowledges that doing so is not always practicable (e.g., manufacturers can and do change pricing without notice). Customer will be billed at the actual price in effect at the time of order placement/purchase.

 **Fees, Deposits, and Costs**. Customer agrees to the following regarding the fees, deposits, and costs under this Agreement:

 **Hourly Fees**. All Services performed under this Agreement shall be charged to Customer at the hourly rates specified below in minimum increments of 15 minutes. In addition to the specified Services identified above, Customer will also be billed, at the applicable hourly rates, for all time spent by SCS in: (i) telephonic and in-person meetings with Customer; (ii) product searches, procurement, and purchasing; (iii) coordination with trades/contractors, including telephonic and in-person meetings; and/or (iv) electronic communications with Customer or trades/contractors, including email correspondence and text messages.

 **Individual Rates**. Customer shall pay $150 per hour for all Services performed by Kris Riddle and Brooke Wojcik. Customer shall pay between $50 and $100 per hour for all Services performed by other individuals at SCS, depending on the individual. Sometimes, Kris Riddle and Brooke Wojcik will work together on Customer’s Project, and sometimes they will work with other individuals from SCS. Customer acknowledges and agrees that in such circumstances, Customer will be billed concurrently at each individual’s scheduled hourly rate(s).

 **Travel Time**. Customer will be billed at SCS’s normal hourly rates for all travel time incurred by SCS’s representatives. Such travel may include, without limitation, travel: (i) to or from the Property; (ii) purchasing/procuring products; or (iii) meeting with vendors, trades, or contractors.

 **Travel Time**. Customer shall reimburse SCS for all travel according to the following:

 **100 Miles or Less**. If, on any particular occasion, SCS’s representative(s) travel(s) 100 miles or less (as measured from SCS’s business address) while performing the Services, Customer shall not be billed for travel time. In such cases, however, Customer shall reimburse SCS at the rate of 85 cents per mile for each mile driven by SCS’s representatives while performing the Services. Such mileage will be included as an expense on applicable invoices. Such travel may include, without limitation, travel: (i) to or from the Property; (ii) purchasing/procuring products; or (iii) meeting with vendors, trades, or contractors.

 **Greater Than 100 Miles**. If, on any particular occasion, SCS’s representative(s) travel(s) more than 100 miles while performing the Services, Customer will be billed for such travel time at SCS’s normal hourly rates. Such travel may include, without limitation, travel: (i) to or from the Property; (ii) purchasing/procuring products; or (iii) meeting with vendors, trades, or contractors.

 **Hourly Rates Subject to Annual Increase**. While SCS’s hourly rates are subject to a reasonable periodic increase, no individual’s rates will increase more than once per year, or sooner than the one-year anniversary of the commencement of the Project.

 **Deposit(s)**. To secure Customer’s obligations under this Agreement, the Parties agree as follows:

 **Initial Deposit**. Prior to commencement of the Services, Customer will deliver an initial deposit to SCS (the “Initial Deposit”). SCS shall have no obligation to perform any Services until Customer has delivered the Initial Deposit. While the Initial Deposit shall be *non-refundable*, it will be applied to cover any balance(s) due on SCS’s invoices.

|  |
| --- |
| **Amount of Initial Deposit—$** |

 **Subsequent Deposit(s)**. Once the Initial Deposit has been exhausted, SCS may request additional deposit(s) from Customer (“Subsequent Deposit(s)”) in any sum that SCS deems reasonable at the time.

