

RESOLUTION NO. 106-21
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution Authorizing Cliff Castle Casino to Contract with Behmer Industries Inc. for the Casino Roofing Project

WHEREAS: The Yavapai-Apache Tribal Council (“Council”) is authorized to represent the Yavapai-Apache Nation (“Nation”) and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation (“Constitution”) as provided by Article V(a) of the Constitution; and

WHEREAS: The Council is authorized to “manage all tribal economic affairs and enterprises” and to “appropriate and regulate the use of tribal funds” as provided by Article V (i) and (k), respectively, of the Constitution; and

WHEREAS: The Nation owns and operates Cliff Castle Casino as a subordinate economic organization of the Nation and an important part of the Nation’s economy (the “Casino”); and

WHEREAS: The Council is responsible for approving Casino contracts that exceed \$100,000 as provided under Section 302 of the Cliff Castle Casino Business Code, Title 36; and

WHEREAS: The Casino building roof needs to be re-roofed (“Roofing Project”); and

WHEREAS: The Casino’s General Manager has recommended to the Council that the Casino contract with Behmer Industries, Inc. (dba, Behmer Roofing & Sheet Metal), to carry out the Roofing Project, as specified by the Nation in accordance with the terms and conditions of the Construction Contract between the Cliff Castle Casino and Behmer Industries, Inc., (“Contract”), a copy of which is attached to this Resolution as **Exhibit A** and incorporated herein by reference; and

WHEREAS: The Council has determined that authorizing the Casino to Contract with Behmer Industries, Inc. for the Roofing Project is in the best interests of the Nation.


NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby authorizes the Cliff Castle Casino to Contract with Behmer Industries, Inc., in accordance with the terms and conditions set out in the form of Contract attached to this Resolution as **Exhibit A** and which is incorporated into this resolution by reference.

BE IT FURTHER RESOLVED that the Council acknowledges that the Contract Sum under the Contract is \$238,750.00, which sum shall be paid from the Casino’s FY2021 Capital Improvements Budget as previously approved by the Council.

BE IT FINALLY RESOLVED that the Casino General Manager is hereby authorized to execute the above-referenced Contract on behalf of Cliff Castle Casino.

CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on June 10 2021, by a vote of 8 8 in favor, 0 opposed and 0 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.



Jon Huey, Chairman

ATTEST:

Karla Reimer
Karla Reimer, Council Secretary

Approved as to Form:



Office of the Attorney General

EXHIBIT A

**CONSTRUCTION CONTRACT
BETWEEN
CLIFF CASTLE CASINO HOTEL
AND
BEHMER INDUSTRIES, INC.**

FOR THE CLIFF CASTLE CASINO ROOFING PROJECT

June 10, 2021

**ROOFING CONTRACT
BETWEEN
CLIFF CASTLE CASINO HOTEL
AND
BEHMER INDUSTRIES, INC.**

FOR THE CLIFF CASTLE CASINO ROOFING PROJECT

**APPROVED BY YAVAPAI-APACHE NATION TRIBAL COUNCIL RESOLUTION NO.
106-2021, JUNE 10, 2021**

THIS CONTRACT (hereinafter "Contract") is by and between the Cliff Castle Casino Hotel, whose place of business is 555 Middle Verde Road, Camp Verde Arizona, 86322 (hereinafter "Casino"), and Behmer Industries, Inc, DBA Behmer Roofing & Sheet Metal, whose place of business is 8711 E. Pinnacle Peak Rd., #168, Scottsdale, Arizona 85255 (hereinafter "Contractor").

PROJECT DESCRIPTION: Provide all labor and Materials necessary for (a) preparing the existing roof surface for application of the new roofing material, and (b) installing Tropical Silicone Roof Coating over the existing membrane roof on the commercial building known as the Cliff Castle Casino ("Casino Roofing Project" or "Project")

PROJECT LOCATION: Cliff Castle Casino, 555 Middle Verde Road, Camp Verde, Arizona 86322.

CONTRACTOR AND CONTACT INFORMATION: Behmer Industries Inc. DBA Behmer Roofing & Sheet Metal, LLC, 8711 E. Pinnacle Peak Rd. #168, Scottsdale, Arizona, AZ-ROC License No. 200895 CR-42 Roofing, and No. 313817 – KB-1 Dual Building Contractor, Phone: 928-821-3633.

WHEREAS CASINO has determined to undertake the re-roofing of its Casino Commercial Building; and

WHEREAS Contractor has been selected by CASINO to provide all work needed for the Project as specified in this Contract; and

NOW THEREFORE, in consideration of the mutual covenants, Contracts and undertakings hereinafter set forth, CASINO and Contractor agree as follows:

**ARTICLE 1
THE CONTRACT DOCUMENTS**

- 1.1 The Contract Documents under this Contract consist of **this Contract and Contractor's Bid Documents** dated February 2, 2021, and **Schedules A, B, and C**, which are attached hereto, incorporated herein and made a part of this Contract, as well as all addenda and modifications to this Contract entered into between CASINO and Contractor and agreed upon by the parties under Article 7 of this Contract. These Contract Documents form the Contract and are as fully a part of this Contract as if attached to this Contract or fully set forth verbatim herein. Any inconsistency between this Contract and Schedules A, B, and

C shall be resolved exclusively by reference to this Contract.

A Modification is: (1) a written amendment to this Contract signed by both parties; (2) a Change Order; or (3) a Written Order for a Minor Change in the Work issued by CASINO under Article 7.

- 1.2 **Schedule A** sets forth a work plan and budget for the contract describing:
- (a) The type of work to be performed;
 - (b) The quantity of work to be performed;
 - (c) The unit cost for each type of work (if applicable);
 - (d) The maximum budget for work to be performed; and
 - (e) The schedule of payments to Contractor under this Contract
- 1.3 **Schedule B** consists of the **Roof Installation Instructions and Specifications** that the Contractor has fully examined and shall be relied on in completing the work to CASINO's satisfaction.
- 1.4 **Schedule C** sets forth the **Special Conditions** to this Contract (if any). The Warranty provided by Contractor and by the Roofing Manufacturer are incorporated into this Contract and are appended to Schedule C.
- 1.5 The parties intend that the Contract Documents include provisions for all labor, materials, and other items necessary for the execution and completion of the Work, and all terms and conditions of payment. The Contractor represents that it has carefully reviewed and examined all the Contract Documents and that any and all errors, omissions, ambiguities, and inconsistencies have been reported to CASINO in writing and resolved to Contractor's satisfaction.
- 1.6 Nothing contained in the Contract Documents shall create any contractual relationship between CASINO and any of Contractor's materialman, suppliers, subcontractors, or their agents and employees.
- 1.7 The Contractor accepts the relationship of trust and confidence established by this Contract and covenants with the Casino and undertakes to act as the Casino's Fiduciary in all matters related to the Project. The Contractor agrees to cooperate with the stated construction plans and utilize the Contractor's best skill, efforts and judgment in furthering the interests of the Casino; to furnish efficient business administration and supervision; to make best efforts to furnish at all times an adequate supply of workers and materials; and to perform the Work in the best way and most expeditious and economical manner consistent with the interests of the Casino.

ARTICLE 2

SCOPE OF WORK

- 2.1 General Description of Work. The Work to be provided by Contractor under this Contract includes all labor and materials to be incorporated into the Project as provided in the Contract Documents (the "Work") as follows: **In accordance with Schedule A, Contractor shall (a) prepare the existing roof surface for application of the new roofing material, and (b) install Tropical Silicone Roof Coating (Tropical Roofing**

Products – TPO/EPDM/SPF/PVC – 2.5G#924) over the existing membrane roof prepare the existing roof surface and then install Tropical Silicone Roof Coating over the existing membrane roof over the entire Casino building roof. See Schedule A for a full description of the Contractor's Work – "Option #3" under Contractor's Bid Documents.

