



Date Issued: May 19, 2009

Revision Date: August 27, 2009

THIS AGREEMENT is made with effect as of _____ (the "Effective Date").

BETWEEN

EIFS QUALITY ASSURANCE PROGRAM INC.

("EQI")

and

CONTRACTOR: Company Full Legal Name: _____
 Doing Business As/Trade Name: _____
 Address: _____
 City, Prov, Postal Code: _____
 Attn: Contact: _____

("Contractor Licensee")

WHEREAS EQI is a body dedicated to setting high standards for on-going professional practice in the exterior insulation finish system (EIFS) industry through the Quality Assurance Program (QAP) and licenses qualifying manufacturers, contractors, mechanics and auditors to use its Certification Mark. Use of the Certification Mark by a Contractor Licensee symbolizes that such parties have met EQI's standards of practice and regulation;

AND WHEREAS EQI has agreed to grant a non-exclusive license to the Contractor Licensee to use its Certification Mark on the terms and conditions set out in the this Agreement;

NOW THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

1. DEFINITIONS.

The following terms shall have the meanings set forth below:

- 1.1 **"Certification Mark"** means any trademark(s) or certification mark(s) used, applied for or registered by EQI in accordance with the provisions of the Trademarks Act of Canada (or similar or successor legislation) which EQI expressly confirms in writing to the Contractor Licensee as falling within the definition of Certification Mark under this Agreement. The Certification Mark includes "EIFS Quality Assurance Program Inc. & Design", Application No. TMA683,873 set forth in Schedule "A" hereto and any subsequent registration thereof, unless EQI advises the Contractor Licensee to the contrary.



- 1.2 **“Agreement”** All other definitions that are applicable to this agreement are found in the QAP program manual, that may be amended as directed by EQI from time to time. A copy of the QAP Manual is set forth in Schedule “B” as an exhibit to this Agreement and is incorporated by reference.
- 1.3 **"Term"** has the meaning set forth in paragraph 2.1 below.
- 1.4 **“Effective Date”** is when the Contractor Licensee has successfully completed the licensing process, as outlined in the Quality Assurance Program manual.

2. GRANT AND TERM

2.1 This Agreement shall commence on the Effective Date and shall continue until terminated by the parties in accordance with paragraph 7 hereof (the "Term").

2.2 Subject to the provisions of this Agreement and as long as the Contractor Licensee is not in default hereunder, EQI hereby grants to the Contractor Licensee the non-exclusive right, license and privilege to use the Certification Mark in Canada during the Term in the manner and for the purposes set forth in this Agreement.

2.3 The Contractor Licensee shall not be entitled to sub-license to third parties any of its rights or obligations under this Agreement.

2.4 The parties each hereby confirm to the other that it has full power and authority to enter into this Agreement, and that in doing so (or carrying out any of its obligations hereunder) it is not violating the rights of any third party or any agreement by which it is bound.

3. CONTRACTOR LICENSEE

True and Accurate Representations

3.1 The Contractor Licensee represents and warrants that all information given to EQI (or its employees, agents or designates) under this Agreement or in connection with the QAP, is true and correct, and acknowledges and agrees that EQI is relying on such representations and warranties in entering into this Agreement.

Adoption of QAP

3.2 Subject to the terms and conditions set out herein, the Contractor Licensee hereby agrees that it shall comply with the relevant requirements of the QAP.

3.3 The Contractor Licensee acknowledges and agrees that the QAP is a proprietary program of EQI.



Compliance with Obligations

3.4 During the Term of this Agreement, the Contractor Licensee agrees that it shall pay a set contractor licensing fee on a yearly basis without pro-ration, as set by EQI, notice of same being mailed to all Licensed Contractors annually.

3.5 The Contractor Licensee shall, at all times during the Term, comply with all standards, specifications and requirements necessary to meet the then-current licensing requirements for Licensed Contractors under the QAP. The Contractor Licensee acknowledges and agrees that the QAP (including without limitation, the systems, programs, standards, requirements and methods relating thereto) may be amended from time to time, and EQI shall provide the Contractor Licensee with notice in writing of any such amendments. The Contractor Licensee shall forthwith comply with any such amendments.

