



### **Certified Licensed Applicator Agreement**

This Agreement is made between Progressive Materials, LLC (PM) located at 540 Central Court, New Albany, IN 47150 and

WHEREAS, PM has developed and markets a line of roofing materials which are sold under PM's registered trademark, PM and has elected to market such roofing materials through a network of Authorized Distributors and Licensed Applicators, and

WHEREAS, PM has invested many years of marketing and technical effort and significant financial resources into developing a product line and Licensed Applicator network which are recognized throughout the roofing industry for high quality and strong warranty support, and

WHEREAS, PM believes that a critical part of the marketing of such roofing materials and systems is the reputation for quality, technical capability, and financial stability of the Licensed Applicators, and

WHEREAS, Applicator represents that it possesses the necessary dedication to quality, the skilled application personnel, and the financial stability to make a positive contribution to PM's Licensed Applicator Program.

WHEREAS, PM is willing to appoint Applicator as a PM Roof System Licensed Applicator.

NOW THEREFORE, the Parties agree as follows:

**1. APPOINTMENT**

PM appoints Applicator as a PM Silicone/Polyurethane Foam Roof System Licensed Applicator. This appointment is specific to PM's Roofing Materials and does not confer any rights whatsoever to any other products of PM or any affiliated company. This appointment is specific to Applicator's branch or branches identified above. Any other locations must be separately qualified and either added to this Agreement or covered by a separate agreement.

**2. ACCEPTANCE**

Applicator accepts the appointment as a Licensed Applicator and, in addition to its other obligations under this Agreement, agrees to use its best efforts to promote the use of PM Roofing Materials.

**3. NON-EXCLUSIVE**

The appointment of Applicator as a Licensed Applicator is non-exclusive and shall not in any manner restrict PM's right to appoint other Licensed Applicators as it sees fit.

**4. TERM**

This Agreement shall enter into effect on \_\_\_\_\_ and, unless otherwise terminated under the terms of this Agreement, shall terminate on \_\_\_\_\_.

## 5. PM OBLIGATIONS

PM agrees:

- a. To assist Applicator in the promotion of the PM Silicone/Polyurethane Foam Roof System ("Roof System") and Roofing Materials.
- b. To promote the Roof System and the Licensed Applicator Program.
- c. To permit Applicator to identify itself on letterheads, signs and in advertising as a PM Roof System Licensed Applicator.
- d. To furnish technical assistance and training programs and make available to Applicator process and application recommendations.
- e. To furnish Applicators reasonable quantities of advertising/promotional materials.
- f. Subject to Applicator's compliance with all terms and conditions, to provide Applicator's customers with PM's Roof System Warranties.

## 6. APPLICATOR'S OBLIGATIONS

Applicator agrees:

- a. To actively solicit business for and promote the use of the Roof System and Roofing Materials.
- b. To only apply the Roof System and Roofing Materials in strict accordance with PM's application specifications.
- c. To fully complete and submit in a timely manner all forms and documentation required by PM in connection with PM's Roof System Warranty Program.
- d. To perform in full and in a timely manner all obligations which are contractually assumed by Applicator in connection with PM's Roof System Warranty Program, including the obligation to make all repairs required for the issuance and maintenance of the warranties and the obligation to pay PM's Authorized Distributors, in full and without setoff, in accordance with agreed upon payment terms (or if a direct sale, payment to PM).
- e. To conduct its business in a lawful and ethical manner, to maintain a satisfactory credit rating, and to do nothing which would in any way damage the reputation of PM, other Licensed Applicators or the Licensed Applicator Program.
- f. To attend and participate in training programs offered by PM as they relate to the Roof System.
- g. To negotiate annual Goals and Objectives with PM and utilize its best efforts to meet such Goals and Objectives.
- h. To keep a daily log of job progress and retain a copy of this log for a minimum of two years following completion of each job, and to make such log available to PM upon request on warranted projects.
- i. To supply PM with lot numbers of Roof Coating material used on the job site on warranted projects.
- j. To maintain sufficient liability insurance to cover all property damage or personal injury which may arise out of any work it performs and to supply PM with certificates or other evidence of insurance upon request.
- k. To provide, on request by PM, financial statements and other financial information reasonably necessary to allow PM to assess an Applicator's financial position and stability.

## 7. INSPECTIONS AND PASS/FAIL STATUS FOR WARRANTY ISSUANCE

It is understood and agreed that all warranty jobs may be inspected by an independent testing firm or other PM Representative within 30 days of job completion and that PM will issue a pass/fail status for warranty issuance based on these reports.

#### 8. RE-INSPECTIONS AND WARRANTY REPAIRS

Any warranty job receiving a fail status must be brought up to warranty specifications by Applicator and re-inspected within 30 days before a PM Roof Warranty will be issued. The cost of any re-inspection is the sole responsibility of Applicator. If the roof does not meet all warranty specifications within 6 months from the date of job completion, the warranty cannot be issued, and any warranty fees collected will be refunded to the Licensed Applicator less any cost of inspections.

##### Full System Warranty Repairs:

- a. During the first 30 months of a 10-Year Full System Warranty, 15-Year Full System Warranty or a 20-Year Full System Warranty, from date of PM's signature that such warranty is in force, Licensed Applicator shall, upon notification from PM, repair any damage, leaks, or potential leaks covered by the Warranty, or which in the sole opinion of PM could lead to a Warranty claim by Owner. PM shall provide, at its own expense, all silicone material required for the repair, and Approved Applicator shall provide all labor and non-silicone materials for the repair. If Approved Applicator fails to perform the required repairs within 45 days of written notification from PM, PM may make such repairs itself or have them performed by another Licensed Applicator. Licensed Applicator agrees to reimburse PM in full for the cost of such repairs plus 25% for overhead and services. Failure of Licensed Applicator to pay such charges when due shall be grounds for immediate termination of the Licensed Applicator Agreement, and PM shall be entitled to recover all costs of collection, including full attorneys' fees and expenses.
- b. During the balance of the Warranty period, PM shall be responsible for the full cost of any warranty repairs.