 **Use & Replenishment of Subsequent Deposit(s)**. SCS shall hold Customer’s Subsequent Deposit(s) in one of its general operating accounts and apply the sum(s) held to cover the costs of purchasing furnishings and/or accessories for Customer, or to cover the balance due on any invoice(s) that Customer fail to timely pay. If, as a result of Customer’s failure to timely pay any of SCS’s invoice(s), SCS elects to use all or part of Customer’s Subsequent Deposit(s) to pay itself, then upon written notification from SCS, Customer will have five calendar days to replenish the Subsequent Deposit(s). The replenishment amount(s) in such cases shall be at least the sum deducted and applied to the prior unpaid balance(s), as well as any additional sum that SCS determines is reasonable under the circumstances. Failure to replenish any Subsequent Deposit requested by SCS shall constitute a material breach of this Agreement and grounds for its immediate termination. Customer will not earn interest on any Subsequent Deposit(s) that it delivers to SCS under this Agreement.

 **Furnishings & Accessories**. SCS shall have no obligation to purchase any furnishings and/or accessories until and unless Customer tenders to SCS a Subsequent Deposit in the amount requested by SCS for that purpose. Customer’s payment of such Subsequent Deposits shall be deemed authorization for the applicable purchase(s) by SCS.

 **Costs**. Customer shall be solely responsible for all costs incurred by SCS in the procurement, purchase (including taxes), shipping, inspection, handling, storage, return, and restocking of any interior/exterior design items—e.g., furnishings, furniture, tile, paint, lighting, fixtures, fabrics, artwork, decor, and other accessories—selected and purchased for Customer by SCS. Customer further acknowledges and agrees that some of costs for which Customer will be invoiced may, in certain cases, include an upcharge (e.g., when purchasing from a design trade wholesaler) to bring the item(s) in line with their normal retail costs, and that such invoiced costs shall constitute reasonable “retail” prices for such items. Customer agrees that in no event shall SCS ever be required to disclose or pass on to Customer any trade discounts or specific product details, whether readily identifiable to any person outside of the design trade, or otherwise.

 **Cancellations**. Once approved by Customer, special, custom, and/or trade orders cannot be canceled or returned. If, however, SCS is able to successfully cancel an order, as was referenced above, Customer shall be solely responsible for all related shipping or restocking charges imposed by the supplier or incurred by SCS.

 **Invoices, Payments, and Refunds**. From time to time during the pendency of the Project, SCS will invoice Customer for all Services-related fees and costs performed/incurred during the period of time reflected in the invoice. Customer shall deliver full payment due under each invoice within five calendar days of the date SCS sends an invoice to Customer. If SCS does not receive full payment on an invoice within the requisite five-day period, SCS may deduct the sum due from any funds it has on deposit for Customer. If there are insufficient funds on deposit to cover the amount due, Customer shall pay a late fee of 15% of the sum then remaining past-due.

 **Late Payments**. Interest shall accrue on all sums due to SCS that remain unpaid for 30 or more calendar days at the maximum legal rate, or 10%, whichever is less.

 **Non-Refundable Payments**. Customer agrees that SCS shall have no obligation to provide, nor shall Customer have any right to receive, any refunds or credits for payments made (or money owed) for or related to any of the following: (i) costs (unless a return is successful, and then excluding any related costs); (ii) the Initial Deposit; and/or (iii) work already performed.

 **Returned Checks**. Customer agrees to pay a processing fee of $25, or the maximum legal amount, whichever is greater, for all returned or cancelled checks.

 **Credit Cards**. While SCS accepts all major credit cards (e.g., American Express, Visa, Mastercard, and Discover), a surcharge of 3% will be added to any sum paid to SCS via credit card. If Customer disputes any charge(s) on a credit card provided to SCS to pay any sum due under this Agreement, and if SCS ultimately prevails in supporting the disputed charge(s), in addition to the amount in dispute, Customer shall pay to SCS an additional $150 per hour, in minimum increments of 30 minutes, for all time SCS spent in resolving the dispute with its merchant processor/bank.