- 2.2 The Work comprises the completed preparation of the casino roof as needed and installation of new roof coating material and related work required by the Contract Documents and includes all work specifically indicated by the Contract Documents, and all labor, materials and tools necessary to complete such work; and all materials and equipment incorporated or which may become incorporated into the Work.
- 2.3 General Contract Work. Contractor shall perform, arrange for, supervise, and manage the Work, and further agrees to perform such other work as may be requested or assigned by CASINO as follows:
- (a) to undertake direct responsibility for the performance of the Work and to complete all Work as specified or indicated in the Contract Documents; and
 - (b) to provide directly, through subcontractors, or as otherwise permitted by this Contract, all labor, materials, equipment, supervision, and do all things necessary to assure proper performance of the Work;
 - (c) to provide a skilled labor force trained in and capable of installing the roof in full compliance with the roofing manufacturer's recommended method of installation. **The Roofing Manufacturer's recommended method of installation, titled "Tropical Roofing Products -TPO/EPDM/SPF/PVC-2.5G#924" and "#9400 Eterna-Sil Premium Silicone Mastic – Technical Data Sheet," both of which are appended to Schedule B of this contract and are incorporated into this contract under Schedule B.**
 - (d) to provide for review and timely payment of subcontractors' and material suppliers' and other related invoices.
- 2.4 Additional Work. Additional Work includes all types of work not described in Schedule A. Contractor will undertake additional work only upon direction from CASINO. Additional Work must be authorized by CASINO in writing as provided by Article 7 of this Contract.
- 2.5 Contractor represents that it has inspected the Casino Roof and has acquainted itself with the site plan, labor, and materials required for the Work and that such plans, labor and materials are, or will be, available to Contractor when necessary for the performance of Contractor's Work.

ARTICLE 3 **CONTRACTOR'S DUTIES, RIGHTS, AND RESPONSIBILITIES**

- 3.1 Contractor's principal contact information for the Project is:
- (a) Principal Contact: Jeff Cary
 - (b) 8711 E. Pinnacle Peak Rd. #168, Scottsdale, Arizona 85255
 - (c) Phone: Office 928-821-3633, Cell 928-282-5323
 - (d) Email: jeff.cary@behmerroofing.com

3.2 Contractor's general duties and rights in connection with this Contract are:

- (a) Contractor shall be solely responsible for all Work performed under this Contract, including the techniques, sequences, procedures, means, and coordination of all Work. Contractor shall supervise and direct the Work to the best of its ability and give it all the attention necessary for such proper supervision.
- (b) Contractor shall at all times maintain responsibility for discipline among its employees and agrees to employ only persons fit and with sufficient skill to perform the job for which they are employed.
- (c) Unless otherwise provided in approved subcontracts, Contractor shall provide and pay for all materials and equipment, including tools, construction equipment, and machinery as are necessary for the proper completion of the Work in accordance with the Contract Documents.
- (d) Contractor shall obtain a certificate of compliance from its suppliers stating that the supplier's product meets or exceeds either standard specifications or any particular specifications as are specified in the Contract Documents.
- (e) Contractor shall keep familiar with the progress and quality of the Work being done and will make general determinations as to whether the Work is proceeding in accordance with the Contract Documents. Contractor will be responsible for the means by which the Work is performed, and for the sequence, methods, and procedures used therein, so as to assure that all Work is performed in a professional workman-like manner.
- (f) Contractor shall be responsible to CASINO for the acts and omissions of its employees, subcontractors, and their agents and employees, and other persons performing any of the Work under a contract with Contractor.
- (g) Contractor shall protect the Casino building and all of its equipment and facilities from any damage that might occur as a result of the actions of Contractor (whether caused by Contractor's employees or sub-contractors) and Contractor shall be responsible to repair and/or replace any such equipment and facilities, or any other property damage caused by Contractor, whether negligent or intentional.
- (h) Contractor shall protect the Casino roof against any water penetration that might enter the interior of the Casino Building during any period of rain or other inclement weather.
- (i) The Contractor shall at all times keep the work-site free from accumulation of waste materials or rubbish caused by its operations. Such cleanup shall take place no less frequently than daily and shall include any material placed or discarded on adjacent work. Contractor shall be liable for any damages to adjacent surfaces caused by his Work, including the cleaning of his material from other surfaces. If Contractor fails to keep the premises clean in accordance with the requirements of this Section 3.2(g), CASINO may, at Contractor's expense, cleanup Contractor's trash and debris and deduct the cost of said cleaning from the Contract amount. Contractor shall remove all trash and debris from the Project to an approved waste disposal facility or to an EPA approved waste facility in the case of all hazardous materials.
- (j) The Contractor is responsible for the hauling and disposal of all existing roofing

materials and any debris produced by the Work, as well as all hazardous materials, chemicals, and toxic waste associated with its Work (if any) to proper facilities. **If hazardous materials are involved in the Work under this Contract**, the Contractor shall submit a draft Environmental Compliance Plan ("Plan") to CASINO within 20 days of the receipt of the Notice of Award. The Environmental Compliance Plan will be discussed and will either be accepted or returned for revisions at a preconstruction conference. The Plan must detail the permits, testing, reports, and actions that Contractor proposes to do in order to be in compliance with the applicable laws and regulations controlling pollution of the environment. The Contractor may contact the Nation's Environmental Protection Office for more information at (928) 649-6953.

- (k) When the Contractor considers that the Work, or a designated portion thereof which is acceptable to CASINO, is substantially complete as defined in the Contract Documents, the Contractor shall prepare and submit to CASINO an initial list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. Contractor shall promptly correct all deficiencies noted on its list and any list prepared by CASINO or any of CASINO's designated representatives.
- 3.3 Record Keeping. Contractor shall keep full and detailed accounts of the Project and exercise such controls as may be necessary for proper financial management under this Contract in accordance with generally accepted accounting principles; and the accounting and control systems shall be satisfactory to CASINO. Contractor shall keep files and records of work orders, work schedules, subcontracts, material, contractual invoices, certification of completed Work, and other data relevant to the performance of this Contract for three years after final payment and all other pending matters are closed. Contractor shall provide reasonable access to such books and records, during normal business hours, to officers and representatives of CASINO for examination and copying at CASINO's cost.
- 3.4 Emergency Procedures. In any emergency affecting the immediate safety of persons or property, Contractor shall act, at its discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by Contractor on account of emergency work shall be determined as provided in Article 7 for changes in the Work.
- 3.5 Compliance with Laws and Regulations. Contractor shall comply with all laws, ordinances, rules, regulations, or orders of the Yavapai-Apache Nation and applicable Federal laws and regulations relating to the performance of the Work.
- 3.6 Safety precautions and Programs. Contractor has the duty of providing for and overseeing all safety orders, precautions, and programs necessary to the reasonable safety of person and property associated with the Work, including traffic control. Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including a listing of emergency facilities and telephone numbers, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying CASINO and users of adjacent facilities and utilities. Contractor agrees to indemnify CASINO to the fullest extent allowed by law for any and all claims arising out of the failure of Contractor to comply with this Section.
- 3.7 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

ARTICLE 4
CASINO'S DUTIES, RIGHTS, AND RESPONSIBILITIES

- 4.1 CASINO's Principal Contact with Contractor for the Project shall be the CASINO's General Manager as follows:
(a) CASINO's Project Manager: Aaron Moss
(b) Address: 555 Middle Verde Road, Camp Verde Arizona, 86322
(c) Phone: Office (928)567-7943 Cell (928) 592-7184, Fax (928) 567-7940
(d) Email: amoss@cliffcastlecasino.net
- 4.2 Information or services under CASINO's control and reasonably necessary to the completion of the Work shall be furnished to Contractor by CASINO with reasonable promptness to avoid delay in the orderly progress of the Work.
- 4.3 CASINO shall cooperate with Contractor in scheduling and performing its work to avoid conflicts or interference in Contractor's Work and shall expedite written responses to the submittals made by Contractor in accordance with this Contract. Contractor shall be notified promptly of any subsequent changes in the scheduled work and any additional scheduling details.
- 4.4 CASINO's Right to Cure Deficiencies. If Contractor defaults or neglects to carry out the Work in accordance with this Contract and fails within three working days after receipt of written notice from CASINO to commence and continue correction of such default or neglect with diligence and promptness, CASINO may, after three days following receipt by Contractor of an additional written notice, and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payments then and thereafter due Contractor. In the event of an emergency or failure to perform emergency work, written notice shall be waived.
- 4.5 CASINO's Right to Perform Work and To Award Separate Contracts. CASINO reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with other portions of the project or other work under these or similar conditions of the Contract. If Contractor claims that delay or additional cost is involved because of such action by CASINO, it shall make such claim as provided elsewhere in the Contract Documents. If any part of Contractor's Work depends for proper execution or results upon the work of CASINO or any separate contractor, Contractor shall, prior to proceeding with the Work, promptly report to CASINO any apparent discrepancies or defects in such other work that may render it unsuitable for such proper execution and results. Failure of Contractor to so report shall constitute an acceptance of CASINO's or separate contractor's work as fit and proper to receive Contractor's Work, except as to defects that may subsequently become apparent in such work by others.