Quality Control

3.6 The Contractor Licensee will only install EIFS materials which meet the CAN/ULC S716.1 Material Standard (or amendments thereto or any successor or replacement standard thereof) or which have received a evaluation number or listing to any building which falls under the authority of the local building code only for any QAP specified project where the contract documents requires the QAP.

3.7 The Contractor Licensee shall meet all installation requirements as set forth by the Licensed Manufacturer.

3.8 The Contractor Licensee will promote and install Evaluated Systems in a professional manner. The Contractor Licensee shall not alter an Evaluated System in any way.

3.9 The Contractor Licensee shall use Licensed Mechanics for the installation of Evaluated Systems. There shall be at least one Level 4 Licensed Mechanic on each job site at all times.

3.10 The Contractor Licensee shall (and shall require that all of its mechanics, including Licensed Mechanics to) complete all requisite inspections and Daily Work Records on a daily basis in accordance with the QAP. The Contractor Licensee shall supply Licensed Mechanics with documentation required. The Contractor Licensee shall review same daily for quality assurance purposes and shall submit all Daily Work Records to EQI on a monthly basis or upon request by EQI. The Contractor Licensee shall retain all Daily Work Records for a period of no less than seven (7) years. Should such a request be made, the Contractor Licensee agrees to make Daily Work Records available to EQI within normal business hours and shall provide a copy of same by no later than five (5) days after receiving written notice from EQI.

3.11 The Contractor Licensee agrees and consents to EQI conducting any audit and/or reasonable investigation to investigate the Contractor Licensee's compliance with this Agreement.



3.12 Should EQI identify any deficiencies with the work carried out by the Licensed Contractor, its employees or agents, the Licensed Contractor agrees to correct all such deficiencies to the satisfaction of EQI forthwith. The Contractor Licensee shall be responsible for any additional audit costs of EQI to confirm that any such deficiencies have been corrected, including where such audits have been requested by third parties (for example owners, architects etc.).

Calculation of Fees

3.13 The Contractor Licensee shall report all QAP specified projects to EQI in writing, before the project commences. The Licensed Contractor agrees to notify EQI of the project schedule and appropriate details on any such projects.

3.14 The Licensed Contractor agrees to pay the required fees to EQI as outlined by EQI from time to time where directed to do so. The Licensed Contractor agrees that his/her/its license can be suspended and/or terminated if any invoices are outstanding past 60 days from the date of the invoice.

3.15 In accordance with the terms of the QAP, the Contractor Licensee shall provide a minimum five- year warranty of the installation of EIFS. Terms and conditions of such warranty are to be provided by the Contractor Licensee to purchasers at the time of sale. EQI shall be provided with a copy of the Contractor Licensee's standard warranty.

3.16 The Contractor Licensee shall forthwith, upon request from EQI, provide such further or other information as EQI may require from time to time with respect to the Contractor Licensee, its products, processes, procedures, warranty programs, or otherwise (including access to its QAP related books and records) as reasonably required to assess compliance with this Agreement (including without limitation with respect to the QAP). EQI shall also have a right of access to any premises, facilities or job sites of the Contractor Licensee during normal business hours to conduct any audit or review with respect to compliance with the provisions of this Agreement or the QAP. The Contractor Licensee shall cooperate fully with EQI, in good faith, with respect to any such assessment.

Additional Requirements - Conduct

3.17 The Contractor Licensee will notify EQI of any breaches to this Agreement.

3.18 The Contractor Licensee will not provide or otherwise communicate, directly or indirectly, to any third parties any information or make any statements which have specifically been communicated to the Contractor Licensee by EQI verbally or in writing, as being incorrect or not meeting the standards of professional conduct set or determined by EQI.



Regulatory Requirements

3.19 The Contractor Licensee shall be responsible for obtaining all licenses, permits, consents and approvals which are required by all applicable governmental or other regulatory authorities with respect to the its business, products or the subject matter of this Agreement, including without limitation the operation of its business or in connection with the sale of its materials, products or services. The Contractor Licensee shall provide EQI with copies of all such consents or approvals when requested.