 **Cancellation/Rescheduling**. Customer may cancel a scheduled in-person or telephonic design consultation without penalty (i.e., such meetings may be rescheduled at no additional cost) provided that Customer provides SCS with at least 24 hours advance written notice. If Customer fails to appear for a scheduled consultation, or otherwise fails to provide at least 24 hours advance written notice prior to a cancellation, the meeting shall be deemed completed. If a further meeting must subsequently be scheduled to make up for the meeting deemed completed, then Customer shall pay SCS the applicable fee no less than 24 hours prior to the time scheduled for that meeting.

 **Project Timeline**. A variety of factors exist that could delay completion of the Project once it has commences (e.g., the occurrence of a below-defined Force-Majeure Event). While SCS will be diligent in performing the Services in a timely fashion, Customer acknowledges that SCS is unable to provide any guarantee as to when the Project will be completed. Customer further acknowledges that any estimates that SCS does provide Customer as to the completion of one or more aspects of the Project are merely estimates, and must not be relied upon.

 **Project Timeline**. A variety of factors exist that could delay completion of the Project once it has commences, including without limitation: (i) a below-defined Force-Majeure Event; (ii) unavailability/scarcity of products; (iii) manufacturing, shipping, and delivery delays; (iv) Customer’s actions/inactions that lead to a delay; and/or (v) Customer’s failure to timely pay invoices or deliver Subsequent Deposit(s). While SCS will be diligent in performing the Services in a timely fashion, Customer acknowledges that SCS is unable to provide any guarantee as to when the Project will be completed. Customer further acknowledges that any estimates that SCS does provide Customer as to the completion of one or more phases of the Project are merely estimates, and must not be relied upon.

 **Customer Pause and Reinstatement**. If Customer pauses or delays the Project for 30 or more calendar days, SCS shall be entitled to charge Customer a reinstatement fee to restart the Project at a later date (the “Reinstatement Fee”). SCS shall determine, in its sole discretion, the amount of the Reinstatement Fee, taking into consideration the time spent by SCS rescheduling the Project and re-acquainting itself with Customer’s needs. Customer acknowledges that as a result of such a pause/delay, items previously selected or quoted may be discontinued, out of stock, more expensive, or otherwise unavailable. To the extent that SCS must therefore revisit work already performed prior to the pause/delay, Customer shall be responsible for any time spent performing such work again.

 **Completion of the Project**. Once SCS provides Customer with the Services, SCS shall have fully satisfied its duty under this Agreement. SCS’s performance is not subject to Customer’s satisfaction, and Customer’s dissatisfaction with SCS’s performance does not excuse Customer from fully performing under this Agreement. In no event may Customer offset any sums due to SCS.

 **Intellectual Property**. The below-defined Images, concepts, designs, and other documents prepared by SCS during the pendency of this Agreement shall at all times remain SCS’s exclusive intellectual property, and at no time will Customer obtain any rights, title, or interest in or to any of SCS’s intellectual property. Customer may not, therefore, use any of SCS’s intellectual property for any purpose other than the completion of the Services specified under this Agreement. While Customer agrees not to sell, share, or publish any of the Images, concepts, drawings, and designs prepared by SCS without SCS’s express written consent, Customer is free to publish and share photographs of the *completed* Project that Customer takes as long as Customer credits SCS for the work.

 **Photographs & Video**. During the course of the Project, SCS may take photographs or video of the Property or aspects of the Project (collectively, the “Images”). Subject to the foregoing limitations, Customer irrevocably assigns and transfers to SCS the entirety of Customer’s rights, title, ownership, and/or interest in and to any of the Images (if any such rights existed). This assignment and transfer of the Images includes not just SCS’s exclusive right to use, publish, exploit, display, exhibit, manipulate, copy, or reproduce the Images, but also to create derivative content, regardless of its form, medium, or format. At all times, therefore, SCS shall enjoy the absolute right to dispose of, exploit, transmit, display, reproduce, manipulate, alter, edit, revise, register (and sue to enforce such registration), and otherwise control the Images provided that SCS excludes Customer’s name, address, and likeness. Customer shall not be entitled to any royalty, payment, compensation, and/or benefit arising out of SCS’s use of the Images, and subject to applicable law, Customer agrees that Customer has waived any right to inspect, review, approve, or receive copies of any of the Images.