#### 9. CREDIT

PM reserves the right to terminate this Agreement on notice in the event that Applicator shall file for bankruptcy (whether it be voluntary or involuntary), have a receiver appointed, become delinquent in its payments to any Authorized Distributor or PM, or commit any other act which shall cause PM to question the financial stability of Applicator.

#### 10. TRADEMARKS

Applicator shall not use directly or indirectly, in whole or in part, PM's any trademark or name that is now or hereafter may be owned by PM, except in the manner and to the extent that PM gives its prior written consent. Upon termination of this Agreement, Applicator agrees that it will immediately discontinue use of any such trademarks or names. Applicator further agrees that, during and after the term of this Agreement, it will neither assert, acquire, nor attempt to acquire any right or interest in or to any trademarks or trade names owned by PM.

#### 11. VERIFICATION OF PERFORMANCE

Applicator understands and agrees that PM's reputation for quality products and performance is of paramount importance to PM. Accordingly, Applicator agrees that it shall arrange for PM to have free access to any warranted construction sites on which it is applying PM Roofing Materials for purposes of inspection of Applicator's work. If PM, in its sole discretion, determines that Applicator is not performing in accordance with PM's Application Specifications, PM shall notify Applicator in

writing and Applicator shall correct such deficiencies to PM's satisfaction within 10 days of receipt of notice. Failure of Applicator to correct such deficiencies within the 10-day period shall relieve PM of any obligation to provide Roof System Warranties on the deficient job or any other uncompleted job.

#### 12. REPRESENTATIONS AND WARRANTIES

Applicator agrees to make no warranties or representations concerning PM's Roof System or Roofing Materials beyond those given in writing by PM and to hold PM harmless from any and all damages or expenses which PM may incur as a result of unauthorized Applicator warranties or representations.

#### 13. INDEPENDENT CONTRACTOR

It is understood and agreed that Applicator is an independent contractor and not an agent or employee of PM. Further, it is understood and agreed that Applicator may not commit PM in any manner and may not vary the terms of PM's warranties or other promotional or technical materials.

#### 14. NON-ASSIGNMENT

Neither this Agreement nor any of the rights or obligations of the Agreement may be assigned, delegated, or subcontracted by Applicator without the prior written consent of PM. It is understood and agreed that, should Applicator violate this provision, PM shall have the right to refuse to issue any warranty as to the work in question, exercise its right to terminate this Agreement, and pursue any remedy it may have in law or equity. These remedies shall be cumulative and non-exclusive.

It is further agreed and understood that should there be a change of ownership of Applicator or if top management or technical personnel leave the employ of Applicator, that a letter shall be sent to PM within 30 days of the change, explaining the change and requesting requalification as a Licensed Applicator.

#### 15. TERMINATION

Either Party shall have the right to terminate this Agreement on 10 days written notice if the other defaults in any of its obligations under this Agreement and fails to correct the default, to the satisfaction of the notifying Party, within 10 days of the date of written notice.

Either Party may terminate this Agreement without cause at any time by issuing 30 days written notice of intent to terminate.

#### 16. SURVIVAL OF WARRANTY OBLIGATIONS

It is understood and agreed that the obligations and duties of the Parties under the terms of any Roof System Warranty shall survive the termination or expiration of this Agreement.

#### 17. INDIANA LAW

This Agreement shall be subject to and shall be interpreted in accordance with the laws of the State of Indiana.

#### 18. COMPLETE AGREEMENT

This document constitutes the entire agreement between the Parties with respect to the subject matter and may be altered or modified only by an instrument in writing signed by both Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers or representatives on the dates indicated below.

Progressive Materials, LLC  
540 Central Court  
New Albany, IN 47150

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

Name: \_\_\_\_\_

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

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

\_\_\_\_\_  
Applicator: Company Name

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

\_\_\_\_\_  
City, State ZIP

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

Name: \_\_\_\_\_

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

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

**MINIMUM PERFORMANCE REQUIREMENTS FOR  
PROGRESSIVE MATERIALS, LLC ROOF SYSTEM  
LICENSED APPLICATORS**

It is agreed that all of the following must be completed in order to achieve satisfactory performance as a Licensed Applicator of the PM Roof System. These performance criteria will be reviewed annually by appropriate representatives of PM and the Licensed Applicator. Failure to meet any of these performance requirements may be considered just cause for termination by PM.

1. Comply with the terms and conditions stipulated in the PM Roof System Licensed Applicator Agreement.
2. A minimum of at least 5 warranted jobs for PM must be completed; and a minimum of 5,000 gallons of silicone roof coating must be purchased per calendar year.
3. Perform all necessary warranty repairs, and repairs required for issuance of a PM warranty, within 45 days of written notification from PM.
4. Actively market and sell the PM Roof System.
5. Follow-up on PM and Distributor leads within one week of date of receipt.
6. Be available for joint sales calls with Distributor and/or PM field sales personnel.
7. Maintain a readily available and updated PM Roof System Case History file.
8. Be available for quarterly performance review sessions with a PM representative.

Applicator:

Progressive Materials, LLC

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date