4. CONTRACTOR LICENSEE'S USE OF CERTIFICATION MARK

4.1 The Contractor Licensee agrees to use no other certification mark other than the Certification Mark to identify themselves as a Licensed Contractor. The Contractor Licensee will use the Certification Mark only in the manner expressly approved by EQI and only in association with the general class of services carried on by the Contractor Licensee for the installation of EIFS materials.

4.2 The Contractor Licensee shall provide EQI with sample copies of all materials, documents, packaging, advertisements and otherwise bearing the Certification Mark, in advance of any use or distribution of same. EQI shall provide comments, if any, within ten business days following submission by Contractor Licensee of such sample materials for review. If no response is received from EQI, such failure of EQI to comment shall be interpreted as consent for such use. Should EQI object to any uses of the Certification Mark, the Contractor Licensee shall immediately cease use of same in accordance with EQI's demand. The Contractor Licensee will use the Certification Mark only in the manner authorized under this Agreement and only in association with QAP projects.

4.3 The Contractor Licensee agrees not to use the Certification Mark in any manner calculated to represent that the Contractor Licensee is the owner of such mark or that the Contractor Licensee is anything other than a licensed user of the mark. The Contractor Licensee further acknowledges that the Certification Mark is the sole and exclusive property of EQI, its successors and assigns, and agrees that during the term of this Agreement and thereafter it will not dispute or contest the validity or enforceability of the Certification Mark, including ,without limitation, any amendments thereto or future marks forming part of the Certification Mark, nor counsel or procure or assist anyone else to do the same, directly or indirectly. The Contractor Licensee will use the Certification Mark only in the manner authorized under this Agreement and only in association with evaluated systems.

4.4 The Contractor Licensee agrees that any and all rights that may be acquired by the use of the Certification Mark by Licensee shall ensure to the sole benefit of EQI as licensor.

4.5 During the term, the Contractor Licensee agrees to forthwith provide all necessary information and to execute all papers reasonably requested by EQI to affect the registration, maintenance or defense of the Certification Mark or to renew same. This obligation shall survive any termination or expiration of this Agreement.



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4.6 The Contractor Licensee shall immediately notify EQI of any apparent infringement or challenge to EQI's Certification Mark. The Contractor Licensee shall cooperate and assist EQI upon reasonable request (not including financial) with respect to the prosecution of any litigation relating to such infringement or the challenging of the Certification Mark. EQI shall, in its discretion, make any and all decisions with respect to such litigation (or the settlement of any disputes) and EQI shall be solely entitled to any awards that may result on account of such litigation or settlement.

OWNERSHIP AND MARKING

5.1 The Contractor Licensee acquires no right, title or interest in or to the Certification Marks except as expressly provided in this Agreement. The Contractor Licensee shall at all times observe the requirements with respect to trade-mark notices and other forms of marking with respect to the Certification Mark as EQI may from time to time, in its sole discretion, direct and communicate to the Contractor Licensee. The Contractor Licensee shall, when using the Certification Mark, so describe the Certification Mark to indicate clearly that the Certification Mark is owned by EQI and that it is being used by the Contractor Licensee under license.

5.2 The Contractor Licensee shall ensure that no cheques, letterhead, contractual documents, or writings of any nature, directly or indirectly state that EQI is responsible or liable in any way for the obligations or responsibilities of the Contractor Licensee.

6. EQI'S OBLIGATIONS

6.1 EQI shall fulfill all of its obligations as set forth in the QAP Manual during the Term. These include, but are not limited to providing continuing education opportunities and updates to the QAP Manual to Contractors, certifying mechanics according to the mechanics technical certification scheme, conducting annual audits, reviewing requests for reinstatement following suspension or cancellation of licenses, investigating the merits of requests for review, and appointing independent commissioners upon receipt of a notice of appeal.

6.2 Provided that the Contractor Licensee has fulfilled all of the pre-licensing requirements set forth in Section 7.4 of the QAP Manual, EQI will provide the Contractor Licensee with a certificate that indicate that the Contractor Licensee has meet all the requirements of the QAP and that mechanics of the Contractor Licensee have been certified according to the mechanics certification scheme.