ARTICLE 5
TIME OF COMMENCEMENT AND TERM

- 5.1 Time is of the essence of this Contract. Contractor agrees to commence Work on the Project based on the **NOTICE TO PROCEED** issued by CASINO, which date shall be no sooner than 3-days following CASINO General Manager's written approval of a written schedule of the Work. All Work will be performed in accordance with the approved Schedule and on an orderly basis and **shall be complete no later than 45 consecutive days after the Notice to Proceed is issued (the "Contract Time")**. See Schedule appended to Schedule

A.

- 5.2 As an essential part of the Schedule, prior to issuing the Notice To Proceed, CASINO and Contractor shall meet and confer to discuss and resolve any issues affecting the initiation and progress of the Work.

ARTICLE 6 THE CONTRACT SUM

As full compensation for the performance of the Work to be provided by Contractor under this Contract, CASINO shall pay Contractor, inclusive of all fees and expenses and subject to additions or deductions as may be agreed to under this Contract, **the sum not to exceed \$238,750.00 (the "Contract Sum")**, See Option #3 under Contractor's Bid Documents.

- 6.1 The Contract Sum shall be paid for the performance of the Work in accordance with the Contract Documents and in accordance with the Payment Schedule set out in Schedule A. The Contract Sum includes all effort made or expense incurred by Contractor in preparation for performance of this Contract prior to its execution.
- 6.2 The Contract Sum may be increased or decreased for changes in the Work as provided in Article 7 below, in conformance with the Contract Documents. However, costs which would cause the Contract Sum to be exceeded shall be paid by Contractor without reimbursement by CASINO, unless such additional costs result from changes in the Work authorized under Article 7, and from unforeseen conditions which could not have been reasonably foreseen or anticipated from Contractor's inspection of the site, or from reports and other data provided by CASINO. However, should Contractor encounter such unforeseen conditions, the Contractor's compensation shall be limited to that amount computed per the Unit Prices per Sq. Yd. of asphalt as specified under Schedule A to this Contract. The Contractor shall not, on account of such unforeseen conditions, be entitled to any additional payments for any amounts, including without limitation, damages, whether for delay or otherwise.

ARTICLE 7 CHANGE ORDERS AND CONTRACT MODIFICATIONS

- 7.1 **Change Orders.** A Change Order is a written order to Contractor signed by CASINO issued after execution of the Contract authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by written Change Order. A Change Order signed by Contractor indicates its Contractual agreement therewith, including any adjustment in the Contract Sum or the Contract Time. **All Change Orders shall be determined by mutual written Agreement of CASINO and Contractor before commencement of the work involved in the Change Order.**
- (a) Contractor may be ordered in writing by CASINO, without invalidating this Contract, to make changes in the Work within the general scope of this Contract consisting of additions, deletions, or other revisions; and the Contract Sum shall be adjusted accordingly. Contractor, prior to the commencement of such changed or revised work, shall submit promptly to CASINO written copies of any claim for adjustment to the Contract Sum and/or Contract Time for such revised Work in a manner consistent with the Contract Documents.
- (b) Contractor may issue Change Orders to subcontractors; however, such change

orders shall not affect the Contract Sum and/or Contract Time unless they are ordered by CASINO as provided by this Article.

- 7.2 Claims for Additional Cost. If Contractor wishes to make a claim for an increase in the Contract Sum, it shall give CASINO written notice thereof, with a complete breakdown of how the costs were arrived at, within ten days after the occurrence of the event giving rise to such claim. The notice shall be given by Contractor before proceeding to execute the Work, except in an emergency endangering life or property, in which case Contractor shall proceed in accordance with Article 3, Section 3.3. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order in order to be valid.
- 7.3 If it is necessary to modify the Work, Contractor will notify CASINO when such modifications are considered necessary; provided, however, that Contractor may not exceed the Contract Sum set forth in Article 6 without the prior written consent of CASINO.
- 7.4 The cost or credit to CASINO resulting in a change or modification of the Work shall be determined in one or more of the following ways:
- (a) by mutual acceptance of a lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation;
 - (b) by unit prices stated in Schedule A or subsequently agreed upon; and/or
 - (c) by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee.
- 7.5 Any Modifications must be agreed upon in writing by Contractor and CASINO and upon said mutual Contract will become a part of this Contract.

ARTICLE 8

SUBCONTRACTS

- 8.1 Contractor shall not assign this Contract without the consent of CASINO, nor subcontract the whole of this Contract without the consent of CASINO, nor further subcontract portions of this Contract without written notification to CASINO. Contractor shall not assign any amounts due or to become due under this Contract without written notice to CASINO. As soon as practicable after the execution of the Contract, Contractor shall furnish to CASINO in writing the names of the persons or entities (including those who are to furnish materials or equipment) proposed for each portion of the Work. CASINO will, within five working days, reply to Contractor in writing stating whether CASINO after due investigation, has reasonable objection to any such proposed person or entity. Failure of CASINO to reply within five working days shall constitute notice of no reasonable objection.
- 8.2 Contractor retains the right to select and hire subcontractors. A subcontractor, for the purposes of this Contract, shall be a person with whom Contractor has a direct contract for work. Contractor agrees not to employ any subcontractor to whose employment CASINO reasonably objects, nor shall Contractor be required to hire a subcontractor to whose employment it reasonably objects.
- 8.3 All of Contractor's subcontractors shall be bound to Contractor by the terms of this Contract to the extent that provisions of the Contract Documents between CASINO and Contractor apply to the Work of the subcontractor as defined in this Contract. The

subcontractor shall assume toward Contractor all the obligations and responsibilities which Contractor, by these documents, assumes toward CASINO, and shall have the benefit of all rights, remedies, and redress against Contractor which Contractor, by these documents, has against CASINO, insofar as applicable to this Contract, provided that where any provision of the Contract Documents between Contractor and the subcontractor is inconsistent with any provision of this Contract, this Contract shall govern.

- 8.4 Subcontractors may, at the discretion of Contractor or CASINO, be required to furnish performance and payment bonds as security for the faithful performance and payment of all obligations under the subcontract documents. These bonds shall be in amounts at least equal to the subcontract price and in such form and with such sureties as are acceptable to Contractor and CASINO. If bonds are required, the Contract Sum will be adjusted to include the cost of said bonds.
- 8.5 Nothing in this Article or in the Contract Documents shall be construed to create a contractual relationship or obligation between CASINO and any subcontractor, material supplier, or employee of contractor.

ARTICLE 9 **PAYMENTS**

- 9.1 An initial fixed working capital advance shall be made to Contractor as provided in Schedule A as an estimate of costs for mobilization and Project startup. **It is agreed that mobilization and startup cost shall be advanced to Contractor in the amount of 50 Percent (50%) of the Contract Sum (\$119,375.00) upon full execution of this Contract.**
- 9.2 The Balance of the Contract Sum (Final Payment) shall be paid by Casino to Contractor withing five (5) days of satisfactory completion of the Work. Final Payment to Contractor shall be subject to the following terms and conditions:
- (a) Contractor shall submit to CASINO a Request for Final Payment based on the satisfactory completion of the Work as mutually determined by Owner and Contractor. Said Request for Final Payment shall be submitted by Contractor on such form as may be required by CASINO.
 - (b) Consistent with applicable rules and regulations and the conditions set forth herein, CASINO shall review Contractor's Request for Payment and either approve or disapprove it within five (5) working days of receipt.
 - (c) Within five (5) working days of approval of the Request for Final Payment, CASINO shall cause the requested Payment, or any portion not disapproved by CASINO, to be paid to the Contractor.
 - (d) In the event of a disapproval of a Request for Final Payment, or any portion thereof, CASINO shall notify the Contractor within five (5) working days of the disapproval. Such notice shall include the basis for the disapproval. The Contractor shall have ten (10) working days to respond and correct the basis for disapproval. CASINO shall have five (5) working days to either accept or reject the Contractor's response.
 - (e) The Request for Final Payment submitted by Contractor to CASINO shall include:
 - i. The Project identification and the name, mailing address, and telephone

number of the payee.

