



## SINGLE SOURCE III 5-YEAR ROOF SYSTEM WARRANTY

Project Name \_\_\_\_\_

Panel Profile \_\_\_\_\_

Project Location (City, State, Zip) \_\_\_\_\_

Date of Substantial Completion \_\_\_\_\_

Amount of Material (square feet) \_\_\_\_\_

Building Owner \_\_\_\_\_

Manufacturer Customer \_\_\_\_\_

Manufacturer Job/Work Order Number(s) \_\_\_\_\_

Project End Use \_\_\_\_\_

For a period of five (5) years from the date of substantial completion, MBCI, a division of NCI Group, Inc. (hereinafter referred to as "Manufacturer") WARRANTS to the Building Owner ("Owner"): that the Manufacturer furnished roof panels, flashing and related items used to fasten the roof panels and flashing (including roof jack and curb attachments preapproved, in writing, by Manufacturer) ("Manufacturer Roof System") to the roof structure will not allow intrusion of water from the exterior of the Manufacturer Roof System into the building envelope, when exposed to ordinary weather conditions and ordinary wear and usage. The Date of substantial completion is the date that is certified by the Architect, Owner or Owner Representative, when the Manufacturer Roofing System is completed and accepted by or on behalf of the Owner.

Manufacturer shall have the SOLE AND EXCLUSIVE obligation for all warranty work commencing on the date of substantial completion and under all circumstances terminates on the five (5) year anniversary of the date certified as Substantial Completion of the Manufacturer Roof System. During the period in which Manufacturer has any warranty obligation Manufacturer shall take appropriate actions necessary to cause the non-performing portions of the Roof System to perform their proper functions.

### MANUFACTURER LIABILITY

No dollar limit.

### TERMS, CONDITIONS, LIMITATIONS

1. Owner shall provide Manufacturer with written notice within thirty (30) days of the discovery of any leak(s) in the Roofing System. Failure of the Owner to do so shall automatically relieve Manufacturer of any and all responsibility and/or liability under this Warranty. If upon Manufacturer's investigation, Manufacturer determines that the leaks in the Roofing System are not covered in this warranty, the party requesting Manufacturer's investigation shall be liable for all direct investigation expenses incurred by Manufacturer. NCI Group, Inc. Warranty Dept.; 14031 W. Hardy; Houston, TX 77060
2. Manufacturer shall not have any liability or responsibility if any of the following shall occur:
  - a. If a Manufacturer Certified Installer was not present at all times during the installation of the Manufacturer's roof system.
  - b. Deterioration caused by marine (salt-water) atmosphere or constant spray from either salt or fresh water.
  - c. Corrosion caused by heavy fallout or exposure to corrosive chemicals, ash or fumes from any chemical plant, foundry, plating works, kiln, fertilizer manufacturing, paper plant, aviation fuel or the like or corrosion caused by contact of the panels and trim with dissimilar materials such as copper, lead or graphite or water runoff from these materials onto the panels and trim.
  - d. Deterioration caused by condensation, any corrosive substance or any condensate of any harmful substance contained, generated or released inside the building.
  - e. Damage caused by worker(s), other than Manufacturer's or Roofing Contractor's workers, on the roof.
  - f. Failure by the Roofing Contractor to correct all deficiencies listed in the Manufacturer inspection reports.
  - g. If there are any alterations or additions, such as, but not limited to, structures, fixtures or utilities being placed upon or attached to the roof without prior written authorization from Manufacturer.
  - h. Deficiencies in or water infiltration from other building materials adjacent to or in contact with the Manufacturer's Roof System.
  - i. Natural disasters such as hurricanes, earthquakes, extraordinary winds, winds which detach from the facility any part of the building substrate to which the Manufacturer's Roof System is attached, lightning, hail, fire, radiation or other acts of God which are normally covered by hazard insurance.
  - j. Deficiencies of the facility to which the Manufacturer's Roof System is attached, such as structure, wall or foundation movement.
  - k. If roof leaks are due to ventilators or light transmitting panels.
  - l. Failure to maintain the Roof System as set forth in Manufacturer's "Roof Owner's Maintenance Manual."
  - m. If roof leaks are due to roof jacks, curbs or any other penetration of the Roof System that is not preapproved in writing by Manufacturer.
  - n. Failure to use long-life fasteners in all exposed applications.
3. During the term of this Warranty, Manufacturer, its sales representatives and employees shall have free access to the roof during regular business hours.