6.3 Provided that the Contractor Licensee continues to fulfill all of the requirements after obtaining the license set forth in the QAP Manual and all fees have been paid, EQI will annually renew the certificate

6.4 EQI shall respond to any and all inquiries from Licensed Contractors, Licensed Mechanics and the public and inform them that the Contractors Licensee is in good standing during the Term.



BREACH AND TERMINATION

7.1 This Agreement may be terminated by the Contractor Licensee at any time by providing EQI with four (4) months advance written notice of its intention to terminate its participation in the QAP.

7.2 EQI may suspend or cancel the license of a Contractor Licensee that ceases to meet the requirements of the QAP Manual. The reasons for suspension or cancellation shall be clearly communicated to the Contractor Licensee. The license may, in the sole and absolute discretion of EQI, be suspended or cancelled for not meeting the requirements of the QAP, violating this Agreement or failing to consistently produce systems that meet the requirements of the section 6.0 of the QAP program manual.

7.3 The confidentiality requirements of Section 3.9 and the obligations set forth in Section 4 shall survive termination of this Agreement.

7.4 In addition, EQI may terminate this Agreement at any time following the occurrence and continuation of an event of default as defined in this Agreement.

7.5 Contractor Licensee shall be deemed to be in default under this Agreement and EQI may, at its option, terminate this Agreement if:

- (a) the Contractor Licensee is in default of any of its obligations under this Agreement or the applicable licensing standards under the QAP;
- (b) the Contractor Licensee makes a general assignment for the benefit of creditors or a proposal arrangement under the *Bankruptcy and Insolvency Act* (Canada) or any successor legislation (the "Act"), if a petition is filed against the Contractor Licensee under the Act, if Licensee shall be declared or adjudicated bankrupt, if a liquidator, trustee in bankruptcy, custodian, receiver, r and manager or any other officer with similar powers shall be appointed of or for the Contractor Licensee or if the Contractor Licensee shall commit any act of bankruptcy or insolvency or consents to the institution of such appointment or proceedings or admits in writing its inability to pay debts as they become due except to the extent that EQI's right to terminate may be limited by the Act;
- (c) the Contractor Licensee transfers or attempts to transfer this Agreement or any rights hereunder to any person without the prior written consent of EQI;

7.6 Should EQI in its sole and absolute discretion elect to impose a suspension rather than a termination, giving the Contractor Licensee an opportunity to cure the default, it shall notify the Contractor Licensee in writing of the default, the suspension of license, the default to be remedied and the time period granted to the Contractor Licensee to correct any such default, failing which EQI may, in its discretion, declare an Event of Default hereunder, and terminate this Agreement, and Contractor License relating to the QAP. Should a suspension be imposed, any fees due and payable to EQI must be paid in full prior to the re-instatement of any suspended Contractor Licensee.



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7.7 In the event of a suspension, or should this Agreement be terminated for any reason, the Contractor Licensee shall immediately:

- (a) cease to use, directly or indirectly, the Certification Mark(s) and the QAP, in any manner and for any purpose whatsoever;
- (b) remove the Certification Mark(s) and any reference to the QAP from any and all materials produced on or after the date of suspension, including without limitation packaging, signs and advertisements, promotional materials under its custody or control upon which the Certification Marks or reference to the QAP appears, and shall evidence same to EQI upon request;
- (c) immediately pay to EQI all fees, amounts and other charges as are or have become due and payable; and
- (d) immediately cease to and thereafter not, directly or indirectly, hold itself out as a licensee of EQI.

7.8 The Contractor Licensee agrees that the requirements set forth in this Article are reasonable and necessary to protect the integrity of the Certification Mark and that these requirements are enforceable by injunction, including without limitation by interlocutory injunction, by any court of competent jurisdiction in the province of Ontario.

8. INDEMNITY AND RELEASE

8.1 The Contractor Licensee acknowledges that neither EQI, nor its directors, officers, agents, employees, shall be responsible to the Contractor Licensee for any loss, cost, damage, liability or claim howsoever occasioned, whether by act, omission, failure to act, negligence, or willful conduct, in respect of the systems of the Contractor Licensee, use and delivery of the QAP in connection therewith, and the Contractor Licensee shall hold EQI, its directors, officers, agents, employees harmless from same.