- ii. The name, title, mailing address, telephone number, and signature of Contractor or Contractor's designee authorized to make the Request for Final Payment.
 - iii. Documentation supporting in enough detail and in accordance with CASINO's Policies and Procedures, the conclusion that the Work has been satisfactorily Completed.
 - iv. Copies of payrolls, receipted invoices with copies of check vouchers attached, and any other evidence required by CASINO to demonstrate that cash disbursements made by Contractor on account of the cost of the Work equal or exceed payments already received by the Contractor plus payrolls for the period covered by the current Request for Final Payment.
 - v. Such lien releases and/or other evidence as CASINO may require showing that Contractor has paid its subcontractors and material/equipment suppliers.
- (f) Any changes to the information to be provided under this Section shall be furnished to CASINO in writing within twenty-four (24) hours of the change.
- (g) In accordance with the Contract Documents and applicable rules, policies and regulations, CASINO will make Final payment to the Contractor based upon information submitted by Contractor and consistent with the approved Budget and Payment Schedule and Contractor's Request for Final Payment. All payments will be made based on a reimbursement basis for eligible expenses actually incurred by Contractor.
- (h) CASINO may delay payments if the Contractor is delinquent in submission of any documents required under this Contract. Payments will be suspended or terminated if CASINO acts to suspend or terminate the Contract in accordance with Article 11.
- 9.3 Upon receipt of payment from CASINO, Contractor shall promptly pay each subcontractor (if any), out of the amount paid to Contractor on account of such subcontractor's work, the amount to which said subcontractor is entitled for its Work. Contractor shall, by an appropriate Contract with each subcontractor, require each subcontractor to make payments to his sub-subcontractors and material suppliers in a similar manner. CASINO shall have no obligation to pay or to see to the payment of any moneys owed by Contractor to any subcontractor or material supplier.
- 9.4 CASINO reserves the right to withhold payment or partial payment, in addition to any Payment withheld under Article 16, for work performed if:
- (a) The Work is found defective and not remedied;
 - (b) Contractor does not make prompt and proper payments to its employees, subcontractors and material suppliers;
 - (c) Contractor does not make prompt and proper payments for materials/equipment furnished;
 - (d) The Work is not satisfactorily completed as applied for under the Payment

Schedule;

- (e) The Work is performed in an inadequate or untimely fashion; or
- (f) Liens or other third-party claims have been filed or there is reasonable evidence indicating probable filing of such liens or claims. A 20-day preliminary lien notice is not considered a third-party claim and shall not be a reason to withhold payment.
- (g) Contractor abandons the Project or fails to make adequate progress toward completion of the Work following Notice and a reasonable opportunity to bring the Work back into conformity with the Schedule.

- 9.5 Contractor warrants that title to all Work, materials and equipment covered by a Request for Payment will pass to CASINO either by incorporation in the Work or upon the receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, and that no work, materials or equipment covered by a Request for Payment will have been acquired by Contractor or by any other person performing work at the site or furnishing materials and equipment subject to a Contract under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by Contractor or such other person.

ARTICLE 10

FINAL PAYMENT TO CONTRACTOR

- 10.1 Final payment of the Contract Sum shall be due and payable in accordance with the Contract Documents and this Article 10, but not before the completion of a final inspection and a determination that the Contract Work is complete to the satisfaction of CASINO.
- 10.2 The final payment shall not become due until Contractor submits to CASINO (1) an affidavit that all payrolls, bills for materials and equipment and other indebtedness connected with the Work, for which CASINO might in any way be responsible, have been paid or otherwise satisfied; (2) consent of the Contractor's surety, if any, to payment; and (3) other data establishing payment or satisfaction of all such obligations, including but not limited to: receipts, releases and waivers of liens arising out of this Contract to the extent and in such form as may be required by CASINO. If any subcontractor or materialman refuses to furnish a release or waiver required by CASINO to indemnify it against any such lien, Contractor may furnish a bond satisfactory to CASINO to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, Contractor shall refund to CASINO all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 10.3 Upon CASINO's written request, the Contractor shall deliver to the CASINO a final accounting showing all amounts received and all disbursements made. The Contractor shall submit satisfactory evidence that all payrolls, materials and equipment bills and other indebtedness connected with the Work have been paid or otherwise satisfied and shall deliver to CASINO its general lien waiver with respect to said items.

ARTICLE 11

SUSPENSION OF WORK AND TERMINATION

- 11.1 Suspension by CASINO. CASINO may, with or without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as CASINO may determine. Contractor shall be allowed an adjustment in the Contract

Sum or an extension of the Contract Time, or both, directly attributable to any such suspension that occurred through no fault of the Contractor if Contractor makes an approved claim therefore under Article 7.

- 11.2 Termination by CASINO for Cause. CASINO may, on seven days' written notice to the Contractor, terminate this Contract (without prejudice to any other remedy CASINO may have) when the Contractor defaults in the performance of any material provision herein, or fails to carry out the Work in accordance with the Contract Documents. If the unpaid balance on the Contract Sum at the time of such termination exceeds the expense of finishing the Work, CASINO will pay such excess to Contractor and Contractor shall have no further claim against CASINO arising out of the termination.
- 11.3 Any of the following shall constitute a material default by Contractor: (a) failure to commence Work within 5 days after issuance of a Notice to Proceed; (b) failure to provide bonds as required by this Contract; (c) failure to maintain any policy of insurance required by this Contract; (d) failure or inability to furnish materials, equipment and workmanship of the highest quality; (e) failure to initiate appropriate measures for the correction of faulty Work within three days after notice from CASINO to do so; (f) failure to pay payroll when due; (g) failure to pay any sums owed subcontractors, laborers, or suppliers for the project when due; (h) failure to maintain the construction schedule and failure to initiate appropriate measures to cure delays associated with Contractor's Work within three days of notice from CASINO to do so; (i) material failure to perform any other obligations of Contractor under the Contract Documents, and (j) the filing of voluntary or involuntary Bankruptcy Proceedings by or against Contractor.
- 11.4 Termination by the CASINO for Convenience. CASINO may, on seven days written notice to the Contractor, terminate this Contract without cause and without prejudice to any other right or remedy of CASINO. In such case, CASINO shall reimburse the Contractor as follows:
- (a) For any unpaid, completed, and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination;
 - (b) For reasonable expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted Work; and
 - (c) For reasonable claims, costs, losses, and damages incurred in settlement of terminated contracts with subcontractors, suppliers, and others.

Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

- 11.5 Termination or Work Stoppage by Contractor. If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety days by CASINO or under an order of court or other public authority, or CASINO fails to act on any Request for Payment within thirty days after it is submitted, or CASINO fails for thirty days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days' written notice to CASINO, and provided CASINO does not remedy such suspension or failure within the seven days' time, terminate this Contract and recover from CASINO payment on the same terms as provided in Section 11.4. In lieu of terminating the Contract and without prejudice to any other right or remedy, if CASINO has failed to act on a Request for Payment within thirty days after it is submitted, or CASINO has failed for thirty days to pay Contractor any sum finally determined to be due, Contractor may upon seven days' written notice to the CASINO stop the Work until payment of all such amounts due Contractor is made. The

provisions of this Section 11.5 are not intended to preclude Contractor from making a claim under Article 7 for an increase in Contract Sum or Contract Time.

ARTICLE 12

MISCELLANEOUS PROVISIONS

- 12.1 Laws, Permits, Fees and Notices. Contractor shall give all notices to and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Work under this Contract. Contractor shall secure all permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work.
- 12.2 Hiring Preference: Unless prohibited by federal regulations, the Contractor shall give preference in all hiring for the project to local Indian residents in accordance with the Yavapai-Apache Nation Tribal Employment Rights Code ("TERO") and shall coordinate such hiring in cooperation with the Tribal Employment Rights Office.
- 12.3 Indemnification. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless CASINO and all its agents, representatives and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Work under this Contract; provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, to the extent caused in whole or in part by any negligent act or omission of Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable, including Contractor's employees, agents, guests and invitees, and regardless of whether it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, or abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party to this Contract.
- 12.4 Bankruptcy. If Contractor enters into bankruptcy proceedings, whether voluntarily or involuntarily, Contractor agrees to furnish, by certified mail, written notification of the bankruptcy proceeding to CASINO. This notification shall be furnished within five days of the initiation of the proceedings and shall include the date on which the bankruptcy petition was filed and a listing of subcontractors and/or suppliers against which final payment has not been made. This obligation remains in effect until final payment under this Contract.
- 12.5 Claims for Damages. Should either CASINO or Contractor suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable; claim shall be made in writing to such other party within five working days after the first observance of such injury or damage.
- 12.7 Communications. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.
- 12.8 Liquidated Damages. Subject to the Contract Documents, CASINO shall be entitled to liquidated damages for failure of the Contractor to complete the Work within the specified Contract Time. Contractor agrees to pay liquidated damages for compensation to CASINO for non-use of the completed Work, for inconvenience and delay resulting to the public and for expenses incurred by CASINO for unscheduled employment of an engineer during any Contract Time overrun. Liquidated damages shall be paid by deduction from progress

payments in the final payment period. If the total amount of liquidated damages assessed against the Contractor exceeds deductions from progress payments in the final payment, Contractor shall be liable for the difference, and shall immediately pay the same to the CASINO. The amount agreed upon and established as liquidated damages up to the date of substantial completion is **Five Hundred Dollars (\$500.00) per calendar day**.