4. This Warranty shall not become effective and Manufacturer shall not have any obligation under any warranty until all invoices issued by Manufacturer, Manufacturer's customer, and the Roofing Contractor have been paid in full, in accordance with their terms, without offset, deduction or credit and all installation deficiencies listed in any Manufacturer inspection report have been corrected and all Manufacturer procedures have been followed.
5. Manufacturer shall not be responsible for any consequential or punitive damages or loss to the building, its contents or other materials.
6. Manufacturer's failure at any time to enforce any of the terms or conditions stated herein shall not be construed to be a waiver of such provision or of the right to exercise any right in the future.
7. This warranty is tendered for the sole benefit of the original Owner as named below and is not transferable or assignable.
8. **DISCLAIMER-EXCEPT AS EXPRESSLY STATED HEREIN, THE ABOVE WARRANTY PROVISIONS DO NOT COVER COATINGS, PRODUCTS, ACCESSORIES, PARTS OR ATTACHMENTS THAT ARE NOT PRODUCED BY MANUFACTURER. EXCEPT AS OTHERWISE EXPRESSLY STATED, THERE IS NO WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND AND ANY WARRANTY, EXPRESS OR IMPLIED, IS HEREBY EXCLUDED AND DISCLAIMED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. NOTWITHSTANDING ANYTHING ELSE CONTAINED HEREIN TO THE CONTRARY, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT MANUFACTURER'S LIABILITY AND PURCHASER'S SOLE REMEDY, WHETHER IN CONTRACT, UNDER ANY WARRANTY, IN TORT (INCLUDING NEGLIGENCE), IN STRICT LIABILITY OR OTHERWISE SHALL NOT EXCEED THE AMOUNT SET FORTH IN THE MANUFACTURER LIABILITY SECTION ABOVE. UNDER NO CIRCUMSTANCES SHALL MANUFACTURER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, LIQUIDATED OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY, PROPERTY DAMAGE, DAMAGE TO OR LOSS OF EQUIPMENT, LOST PROFITS OR REVENUE, LABOR COSTS AND EXPENSES, COSTS OF RENTING REPLACEMENTS AND OTHER ADDITIONAL EXPENSES, EVEN IF MANUFACTURER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MANUFACTURER WILL NOT BE LIABLE FOR ANY DAMAGES, LOSSES OR EXPENSES AS A RESULT OF PURCHASER'S (OR ANY OTHER PARTY'S) NEGLIGENCE, WHETHER DEEMED ACTIVE OR PASSIVE AND WHETHER OR NOT ANY SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH DAMAGE, LOSS OR EXPENSE. IN ADDITION, UNDER NO CIRCUMSTANCES SHALL MANUFACTURER BE LIABLE FOR ANY DAMAGES, LOSSES OR EXPENSES WHATSOEVER AS A RESULT OF ANY OTHER PARTY'S MATERIALS OR PRODUCTS WHICH CAUSE OR ALLEGEDLY CAUSE, IN WHOLE OR IN PART, DAMAGE, LOSS OR DETERIORATION TO THE MANUFACTURER'S ROOF SYSTEM.**
9. **FORCE MAJEURE. UNDER NO CIRCUMSTANCES SHALL MANUFACTURER BE LIABLE IN ANY WAY TO THE BUILDING OWNER OR ANY OTHER PARTY FOR DELAYS, FAILURE IN PERFORMANCE, OR LOSS OR DAMAGE DUE TO *FORCE MAJEURE* CONDITIONS INCLUDING, WITHOUT LIMITATION: FIRE; LIGHTNING; STRIKE; EMBARGO; EXPLOSION; POWER SURGE OR FAILURE; ACTS OF GOD; WAR; LABOR OR EMPLOYMENT DISPUTES; CIVIL DISTURBANCES; ACTS OF CIVIL OR MILITARY AUTHORITY; INABILITY TO SECURE MATERIALS, FUEL, PRODUCTS OR TRANSPORTATION FACILITIES; ACTS OR OMISSIONS OF SUPPLIERS, OR ANY OTHER CAUSES BEYOND ITS REASONABLE CONTROL, WHETHER OR NOT SIMILAR TO THE FOREGOING.**

#### CONSENT TO JURISDICTION AND VENUE

Any party seeking to enforce claims under this Warranty hereby acknowledges and agrees that (i) all matters relating to the validity, performance, interpretation, and/or enforcement of this Warranty shall be governed by and construed in accordance with the laws of the State of Texas, (ii) any and all claims, actions, proceedings or causes of action relating to the validity, performance, interpretation, and/or enforcement hereof must be submitted to a court of competent jurisdiction in Houston, Harris County, Texas, (iii) this Warranty is capable of being performed in Harris County, Texas, (iv) it irrevocably submits itself to the jurisdiction of the state and federal courts in Harris County, Texas, (v) service of process may be made upon it in any legal proceeding in connection with this Warranty or any other agreement as provided by Texas law, (vi) it irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any litigation arising out of or in connection with this Warranty or any other agreement or transaction brought in any such court, (vii) it irrevocably waives any claims that litigation brought in any such court has been brought in an inconvenient forum, and (viii) it irrevocably consents to the service of process out of any of the aforementioned courts by the mailing of copies thereof by Certified Mail, Return Receipt Requested, postage prepaid, and its address set forth herein. The scope of each of the foregoing waivers is intended to be all encompassing. Each party acknowledges that this waiver is a material inducement to the agreement of each party hereto to enter into a business relationship, and that each has already relied on this waiver in entering into this Warranty. Each party warrants and represents that it has reviewed these waivers with its legal counsel, and that it knowingly and voluntarily agrees to each such waiver following consultation therewith.

#### WARRANTY ACTIVATION

In order to segregate and maintain for the extended period of time covered by the warranty, the records and lot samples necessary to enable Manufacturer to trace the various components manufactured for any defects alleged, Manufacturer requires that the owner, within 90 days from the date the warranty is signed by Manufacturer, must indicate the desire to be covered hereunder, and activate it by a dated execution in the space provided herein and by mailing such executed copy to seller via registered or certified mail, return receipt requested. It is a condition precedent to the filing of a claim under this warranty that buyer prove compliance with this requirement. Mail executed copy of warranty to: NCI Group, Inc. Warranty Dept.; 14031 W. Hardy; Houston, TX 77060

#### Roof Owner

By: \_\_\_\_\_

Title: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Date: \_\_\_\_\_

#### Roof Manufacturer

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_