8.2 Without limiting the generality of the foregoing, EQI shall not be obligated or liable for any injury or death of any person or damage to any property caused by or relating to the systems, product instructions, or the Contractor Licensee's actions, omissions, failures to act, negligence or willful conduct, nor for any liability of the Contractor Licensee and undertakes to hold appropriate and adequate insurance to cover its liability.



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9. GENERAL

9.1 The Contractor Licensee is and will at all times remain an independent contractor and is not and shall not represent itself to be the agent, joint venturer or partner of EQI. No representations will be made or acts taken by the Contractor Licensee which could establish any apparent relationship of agency, joint venture or partnership and EQI shall not be bound in any manner whatsoever by any agreements, warranties or representations made by the Contractor Licensee to any other person or with respect to any other action of the Contractor Licensee.

9.2 This Agreement shall be interpreted and construed in accordance with the laws of the Province of Ontario applicable hereto and the parties irrevocably attorn to the jurisdiction of the Courts of Ontario with respect to any dispute relating hereto.

9.3 All notices under this Agreement shall be in writing and shall be sent by prepaid courier, certified post, facsimile or served personally. If sent by courier or certified post, service shall be deemed to have been made on the second day following proper delivery of the notice by the transmitting party to the courier or Canada Post. Any Notice transmitted by facsimile with receipt confirmation shall be deemed given and received on the first business day after its transmission. Unless Contractor Licensee is notified of a change in writing, EQI's address for the purpose of notice is: 410 - 250 McDermot Avenue, Winnipeg, Manitoba R3B 0S5, Fax No. (204) 956-5819; for the Contractor Licensee, it will be the address listed at the top of this document, unless EQI is otherwise notified in writing.

9.4 This Agreement represents the entire Agreement between the parties and no representation, warrant or condition shall apply hereto unless expressed herein in writing. This Agreement may not be amended except by written agreement executed by the parties.

9.5 In this Agreement, the masculine singular includes the feminine singular, the neuter and all plural forms thereof.

9.6 The headings herein are inserted for convenience of reference only and do not affect the interpretation of any provision of this Agreement.

9.7 The failure of either party to exercise any right, power or option given hereunder or to insist upon the strict compliance with the terms and conditions hereof by the Contractor Licensee shall not constitute a waiver either one-time or ongoing of the terms and conditions of this Agreement with respect to that or any other or subsequent breach thereof nor a waiver by EQI of its rights at any time thereafter to require strict compliance with all terms and conditions hereof including the terms or conditions with respect to which the Contractor Licensee has failed to exercise such right, power or option.

9.8 If any provision of this Agreement is declared invalid, illegal, or unenforceable by a court of competent jurisdiction such provision shall be severed from the Agreement and all other provisions of the Agreement shall remain in full force and effect.



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9.9 Time is of the essence of this Agreement

9.10 This Agreement may be executed by the parties in separate counterparts, each of which will be deemed to constitute an original, but all of which together will constitute one and the same Agreement. This Agreement will be considered to be fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart. This Agreement and those contemplated herein may be executed and delivered by facsimile signatures and will be binding on all parties hereto as if executed by original signature and delivered personally.

9.11 This Agreement shall enure to the benefit of and be binding upon EQI and the Contractor Licensee and their respective successors and permitted assigns. This Agreement contains the entire Agreement between the parties in respect of its subject matter and supersedes all earlier agreements, understandings, negotiations and discussions, whether verbal or written. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.

THE PARTIES HAVE DULY EXECUTED THIS AGREEMENT on the date first written above.

EIFS QUALITY ASSURANCE PROGRAM INC.

Per: _____
 Authorized Signing Officer


CONTRACTOR

[Full Legal Name]

Per: _____
 Authorized Signing Officer

SCHEDULE "A"



EIFS Quality Assurance Program Inc. (EQI) 	EQI Contractor Licensing Agreement First Edition		Ref./Title
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SCHEDULE "B"

EIFS Quality Assurance Program Manual