ARTICLE 13 **WARRANTY**

- 13.1 Contractor warrants to CASINO that all materials and equipment furnished under the Contract will be new unless otherwise specified in the Contract Documents and that all installed Work will be of the highest quality, free from faults and defects and in strict conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized by CASINO, may be considered defective. If required by CASINO, the Contractor shall furnish satisfactory evidence as to the type and qualities of materials and equipment provided for the Work.
- 13.2 Contractor shall promptly correct all Work rejected by CASINO as defective or as failing to conform to the Contract Documents, whether observed before or after substantial completion and whether fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work. CASINO may engage an independent inspection firm ("Inspection Firm") to provide inspection of all Work and materials employed by Contractor in completing the Work and such other testing as may be needed to verify the quality of the work and compliance with the requirements of the contract, the contract documents, and the Contractor's Warranty and the Manufacturer's Warranty. Contractor agrees to cooperate with said Inspection Firm in inspecting the Work.
- 13.3 Contractor agrees to provide a skilled labor force trained in and capable of installing the roof and otherwise providing the Work in full compliance with the Contract Documents and the roofing manufacturer's recommended method of installation. The Roofing Manufacturer's recommended method of installation, titled **"Tropical Roofing Products -TPO/EPDM/SPF/PVC-2.5G#924" and "#9400 Eterna-Sil Premium Silicone Mastic - Technical Data Sheet,"** both of which are appended to **Schedule B of this contract and are incorporated into this contract under Schedule B as Specifications for installation of the Work.** If within **Five years** after the date of final acceptance of the Contract Work by CASINO or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, or provided by the Contractor, any of the Contractor's work (labor and/or materials) is found to be defective or not in accordance with the Contract Documents, Contractor, at its sole expense, shall correct it promptly after receipt of a written notice from CASINO to do so. This obligation shall survive termination of the Contract. This Section 13.3 is supplemented by the Warranty provision prepared by Contractor and appended to this Contract as a Special Condition under Schedule C. In addition, Casino shall be entitled to the **20-year written warranty provided by the manufacturer of the roofing materials** used by Contractor in carrying out the Work ("Manufacturer's Warranty"). The Manufacturer's Warranty is appended to this Contract as part of Schedule C and is hereby incorporated into this contract as a Special Condition, as if fully set forth herein.

ARTICLE 14
ASSIGNMENT AND GOVERNING LAW

- 14.1 Neither CASINO nor the Contractor shall assign their respective interests in this Contract without the written consent of the other except as to the assignment of proceeds. Any assignment or attempt to assign this Contract contrary to this Section 14.1 shall be void and of no effect and shall be cause to hold the offending party in breach of this Contract.
- 14.2 This Contract is made pursuant to, and, except as provided under Article 18 below, shall be construed and enforced in accordance with the laws of the Yavapai-Apache Nation.

ARTICLE 15
INSURANCE

- 15.1 Before commencing the Work, Contractor, and at the discretion of the Contractor, each of its subcontractors, shall provide insurance coverage against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, its agents, representatives, employees, or subcontractors, and all such policies of insurance shall be maintained for the duration of the contract, *and for 3 years thereafter, and certificates of said policies shall be furnished to* CASINO showing that the following insurance is in force and will protect Contractor and CASINO from claims which may arise out of or result from Contractor's operations under this Contract, whether such operations be by Contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

15.2 **MINIMUM SCOPE AND LIMITS OF INSURANCE**

Coverage shall be at least as broad as:

- (a) **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01, including products and completed operations, with limits of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury, and property damage (policy to be written on a per-project basis and not on a per-policy basis).
- (b) **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Symbol 1 (any auto), with limits no less than \$1,000,000 (combined single limit) per accident for bodily injury and property damage, including uninsured/underinsured liability.
- (c) **Workers' Compensation** insurance with Statutory Limits as required by the State of Arizona, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury and \$1,000,000 for each disease and a \$1,000,000 policy limit.
- (d) **Surety Bonds** as described below under Article 16 and as required under the Contract Documents.

- (e) **Excess/Umbrella Liability** with a limit of \$5,000,000 Each Occurrence/Annual aggregate. Coverage must extend over the General Liability (including products/completed operations) automobile liability and Worker's Comp (employer's liability) policies.
 - (f) **Environmental Liability. If Contractor is performing any work involving remediation, removal or transportation of any hazardous materials** or whose operations pose a risk of the release or exposure of workers, the public, or others to any toxic material or pollutant, then Contractor shall maintain a pollution liability policy with not less than \$5,000,000 limits per occurrence or per claim and in the aggregate. These coverage limits may be met by any combination of underlying and excess policies.
- 15.3 Other Insurance Provisions. The required insurance policies as specified above are to contain, or be endorsed to contain, the following provisions:
- (a) Cliff Castle Casino Hotel and the Yavapai-Apache Nation (Nation) and its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL and automobile liability policies with respect to liability arising out of work or operations performed by or on behalf of the Contractor, including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).
 - (b) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects CASINO and the Nation and its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CASINO, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
 - (c) Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with 30-days' written notice to CASINO.
- 15.4 Claims Made Policies. Except where such claims-made coverage is prohibited by these insurance provisions, if any coverage required hereunder is written on a claims-made coverage form:
- (a) The retroactive date must be shown, and this date must be before the execution date of this Contract or the beginning of contract Work.
 - (b) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract Work.
 - (c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
 - (d) A copy of the claims reporting requirements must be submitted to CASINO for review.
- 15.5 Acceptability of Insurers
Insurance is to be placed with insurers that are licensed to do business in the State of Arizona and who have a current A.M. Best rating of no less than A-VIII, unless otherwise acceptable to CASINO.

- 15.6 Waiver of Subrogation
Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to establish this waiver of subrogation. The Workers' Compensation and Commercial General Liability policies shall be endorsed with a waiver of subrogation in favor of CASINO for all work performed by the Contractor, its employees, agents and subcontractors.
- 15.7 Verification of Coverage
Contractor shall furnish CASINO with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by CASINO before the Work commences. However, failure to obtain the required documents prior to the Work beginning shall not waive the Contractor's obligation to provide them. CASINO reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.
- 15.8 Subcontractors
Contractor shall require and verify that all subcontractors maintain insurance meeting all the insurance requirements stated herein.
- 15.9 Deductibles and Self-Insured Retentions.
Any deductibles or self-insured retentions must be declared to and approved by CASINO. CASINO may require Contractor to reduce or eliminate such deductibles or self-insured retentions as respects CASINO, its officers, officials, employees, and volunteers; or at CASINO's option, Contractor must provide a financial guarantee satisfactory to CASINO guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- 15.10 Repairs and Claims. Contractor will repair all accidental damages arising out of the Contract Work or the work of any subcontractor and prepare and submit insurance claims and reports for such damage. In the event CASINO receives insurance payments for such claims CASINO shall forward said payment to Contractor.
- 15.11 Hold Harmless. Contractor agrees to hold CASINO, its officers, agents and employees harmless from any liability for damage or claim or damage for personal injury, including death, as well as from claims for property damage which may arise from the Work and activities of Contractor or Contractor's subcontractor's agents or employees under this Contract.

ARTICLE 16 **BONDING**

- 16.1 On award of this Contract and prior to commencement of the Work, Contractor must provide CASINO with Corporate Surety Bonds in acceptable form from an acceptable surety in the amount of one-hundred percent (100%) of the Contract Sum for Performance and one-hundred percent (100%) of the Contract Sum for Payment (Performance and Payment Bonds). Should the assets of the corporate surety provided by Contractor become impaired to the extent of adversely affecting its suretyship, as

determined by CASINO, during the life of this Contract, the Contractor will substitute such other acceptable corporate surety and Bonds as may be approved by CASINO.