 **Internet/Social Media**. Customer agrees to credit to SCS any photographs, drawings, or renderings of the Project that Customer publishes online and/or on social media (e.g., Facebook, Instagram, Pinterest, etc.). This provision is not intended to apply to photographs, drawings, or renderings where the display of the Services (or completed Project) is incidental.

 **Not a Licensed Contractor**. Implementation of SCS’s design concepts may require the work of licensed contractors (e.g., to perform wallpaper hanging, carpet installation, painting, plumbing, drywall, electrical work, etc.), in which case SCS may recommend one or more such contractors to perform the work. SCS does not receive any compensation for such recommendations. As was stated above, however, SCS is not a licensed contractor, and at no time will SCS act as a general contractor or perform any work that, under California law, requires a contractor’s license. Nor will SCS ever perform any work requiring any other type of professional license (e.g., architect). Customer, therefore, acknowledges and agrees that any work performed by such Licensees will be performed under separate written home improvement or professional contracts, and under payment arrangements made, between Customer and the Licensees.

 **Not a Licensed Contractor**. Implementation of SCS’s design concepts may require the work of licensed contractors (e.g., to perform wallpaper hanging, carpet installation, painting, plumbing, drywall, electrical work, etc.), in which case SCS may recommend one or more such contractors to perform the work. SCS does not receive any compensation for such recommendations. As was stated above, however, SCS is not a licensed contractor, and at no time will SCS act as a general contractor or perform any work that, under California law, requires a contractor’s license. Nor will SCS ever perform any work requiring any other type of professional license (e.g., architect). Customer, therefore, acknowledges and agrees that any work performed by such licensed contractors and professionals will be performed under separate written home improvement or professional contracts, and under payment arrangements made, between Customer and the licensed contractors/professionals.

 **Not a Licensed Contractor**. Implementation of SCS’s design concepts may require the work of licensed contractors (e.g., to perform wallpaper hanging, carpet installation, painting, plumbing, drywall, electrical work, etc.), in which case SCS may recommend one or more such contractors to perform the work. SCS does not receive any compensation for such recommendations. SCS is not a licensed contractor, and at no time will SCS act as a general contractor or perform any work that, under California law, requires a contractor’s license. Nor will SCS ever perform any work requiring any other type of professional license (e.g., architect). Customer, therefore, acknowledges and agrees that any work performed by such licensed contractors and professionals will be performed under separate written home improvement or professional contracts, and under payment arrangements made, between Customer and the licensed contractors/professionals.

 **Independent Contractor**. At all times during the pendency of the Project, SCS shall be and remain an independent contractor within the meaning of California law.

 **SCS’s Limited Warranty**. SCS warrants and represents that it will perform the Services in a professional manner, in accordance with reasonable industry standards, and in conformance with the explicit specifications contained in this Agreement. THIS WARRANTY SHALL BE THE EXCLUSIVE WARRANTY AVAILABLE TO CLIENT. ROSEMARY ROAD MAKES NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND/OR MERCHANTABILITY.

 **Other Warranties**. While SCS makes no warranties other than the ones expressly stated above, Customer shall have the benefit of all warranties and guarantees issued to Customer either by operation of law, or by suppliers, manufacturers, vendors, or contractors that Customer contracts with to effectuate any aspects of the design concept for the Project. Customer shall be solely responsible for enforcing such warranties/guarantees.

 **Customer Acknowledgements**. Customer acknowledges and agrees to all of the following:

 **Results Not Guaranteed**. While SCS will perform its Services in a professional manner and apply its efforts to meet Customer’s design goals, taking into account Customer’s stated budget, design requirements, and decorating preferences, Customer acknowledges and agrees that SCS has not provided any guarantees or assurances that Customer will be happy or satisfied with the final results of the Project.

