

## SUBCONTRACTOR'S GUARANTY AND WARRANTY

This Subcontractor's Guaranty and Warranty ("Warranty Agreement") entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (the "Contractor"), \_\_\_\_\_ (the Subcontractor), and \_\_\_\_\_ (the "Guarantor"). The Contractor, Subcontractor, and Guarantor shall be hereinafter collectively referred to as the "Parties".

WHEREAS, on \_\_\_\_\_, the Contractor and the Subcontractor entered into a contract (the "Contract") pursuant to which the Subcontractor agreed to perform certain work (the "Contract Work") on the Premises (as defined below);

WHEREAS, the Contract Work is defined in the Contract which Contract consists of [Insert – e.g.]: a written agreement as attached hereto, which includes, without limitation, the work as set forth in the Contract and such other work instructed to be performed by the Subcontractor [ALTERNATIVE: an oral agreement, which includes, without limitation, the work as set forth in the agreement and such other work instructed to be performed by the Subcontractor];

WHEREAS, for and in consideration of the payments made or to be made under the Contract and for other good and valuable consideration, the Parties agree to execute this Warranty Agreement.

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual promises, set forth in this Warranty Agreement, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereto agree as follows:

1. The above recitals are true and correct and are incorporated herein as terms of this Warranty Agreement.
2. Capitalized terms as used herein shall have the same meaning as they do in the Contract.
3. The Contract Work was performed on certain property situate at \_\_\_\_\_ [IF AVAILABLE INSERT:] \_\_\_\_\_ and \_\_\_\_\_ is \_\_\_\_\_ legal \_\_\_\_\_ described as: \_\_\_\_\_ (the "Premises").
4. The Subcontractor and the Guarantor (individually and collectively the "Responsible Parties") hereby warrants to the Contractor that the Contract Work and all of Subcontractor's obligations under the Contract have been (or will be) performed by the Subcontractor strictly in accordance with that which is or was required to be performed by the Subcontractor pursuant to the terms of the Contract, and that all materials used in connection with the Contract Work were free of defects. In the event that, after due inspection, the Contractor rejects any materials and/or any work used in connection with the Contract Work, whether worked or unworked, or any Contract Work performed by the Subcontractor, as defective or not conforming in any way failing to the plans, specifications or scope of the Contract Work, whether such defective work or materials are discovered before or after the completion of the Contract Work (the "Contract Completion Date"), Subcontractor agrees promptly to repair or replace all such defective work or materials and to

correct the Contract Work and all other work damaged by the removal and replacement of such defective work or materials at no expense to the Contractor, upon demand, during the longer of the period of one year after the Contract Completion Date or the period of time generally accepted within the industry as the reasonable life of such work or materials commencing on the Contract Completion Date.

5. If Subcontractor fails promptly to repair or replace any such defects which were or could have been caused by the Subcontractor's failure to perform the Contract Work strictly in accordance with the Contract and in a good and workmanlike manner, the Responsible Parties (which shall be each jointly and severally liable) hereby agrees to reimburse the Contractor for all costs and expenses incurred by the Contractor, including its agents and Subcontractors, including labor, materials, and all expenses and fees (including legal fees and expenses) reasonably flowing from any delay or damage caused by the defective work or materials ("Contractor's Costs") in connection with the Subcontractor's obligations related to the Contract Work and the Premises. In the event that the faulty or defective work or materials were or could have been caused by the Subcontractor along with any other party or parties, the Responsible Parties agree that the Responsible Parties shall be jointly and severally liable with such other party or parties for the repair or replacement of all such work and for the reimbursement to the Contractor for all Contractor's Costs.

By: CONTRACTOR

Sign Here: \_\_\_\_\_

Print: \_\_\_\_\_

By: SUBCONTRACTOR

Sign Here: \_\_\_\_\_

Print: \_\_\_\_\_

By: GUARANTOR

Sign Here: \_\_\_\_\_

Print: \_\_\_\_\_