ARTICLE 17

DISPUTE RESOLUTION AND GOVERNING LAW

- 17.1 Informal Negotiations. CASINO and Contractor agree to engage in informal negotiations to attempt to resolve any dispute arising under this Contract prior to filing an action in court as provided hereinbelow. The party raising the dispute shall first advise the other party of the details of the dispute, in writing, with enough detail and back-up information to permit the other party to evaluate and respond to the dispute. Within fifteen (15) days after written notification of a dispute, representatives of CASINO and Contractor shall meet (in person or by phone) and endeavor in good faith to reach a resolution of the dispute. If any dispute between CASINO and Contractor is not resolved through informal negotiations within thirty (30) days of the commencement of said good faith efforts, the Parties agree that, subject to the Limited Waiver of Sovereign Immunity provided by CASINO in Section 18.2 below, the dispute may be resolved through the Nation's Tribal Court.
- 17.2 Limited Waiver of Sovereign Immunity. Except as provided in this Section 18.2, nothing in this Contract or other writing is or shall be deemed to be a waiver of CASINO's or the Yavapai-Apache Nation's sovereign immunity from suit, which immunity is hereby expressly asserted and affirmed. However, in order to provide for dispute resolution and the enforceability of this Contract as provided in this Section 18.2, CASINO grants to Contractor a limited waiver of its sovereign immunity as follows: (1) CASINO agrees that all unresolved disputes arising under this Contract shall be submitted to the Yavapai-Apache Nation Tribal Court as provided under this Section 18.2 and that said tribal court action shall be the exclusive means of dispute resolution under this Contract; (2) CASINO agrees that the Yavapai-Apache Nation Tribal Court shall have subject matter jurisdiction over the resolution of all disputes arising under this Contract, but only as to matters arising under this Contract, and no other claim or dispute may be brought before the Tribal Court, and no other court or forum shall have jurisdiction to hear any claim or dispute arising under this Contract; (3) it is acknowledged and agreed between CASINO and Contractor that the limited waiver of sovereign immunity provided by this Section 18.2, shall extend only to disputes between CASINO and Contractor and shall apply only to an action by Contractor for any claim for breach of this Contract, and that this limited waiver shall therefore not extend to or be effective as to any claim or action against CASINO by any party other than Contractor (including without limitation any purported third party beneficiary of the Contract); (4) The liability of CASINO for any recovery under this Contract as provided for hereunder shall be limited to actual unpaid contractual obligations (compensatory damages) and/or specific performance, and shall not in any case include general, consequential, incidental, special, indirect, punitive or any other damages, whether in tort or contract, all of which are hereby expressly declared to be outside of the scope of the waiver of sovereign immunity provided for under this Section 18.2, and CASINO'S total liability to Contractor for compensatory damages under any judgment entered by the Tribal Court as provided for herein shall in no case exceed earned but unpaid amounts owed by CASINO to Contractor for the Work satisfactorily provided by Contractor under this Contract up to but not exceeding the "Contract Sum" as defined under this Contract at

Article 6 hereinabove; (5) The Tribal Court's jurisdiction, as limited hereunder, shall not be construed to empower the Tribal Court to enter a judgment that reaches or encumbers the assets or property of CASINO or the Yavapai-Apache Nation other than such funds as may be necessary to pay that portion of the Contract Sum earned by Contractor but unpaid by CASINO for Contractor's satisfactory completion of the Work of this Contract; and (6) this limited waiver of sovereign immunity shall expire two (2) years after the termination, cancellation or completion of the Contract, except that this limited waiver of sovereign immunity shall remain effective for any proceeding then pending and all appeals and enforcement proceedings therefore until the underlying legal claim or claims have been finally determined. The parties also agree that this limited waiver of sovereign immunity shall be strictly construed.

- 17.3 Governing Law. This Contract shall be construed in accordance with, and any dispute or controversy arising from any breach of this Contract will be governed by the laws of the Yavapai-Apache Nation. The Contractor hereby expressly agrees and consents to the jurisdiction and venue of the Tribal Court of the Yavapai-Apache Nation for the resolution of any disputes arising under this Contract. This Contract shall be construed in accordance with the laws of the Yavapai-Apache Nation, and where applicable and as determined by the Tribal Court, in accordance with the laws of the State of Arizona as limited by this paragraph. Arizona law shall apply, without giving effect to any conflicts of laws principles, only regarding interpretation of this Contract where interpretation is required and only if the laws of the Yavapai-Apache Nation are silent on such interpretation. The laws of the Yavapai-Apache Nation shall apply in all other instances.
- 17.4 No Waiver of Nation's Immunity to Unconsented Lawsuits. Except as expressly provided herein, nothing in this Contract shall be construed as a waiver of sovereign immunity of CASINO or the Yavapai-Apache Nation or any entity, officer, or employee of the Yavapai-Apache Nation.
- 17.5 Enforceability of Contract. The invalidity of unenforceability of any provision of this Contract shall not affect or impair any other provision. If any provision of this Contract is capable of two constructions, one of which would render the provision invalid and the other of which would make the provision valid, then the provision shall have the meaning that renders it valid.

ARTICLE 18

MERGER OF CONTRACTS

- 18.1 This instrument contains the entire Contract between the parties. There are no promises, terms, conditions, or obligations other than those contained herein and no statement, promises, or inducements made by either party or agent of either party that is not contained in this written Contract shall be valid or binding, and this Contract shall supersede all previous communications, representations, or Contracts, either verbal or written, between the parties hereto. This Contract may not be enlarged, modified, or altered, except in writing signed by the parties.

ARTICLE 19
NOTICES

- 19.1 All notices, consents, demands, and other communications required by this Contract shall be sent by one party to the other in writing and shall be deemed to have been fully given the fifth day after deposit in the United States mail, registered or certified, and addressed as follows:

TO THE CASINO AT:

Cliff Castle Casino Hotel
555 Middle Verde Road
P. O. BOX 3310
Camp Verde, AZ 86322

TO THE CONTRACTOR AT:

Behmer Roofing & Sheet Metal
8711 E. Pinnacle Peak Rd #168, Scottsdale, AZ 85255

IN WITNESS WHEREOFF, the parties have executed this Contract this ____ day of _____, 2021, at the Yavapai-Apache Nation's Reservation, Camp Verde, Arizona.

CASINO: Cliff Castle Casino Hotel

BY: _____
Aaron Moss, General Manager

Date: _____

CONTRACTOR: Behmer Industries, Inc., (DBA Behmer Roofing & Sheet Metal)

BY: _____
Matt Behmer

Date: _____

**CONSTRUCTION CONTRACT
BETWEEN
CLIFF CASTLE CASINO HOTEL
AND
BEHMER ROOFING & SHEET METAL**

FOR THE CLIFF CASTLE CASINO ROOFING PROJECT

**APPROVED BY YAVAPAI-APACHE NATION TRIBAL COUNCIL RESOLUTION NO.
___-2021, JUNE 10, 2021**

**SCHEDULE A
WORK PLAN AND BUDGET**

- (a) Description of the Work to be performed by Contractor: Contractor's Bid Documents and (Statement of Work and Budget) dated February 2, 2021 is appended to this Schedule A. Any inconsistencies between the Contract and Contractor's Bid Documents shall be governed by the Contract.
- (b) Maximum budget (Contract Sum) for the Work to be performed: **\$238,750.00.**
- (c) Payments to Contractor shall be made in accordance with Article 9 of the Contract.
- (d) Prior to Casino's issuance of a Notice to Proceed under Article 5 of the Contract, Contractor shall prepare for Casino's Approval a written schedule of the Work, which shall be appended to this Schedule A.



Feb. 2, 2021

- HOA Permits, Fees, and Approvals If necessary (to be done by property owner)
- Any/All liability for Interior protection and/or liability for any/all interior items that may be affected by the roof work

WARRANTY:

5 Year Labor Warranty: Behmer Roofing

- At no additional cost, there is a 5 year labor warranty by Behmer Roofing.
- Warranty covers labor only. It does not cover any consequential damages, this includes interior damage, property damage, etc.

10-20 Year Material OR Material/Labor Warranties Available through Tropical Roofing Products

- Warranty covers the roof system and material and/or labor. It does not cover any consequential damages, this includes interior damage, property damage, etc.

NOTES:

COATING NOTES:

Silicone Coating, while a great preventative maintenance and restoration option, shall also not be construed as "new roof"

PROPERTY NOTES:

Behmer Roofing strives to treat your property as if it was ours, and will attempt to leave it in as good or better condition than when we started. However, a re-roof is considered a major demolition project that creates a lot of debris and requires large equipment / heavy equipment that may cause some consequential damage to your property, and our goal is to be as up-front and transparent as possible with all of our customers to eliminate any surprises. Please read below prior to signing this agreement:

Building Movement / Disruption: Roofing demolition may sometimes cause your home or building to slightly shift and move during construction. We highly recommend that you secure all valuables and wall / ceiling hanging items. Behmer Roofing shall not be held liable for any items that are damaged due to building movement during and after construction.