 **Natural Variations**. Customer acknowledges and agrees that colors, fabrics, and other materials often look different online and in photographs than they do in the physical world, and therefore Customer agrees that it shall not hold SCS responsible for any non-conformity or deviation between the items Customer approves and the items Customer receives.

 **Not Responsible for Work of Contractors, Trades, Vendors, Etc.** Customer acknowledges and agrees that under no circumstances shall SCS shall bear any liability for any actions or inactions of third parties—e.g., contractors, licensed professionals, trades, vendors, etc.—whether recommended to Customer by SCS or otherwise.

 **No Reliance on Materials Outside of this Agreement**. Customer acknowledges and agrees that while SCS may, from time to time, publish or otherwise disseminate non-identifying information aimed marketing SCS’s professional services to Customer or serving as conceptual examples or options, such material is: (i) provided to Customer for information purposes only; (ii) not intended to constitute a promise or guarantee; and (iii) not intended to be solely relied upon by Customer in making ultimate decisions regarding the Project.

 **Force Majeure**. Subject to the limitations contained in this provision, neither Party shall be held liable or responsible for any failure or delay in the performance of their obligations under this Agreement if any of the following events or circumstances occurs: (i) acts of God; (ii) fire; (iii) flood; (iv) earthquake; (v) war; (vi) terrorism; (vii) civil unrest; or (viii) governmental actions, such as declarations of states of emergency (collectively, “Force Majeure Events”). A Force Majeure Event shall *not* excuse a Party’s timely performance under this Agreement unless: (a) the Force Majeure Event renders the affected Party’s performance impossible or impracticable; and (b) the affected Party had no role in causing or exacerbating the Force Majeure Event. If a Force Majeure Event occurs, the affected Party shall promptly notify the other Party in writing and provide reasonable details of the event and its anticipated impact on the performance of their obligations. The affected Party shall use commercially reasonable efforts to minimize the impact of the Force Majeure Event on the performance of its obligations, and the time for performance shall be extended for a period equal to the duration of the Force Majeure Event. If, however, the Force Majeure Event continues for a period of more than 90 calendar days, either Party may terminate this Agreement upon written notice to the other Party, without any liability, except for payment obligations accrued up to the date of termination.

 **Indemnification**. Customer shall indemnify, protect, and hold SCS harmless from any claims, demands, administrative/regulatory complaints, damages, suits, losses, costs, expenses, liabilities, judgments, and/or causes of action (including attorneys’ fees and costs) arising directly or indirectly from: (i) Customer’s actions or inactions, including Customer’s breach of any provision of this Agreement or illegal conduct; (ii) the actions or inactions, including the illegal conduct, of any tradesperson, contractor, vendor, or consultant who performed work on any portion of the Project (collectively, the “Claims”). If any Claims are made against SCS but not against Customer, then SCS shall have the right to select the attorneys of its choice to defend it. If any Claims are made against Customer and SCS, Customer must obtain SCS’s approval of the attorneys hired to defend the Parties. SCS may only deny such approval if reasonable under the circumstances.

 **Limitation on Damages**. Customer acknowledges and agrees that its exclusive remedy for all damages, suits, losses, costs, expenses, liabilities, judgments, and/or causes of action (including attorneys’ fees and costs) arising from or related to SCS’s Services shall not exceed the amount of compensation that SCS has received, requested, or would be entitled to receive or request under this Agreement. If a court of competent jurisdiction or an arbitrator deems this provision unenforceable, the court or arbitrator shall determine that the Parties’ intent was to limit such damages as much as the law will permit. Customer further acknowledges and agrees that Customer shall not, under any circumstances, hold SCS or any of SCS’s officers, agents, or anyone else involved in the performance of the Services liable for any direct, indirect, incidental, special, or consequential damages that result from any mistakes, omissions, or alleged wrongdoing committed by SCS.

