

ROOFING CONSTRUCTION AGREEMENT

This construction agreement (the "Agreement") is made effective as of this _____ day of _____, 20____ ("Effective Date") by and between _____ ("Owner") and _____ ("Contractor") and on behalf of _____ ("Tenant"). Owner and Contractor are hereinafter sometimes referred to individually as "Party" or collectively as "Parties".

In consideration of the following mutual promises, Owner and Contractor agree that Contractor shall install a _____ at _____ (the "Premises") upon the following terms and conditions:

1. CONSTRUCTION UNDERTAKING.

A. Scope of Work. Unless otherwise specified herein, Contractor shall furnish all the material and perform all of the work for the installation of the _____ at the Premises (the "Work") in accordance with the proposal (the "Proposal") which Owner has examined and approved, and which Proposal is made a part of this Agreement. A copy of the Proposal is attached hereto as Exhibit "A" and incorporated by reference. In the event of any express conflict or inconsistency between the terms of the Proposal and the terms of this Agreement, the terms of this Agreement shall control and govern. Contractor shall perform the Work in a good and workmanlike manner consistent with applicable building codes and construction standards. Contractor shall be responsible, at Contractor's expense, for obtaining all necessary permits related to the Work. All loading and unloading of equipment and materials by Contractor shall be performed at _____. Contractor shall ensure the areas of the Premises are usable and accessible to the Tenant of the Premises at all times during Contractor's performance of the Work.

B. Manufacturers Acknowledgment. Contractor shall provide Owner written acknowledgment from the manufacturer of the roofing system ("Manufacturer") that Contractor's Representations are correct and Manufacturer's _____ year warranty for the roofing system shall be valid and in full force and effect if the roofing system is installed at the Premises in the manner prescribed by Contractor. Contractor shall provide said Manufacturer's acknowledgement to Owner within thirty (30) days of the Effective Date. This Agreement is contingent upon Contractor providing said Manufacturer's acknowledgement. If Contractor fails to provide said Manufacturer's acknowledgment, Owner may terminate this Agreement.

2. **PRICE.** The total price for the Work shall be _____. Owner shall pay Contractor the total amount due and owing under this Agreement when the Work has been completed and inspected by Owner and Owner has received any requested lien waivers. Contractor shall pay any and all subcontractors, laborers, and/or materialmen used in connection with the Work all amounts due and owing to such subcontractors, laborers, and/or materialmen by Contractor.

3. **CONSTRUCTION SCHEDULE.** Contractor can neither imply nor guarantee a firm

completion and availability date. However, Contractor will use commercially reasonable efforts to commence the Work by _____ and complete the Work within _____ (_____) days after construction commences or complete work by _____.

4. CHANGES AND MODIFICATIONS. To be effective, any changes or modifications to the Proposal and/or the Work must be by written change order signed by both Parties. Each change order shall set forth the additional compensation to be paid to Contractor by Owner (or credited to Owner by Contractor) as a result of the changes or modifications in the Proposal and/or the Work.

5. LIEN WAIVERS. Upon request of Owner, Contractor shall provide Owners lien waivers from Contractor and/or any and all subcontractors, materialmen, and/or laborers used in connection with the Work.

6. INSURANCE. Contractor shall, at Contractor's cost, maintain workers' compensation insurance for its employees and commercial general liability insurance in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) including, but not limited to, coverage in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) for property damage. Contractor shall name Owner as an "additional insured" and "additional payee" under said policy. Contractor shall ensure that any subcontractors used in connection with the Work carry commercial general liability insurance with policy limits equal or greater to the limits carried by Contractor as well as workers' compensation insurance.

7. TERMINATION OR SUSPENSION. Owner may suspend and/or terminate the Agreement if Contractor:

- a. refuses or fails to supply enough properly skilled workers or proper materials;
- b. fails to make payment to subcontractors and/or materialmen for materials or labor in accordance with the respective agreements between Contractor and subcontractors and/or materialmen;
- c. disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- d. fails to commence the Work in accordance with the terms of the Agreement; and/or
- e. fails to prosecute the Work and/or any work reflected in a change order in a diligent, efficient, workmanlike, skillful and careful manner, and in accordance with the terms of the Agreement.

8. MISCELLANEOUS.

- a. Amendment and Waiver. This Agreement may only be amended or

modified by an instrument in writing executed by all of the Parties hereto.

b. Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, addressed to the respective Parties at the addresses set forth above, or at such other address as shall be furnished in writing by any Party to the others, and shall be deemed to have been given as of the date so delivered or deposited in the United States mail, as the case may be.

c. Choice of Law. It is the intention of the Parties that the laws of _____ should govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Parties.

d. Section and Other Headings. Section, paragraph, and other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

e. Counterpart Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

f. Gender. All personal pronouns used in this Agreement shall include the other genders whether used in the masculine or feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

g. Parties in Interest. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the Parties hereto and their successors and assigns.

h. Integrated Agreement. This Agreement constitutes the entire agreement between the Parties hereto, and there are no agreements, understandings, restrictions, warranties, or representations between the Parties other than those set forth herein or herein provided for which relate to the subject matter of this Agreement.

i. Severability. The invalidity or unenforceability of any provision of this Agreement in any particular respect shall not affect the validity and enforceability of any other provision of this Agreement or of the same provision in any other respect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OWNER: CONTRACTOR:

Printed Name: _____

Its: _____

Date: _____

[COMPANY NAME]

By: _____

Printed Name: _____

Its: _____

Date: _____