Driveways / Walkways / Sidewalks: While most driveways, walkways, sidewalks, etc don't have any issues with our equipment, we have no way of knowing if the structural integrity of the surfacing (pavers, bricks, concrete, blacktop, etc) and/or the base layer/s is adequate to withstand the extra weight of the equipment. We will put down plywood in certain situations, but this method does not always fully eliminate the risk of damage to the paved surface. Behmer Roofing shall not be held liable for any/all damage, cracks, settling, depressions, etc that occur, directly or indirectly, from any/all Behmer Roofing vehicles, equipment, and/or material. Additionally, our vehicles and equipment may leave tire marks, and/or small oil-stains, which we will do the best to minimize. We will powerwash when complete if necessary, but it is not guaranteed that the tire and/or oil stains will immediately diminish. This situation shall not be a reason for non-payment, nor shall we be liable for replacing all or part of the driveway if this situation occurs. Please advise asap if you have a driveway that you have

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Jeff Behmer

928-521-3633

June - July
3-4 weeks



concerns with being able to handle the extra weight, and/or you prefer us not to drive on it. Keep in mind that if we can't access the driveway, etc, this price listed herein, may become null and void.

Landscaping, Grass, Pool: During the re-roof process, dust, debris, nails, etc may end up in the landscaping adjacent to and around your home / building. We do our best to protect these areas, but there will be small amounts of debris that we may not be able to get out...this includes, small pieces of trash, nails, concrete bits, etc. If you have a swimming pool, we recommend you get it cleaned immediately after the roof removal process.

Payment Terms: 50% Deposit Due Upon Signing Contract / Balance Due Immediately Upon Completion. Finance charges and Late Fees applied to past due invoices. Please mail checks to PO Box 3996 Sedona, AZ 86340.

CREDIT CARD CONVENIENCE FEE: There is a 2.5% Convenience Fee for all Credit Card Charges.

Customer Acceptance of Contract, Terms, and Conditions:

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PROPOSAL & CONTRACT

Proposal Date: 02/02/2021

Company Name: Cliff Castle Casino

Customer Name: Mike Fox

Customer Phone: 928-399-9216

Customer Email: mfox@cliffcastlecasino.net

Project Name: Silicone Roof Coating

Project Address: 555 Middle Verde Rd. Camp Verde, AZ 86322

We propose to furnish all materials and perform all labor necessary to completing the following Scope of Work:

PRIMARY SCOPE OF WORK & PRICING: OPTION #1

Silicone Roof Coating:

\$153,731

1. Power-wash and prep roof as needed
2. Apply Tropical 9400 Silicone Mastic at all penetrations, base flashing and drains
3. Apply 1 coat of Tropical 924 Eterna-Sil 100% Silicone Roof Coating (1.5 gal per 10'x10' area)
4. Color - White
5. Walk area - Title 24 Artic White granules
6. Clean up and haul all debris from job-site
7. Sales tax on material included
8. 10 Year Material Only Warranty through tropical Roofing Products included

Labor Warranty Add On: Tropical Roofing Products

\$7,252

1. Converts to a 10 Year Material and Labor Warranty

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PRIMARY SCOPE OF WORK & PRICING: OPTION #2

Silicone Roof Coating:

\$186,039

1. Power-wash and prep roof as needed
2. Apply Tropical 9400 Silicone Mastic at all penetrations, base flashing and drains
3. Apply 1 coat of Tropical 924 Eterna-Sil 100% Silicone Roof Coating (2.0 gal per 10'x10' area)
4. Color - White
5. Walk area - Title 24 Artic White granules
6. Clean up and haul all debris from job-site
7. Sales tax on material included
8. 15 Year Material Only Warranty through tropical Roofing Products included

Labor Warranty Add On: Tropical Roofing Products

\$10,360

1. Converts to a 15 Year Material and Labor Warranty

PRIMARY SCOPE OF WORK & PRICING: OPTION #3

Silicone Roof Coating:

\$218,346

1. Power-wash and prep roof as needed
2. Apply Tropical 9400 Silicone Mastic at all penetrations, base flashing and drains
3. Apply 1 coat of Tropical 924 Eterna-Sil 100% Silicone Roof Coating (2.5 gal per 10'x10' area)
4. Color - White
5. Walk area - Title 24 Artic White granules
6. Clean up and haul all debris from job-site
7. Sales tax on material included
8. 20 Year Material Only Warranty through tropical Roofing Products included

Labor Warranty Add On: Tropical Roofing Products

\$12,432

1. Converts to a 20 Year Material and Labor Warranty

EXCLUSIONS:

The following work is not included, unless specifically noted above:

- Roof Deck Replacement: If necessary there shall be an additional cost of \$105 per 4X8 pc
- Any/All liability for ponding water on flat roofs
- Any/All liability for rooftop A/C and/or satellite dish

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- Skylight/s replacement unless specifically noted above
- Warranty for any/all skylights unless replaced with new
- HOA Permits, Fees, and Approvals if necessary (to be done by property owner)
- Any/All liability for interior protection and/or liability for any/all interior items that may be affected by the roof work

WARRANTY:

5 Year Labor Warranty: Behmer Roofing

- At no additional cost, there is a 5 year labor warranty by Behmer Roofing.
- Warranty covers labor only. It does not cover any consequential damages, this includes interior damage, property damage, etc.

10-20 Year Material OR Material/Labor Warranties Available through Tropical Roofing Products

- Warranty covers the roof system and material and/or labor. It does not cover any consequential damages, this includes interior damage, property damage, etc.

NOTES:

COATING NOTES:

Silicone Coating, while a great preventative maintenance and restoration option, shall also not be construed as "new roof"

PROPERTY NOTES:

Behmer Roofing strives to treat your property as if it was ours, and will attempt to leave it in as good or better condition than when we started. However, a re-roof is considered a major demolition project that creates a lot of debris and requires large equipment / heavy equipment that may cause some consequential damage to your property, and our goal is to be as up-front and transparent as possible with all of our customers to eliminate any surprises. Please read below prior to signing this agreement:

Building Movement / Disruption: Roofing demolition may sometimes cause your home or building to slightly shift and move during construction. We highly recommend that you secure all valuables and wall / ceiling hanging items. Behmer Roofing shall not be held liable for any items that are damaged due to building movement during and after construction.

Driveways / Walkways / Sidewalks: While most driveways, walkways, sidewalks, etc don't have any issues with our equipment, we have no way of knowing if the structural integrity of the surfacing (pavers, bricks, concrete, blacktop, etc) and/or the base layer/s is adequate to withstand the extra weight of the equipment. We will put down plywood in certain situations, but this method does not always fully eliminate the risk of damage to the paved surface. Behmer Roofing shall not be held liable for any/all damage, cracks, settling, depressions, etc that occur, directly or indirectly, from any/all Behmer Roofing vehicles, equipment, and/or material. Additionally, our vehicles and equipment may leave tire marks, and/or small oil-stains, which we will do the best to minimize. We will powerwash when complete if necessary, but it is not guaranteed that

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the tire and/or or stains will immediately diminish. This situation shall not be a reason for non-payment, nor shall we be liable for replacing all or part of the driveway if this situation occurs. Please advise asap if you have a driveway that you have concerns with being able to handle the extra weight, and/or you prefer us not to drive on it. Keep in mind that if we can't access the driveway, etc, this price listed herein, may become null and void.

Landscaping, Grass, Pool: During the re-roof process, dust, debris, nails, etc may end up in the landscaping adjacent to and around your home / building. We do our best to protect these areas, but there will be small amounts of debris that we may not be able to get out...this includes, small pieces of trash, nails, concrete bits, etc. If you have a swimming pool, we recommend you get it cleaned immediately after the roof removal process.

Payment Terms: 50% Deposit Due Upon Signing Contract / Balance Due Immediately Upon Completion. Finance charges and Late Fees applied to past due invoices. Please mail checks to PO Box 3996 Sedona, AZ 86340.

CREDIT CARD CONVENIENCE FEE: There is a 2.5% Convenience Fee for all Credit Card Charges.