 **General Provisions**. In addition to the foregoing, the Parties agree as follows:

 **Assignment**. This Agreement is personal to the Parties, and neither Party may, therefore, assign any of their rights or obligations under this Agreement to any third party without the other Party’s express written consent.

 **Notices**. All notices required under this Agreement shall be in writing and shall be delivered to the addresses set forth below (or any subsequent address provided in writing by a Party) via: (i) certified mail, return receipt requested; (ii) personal delivery if accompanied by proof of delivery; (iii) a nationally recognized delivery service (e.g., Federal Express, United Parcel Service, etc.) requiring proof of delivery; or (iv) electronic mail.

Notice to SCS

c/o Kris Riddle and Brooke Wojcik

2430 Camino Oleada

San Clemente, CA 92673

kris@rosemaryroadinteriors.com

brooke@rosemaryroadinteriors.com

Notice to Customer

4573 Pine Ave.

Long Beach, CA 90807

test@tester.com

 **Right to Contract**. The Parties represent that each has the requisite authority and legal right to enter into this Agreement, and that their signing of and performance of their obligations under this Agreement will not: (i) conflict with, violate, result in a breach of, result in a termination or cancellation of, or constitute a default in or under any other agreement to which either is party, or by which they or any of their assets may be bound; (ii) violate any order, writ, injunction, decree, judgment, or ruling of any court or governmental authority; or (iii) violate any federal, state, or local laws, ordinances, regulations, or rules.

 **Waiver**. No breach of any provision(s) in this Agreement can be waived unless done so in writing and signed by the Parties. Waiver of any one provision of this Agreement shall not be deemed to be a waiver of any other provision, nor shall a waiver of a specific provision on any particular occasion be deemed a permanent waiver of that provision.

 **Headings**. The section headings that appear throughout this Agreement have been provided solely for the convenience of the Parties, and do not define or limit the scope of any provision. Consequently, the headings shall not be considered when interpreting this Agreement.

 **Interpretation/Arm’s Length**. The Parties acknowledge and agree that they entered into this Agreement knowingly and voluntarily, at arms’ length, and with a full understanding of the legal significance and ramifications for doing so. The Parties therefore agree that any rule of law or legal decision that would require interpretation of this Agreement against the Party that drafted it, including Civil Code section 1654, shall not be applicable, and in fact is irrevocably and unconditionally waived.

 **Attorneys’ Fees**. If any legal action is brought to enforce and/or interpret this Agreement, the prevailing party shall be entitled to recover his/her/its reasonable attorneys’ fees and costs incurred in that action.

 **Applicable Law/Jurisdiction and Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of California with venue in the County of Orange.

 **Severability**. If all or part of any provision in this Agreement becomes or is declared by a court/arbitrator of competent jurisdiction to be illegal, unenforceable, or void, this Agreement shall continue in full force and effect without such language. If, however, the absence of such language materially alters the rights, limitations, or obligations of the Parties, the above-referenced court/arbitrator shall determine each Party’s rights, limitations, and obligations according to the intent of this Agreement when considered as a whole.

 **No Third-Party Beneficiary**. Nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties and their permitted respective successors and assigns. No provision of this Agreement shall give any third parties any right of subrogation or action over or against the Parties.

 **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties concerning the subject matter set forth in this Agreement, and supersedes all previous agreements, either written or oral, concerning such subject matter. The Parties acknowledge that no Party has made any representations, warranties, agreements, or covenants that are not expressly set forth in this Agreement, and that this Agreement may only be amended or modified by a written document signed by the Parties.

 **Counterparts** This Agreement may be signed in counterparts, any of which may be signed and transmitted electronically, each of which shall be deemed an original, and all of which shall, when taken together, constitute a single document.

The Parties have entered into this Agreement as of the April 3, 2024.

|  |  |
| --- | --- |
| **SCORPION CLEANING SERVICE, INC.**By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature |