



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

MECHANIC

Full Legal Name: _____

Address: _____

City, Prov, Postal Code: _____

(hereinafter referred to as "Mechanic Licensee")

WHEREAS EQI is a body dedicated to setting high standards for on-going professional practice in the exterior insulation finish system (EIFS) industry as monitored, promoted and governed through EQI through the EQI Quality Assurance Program (QAP) and licenses qualifying manufacturers, contractors, auditors and mechanics to use EQI's proprietary Certification Mark (as defined below in Article 1.1 of this agreement (the "Agreement")).

AND WHEREAS the use of the EQI Certification Mark by a Mechanic Licensee symbolizes that the Mechanic Licensee, once licensed by EQI as a Licensed mechanic as defined in the EQI QAP, manual has met EQI's standards of practice and regulation under the QAP and has continued so to do under the QAP program requirements;

AND WHEREAS EQI has agreed to grant a non-exclusive license to the Mechanic 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 Mechanic Licensee as falling within the definition of Certification Mark under this Agreement. The



Certification Mark includes the "EIFS Quality Assurance Program Inc. & Design", registered under Application No. TMA683,873 and set forth in Schedule "A" to this Agreement and any subsequent registration of the Certification Mark, unless EQI advises the Mechanic Licensee to the contrary.

- 1.2 "Term" has the meaning set forth in paragraph 2.1 below.
- 1.3 "Effective Date" is the date when the Mechanic Licensee has been licensed by EQI after having successfully completed the licensing process, as outlined in the Quality Assurance Program manual.
- 1.4 **Other Definitions:** 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 in the sole and absolute discretion of EQI.

2. GRANT AND TERM

- 2.1 This Agreement shall commence on the Effective Date and shall continue until terminated by either of the parties.
- 2.2 EQI hereby grants to the Mechanic Licensee the non-exclusive right, licence and privilege to use the Certification Mark in Canada subject to any termination of that non-exclusive right by EQI.

3. MECHANIC LICENSEE

- 3.1 The Mechanic Licensee represents and warrants that all information they have given to EQI is true and correct, and acknowledges and agrees that EQI is relying on such representations and warranties in deciding whether to enter into this Agreement and to license the Mechanic Licensee under the EQI QAP program.
- 3.2 Subject to the terms and conditions set out in this Agreement, the Mechanic Licensee hereby agrees that it shall comply with the relevant requirements of the EIFS Quality Assurance Program and the relevant QAP governing documents including, but not limited to, the EQI QAP Program Manual.
- 3.4 During the Term of this Agreement, the Mechanic Licensee agrees that he/she/it shall pay, or have paid on his/her behalf, a licensing fee, on a yearly basis, without pro-ration, as set by EQI.

4. MECHANIC LICENSEE'S USE OF CERTIFICATION MARK

- 4.1 During the Term of this Agreement, the Mechanic Licensee agrees to restrict its use of the Certification Mark to identify itself as a Mechanic Licensee under the EQI Quality Assurance Program. The Mechanic Licensee shall not otherwise use the Certification Mark, for any other purpose including portraying himself as a Licensed Contractor or representing any ownership or other rights to the Certification Mark.



5. EQI'S OBLIGATIONS

5.1 EQI shall fulfill all of its obligations as set forth in the QAP Manual during the Term of this Agreement.

5.2 The Mechanic Licensee agrees and accepts that EQI shall respond to any and all inquiries regarding the status of the Mechanic Licensee under the EQI QAP program as being "in good standing" (or not) or "licensed" (or not) (the "Status") and will inform such parties, as the case may be, of that Status at the time of the inquiry.

6. BREACH AND TERMINATION

6.1 EQI may suspend or cancel the license of a Mechanic Licensee that ceases to meet the requirements of the QAP program as governed and directed in the QAP Manual.

7. INDEMNITY AND RELEASE

7.1 The Mechanic Licensee acknowledges that neither EQI, nor its directors, officers, agents, employees, shall be responsible to the Mechanic 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 installation by the Mechanic Licensee of any EIFS system, use and delivery of the QAP in connection therewith, and the Mechanic Licensee hereby expressly agrees that the mechanic Licensee shall hold EQI, its directors, officers, agents, employees fully and completely harmless from same.

7.2 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 Mechanic Licensee's installation of an EIFS system, or the Mechanic Licensee's actions, omissions, failures to act, negligence or willful conduct, nor for any liability of the Mechanic Licensee whatsoever..

8. GENERAL

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

8.2 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 Mechanic Licensee is notified of a change in writing, EQI's address for the purpose of notice



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is: 410 - 250 McDermot Avenue, Winnipeg, Manitoba R3B 0S5, Fax No. (204) 956-5819; for the Mechanic Licensee, it will be the address listed at the top of this document, unless EQI is otherwise notified in writing, in advance, of a change of address for the Mechanic Licensee.

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

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

8.5 The failure of EQI to exercise any right, power or option given under this Agreement or to insist upon the strict compliance with the terms and conditions of this Agreement by the Mechanic Licensee shall not constitute a waiver, either one-time, singular or ongoing, by EQI, 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 of this Agreement and the EQI QAP program including any terms or conditions the Mechanic Licensee has failed to complete including the failure to exercise any such right, power or option under this Agreement.

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

8.7 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 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.

8.8 This Agreement shall enure to the benefit of and be binding upon EQI and is binding on the Mechanic Licensee and their officers, directors, shareholders (where applicable) as well as their 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.



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

**EIFS QUALITY ASSURANCE PROGRAM
INC.(EQI)**

Per: _____

MECHANIC

[Full Legal Name]

Per: _____

SCHEDULE "A"