Customer Acceptance of Contract, Terms, and Conditions:

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**CONSTRUCTION CONTRACT
BETWEEN
CLIFF CASTLE CASINO HOTEL
AND
BEHMER ROOFING & SHEET METAL**

FOR THE CLIFF CASTLE CASINO ROOFING PROJECT

**APPROVED BY YAVAPAI-APACHE NATION TRIBAL COUNCIL RESOLUTION NO.
___-2021, JUNE 10, 2021**

SCHEDULE B

SPECIFICATIONS FOR THE WORK

The Roofing Manufacturer's recommended method of installation, titled "Tropical Roofing Products -TPO/EPDM/SPF/PVC-2.5G#924" and "#9400 Eterna-Sil Premium Silicone Mastic – Technical Data Sheet," both of which are appended to this Schedule B, are incorporated into this contract as "Specifications" for completion of the Work.



Tropical Roofing Products- TPO/EPDM/SPF/PVC – 2.5G#924

Built On The Principles of Quality & Integrity

PART I – GENERAL SUMMARY

1. A highly reflective Fluid Applied High Solids Silicone Coating System used to coat existing TPO, EPDM, SPF, PVC Roofs. This coating system will significantly reduce roof temperatures and energy costs. When used in this specification, a seamless, monolithic roof system is achieved.
2. This specification is not intended for use over prepared Tar, Gravel and/or smooth APP membrane, please consult Tropical Roofing Products technical service department for more information.

SUBMITTALS

1. Technical Data Sheet (TDS) and Safety Data Sheet (SDS) for all products used on project.
2. Drawings indicating scope of work and roofing details.
3. Sample Warranty (optional, see warranty section below).

QUALITY ASSURANCE

1. Contractor shall be an approved applicator by Tropical Roofing Products who has a general knowledge and understanding of standard roofing practices as defined by the NRCA.
2. Prior to starting the application of the coating system, there will be a project conference with the owner's representative to assure a clear understanding of the specifications. The conference shall be attended by the Contractor and by Tropical Roofing Products Rep.

APPLICABLE PUBLICATIONS

1. **ASTM D6694** – Standard for Liquid-Applied Silicone Coating Used in Spray Polyurethane Foam Roofing Systems.
2. **Cool Roof Rating Council (CRRC)** – Licensed Seller ID 0656.
3. **UL 790** – Class "A". Refer to the UL directory information.
4. **Miami Dade NOA** – Pending
5. **California Title 24 Part 6, Compliant** - Can be used to comply with Title 24 high efficiency requirements (Eterna-Sil #924/#923).
6. **Florida Building Commission FBC** – Approved

DELIVERY, STORAGE AND HANDLING

1. Materials damaged during shipment, delivery or storage shall not be used on this project without approval of TRP.
2. Store #924 Eterna-Sil silicone roof coating containers between 50°F and 80°F. Other materials shall be stored in accordance with the appropriate material's TDS.
3. Keep all products out of direct sunlight and protected from extreme temperatures.
4. SDS and TDS for all materials used on this project will be kept on site and reviewed by appropriate personnel before use.

SINGLE PLY

#924 ETERNA-SIL SILICONE COATING

- Single Coat Application
- Recoatable
- Apply over Existing surface
- Tough - Flexible - Strong
- Light Weight - Seamless - Smooth
- Energy Efficient Reflective Surface
- Tax Benefits; Renewable
- Tack-free time: < 8 hrs, RH dependent
- Excellent chemical resistance
- Can apply up to 1-2 hours before rain
- Low temperature application possible
- Withstands incidental ponding-water conditions .

WET APPLICATION REQUIREMENTS/100 SQ. FEET OF SURFACE*

System Component	Gallons
2. #924 Eterna-Sil Silicone High Solids	2.5

SYSTEM IN DRY MILS PER 100 Sq. Ft. OF SURFACE

1. Coating Surface Area with #924	38 mils
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COMPONENT PERFORMANCE REQUIREMENT & TEST METHODS

#924 Eterna-Sil Property	Test Method	Value
1. Tensile Strength @ 73°F	ASTM D2370	>240 psi
2. Elongation at Break @ 73°F	ASTM D2370	>270%
3. Tear Resistance @ 73°F	ASTM D-624	>23 lb/in
4. Volume Solids	ASTM D-2697	>95%
5. Weight Solids	ASTM D-1644	>96%
6. Full Cure Time		8-72 hours
7. Tack Free Time	RH Dependent	<8 hours
8. Application Temp	Ambient	40°F to 120 ° F
9. Initial SRI Value		110

*Note: Wet and dry film values shown are approximations and can vary depending on surface conditions.

This Tropical Roofing Products SYSTEM-GUIDELINE SPEC is an abbreviated outline of coating roofing requirements and is intended for use as a submittal with a bid package. Contractors, Specifiers and the Authorized Roofing Applicators must comply with the "Application" section of Technical Data Bulletins on the first page of this document prior to design or bid. The "Products" and "Safety" sections included in the Technical Data Bulletins and SDS contain information pertaining to the proper usage of products as well as applicable safety precautions. These sections must be thoroughly reviewed prior to the installation of this roofing system. Tropical Roofing Products Care & Maintenance program must be implemented in order to ensure that your roof will continue to perform to its full st during the entire time of the warranty.



Tropical Roofing Products- TPO/EPDM/SPF/PVC – 2.5G#924

Built On The Principles of Quality & Integrity

WARRANTY INFORMATION

1. **Limited labor & material warranty:** A manufacturer's limited labor & material warranty is available on approved projects.
2. **Limited warranties:** are not available for continuous immersion service; cryogenic, freezer or cold storage facilities; or over existing wet roofing materials. Other limitations may apply.
3. **Inspections:** Pre-job inspection, adhesion test, and final quality control roof inspection are required, and will be performed with TRP Representative for all warranted labor and materials projects.
4. **Warranty submittals:** TRP Warranty Pre-Approval Application and adhesion results are required for all warranted projects.

PROJECT CONDITIONS

1. All mechanical units, skylights, vents and other rooftop accessories should be in place prior to preparation and coating application.
2. Cover all surfaces not to be prepared and/or coated to prevent overspray damage. Use wind screens as appropriate.
3. Review existing and imminent weather conditions (including potential for extreme temperatures, relative humidity, frost, dew, and precipitation) to assure that coating and accessory material will have sufficient curing time.
4. Temperature at the time of application of the #924 Eterna-Sil silicone roof coating application should be above 40°F to allow coating to be cured properly. Contact TRP Representative if applying to #924 Eterna-Sil silicone roof coating to roof substrate temperature above 120°F.
5. Protect #924 Eterna-Sil silicone roof coating from foot traffic or other potential abuse during the curing process. The coating is considered cured when it is tack-free and sufficiently durable to withstand foot traffic.
6. All work performed under this guide specification must be in accordance with all local, state and federal regulations.
7. A moisture scan may be required to validate that the underlying roof system insulation is moisture free.
8. Air intake, vents, blowers, air conditioning units and evaporative coolers shall be shut down for the entire project.
9. **Treatment of Ponding Water Areas:** #924 Eterna-Sil silicone coating withstands ponded water up to 72 hours, however the National Roofing Contractors Association (NRCA) considers ponding water on any roof undesirable and recommends that all roof systems be designed and built to ensure positive drainage. Corrective action should be considered, prior to application of #924 Eterna-Sil silicone roof coating, to correct existing ponding conditions and/or drainage deficiencies.

PART II – PRODUCTS**MATERIALS**

#924 ETERNA-SIL PREMIUM 100% SILICONE ROOF COATING is a professional grade 100% Silicone roof coating. This product is a high performance, solvent free, high solids, single component, moisture cure liquid applied silicone coating. #924 Silicone is an elastomeric yet vapor permeable membrane exhibiting outstanding weathering and water resistance for application over itself and other silicone roof coatings on architectural surfaces such as vertical walls, BUR/Mod-Bit, masonry, structural concrete, metal, single-ply membranes and sprayed-in-place urethane foam (SPUF) systems.

#9400 ETERNA-SIL SILICONE ROOF MASTIC is a premium silicone multi-purpose mastic for protection of seams, penetrations, and fasteners on various architectural surfaces and roofing substrates. Upon cure, #9400 forms a durable, breathable and weatherproof barrier that is highly resistant to degradation from UV and natural weathering.

ETERNALASTIC EPDM RINSEABLE PRIMER #990: is a rinseable, low viscosity, spray-able liquid used as a pretreatment of black EPDM rubber roof (Single-Ply) membrane prior to power washing and application of silicone coating. EPDM rinseable primer will significantly improve the adhesion of coating.

652 Ultra Green Roof Wash All Purpose Cleaner: is a highly versatile industrial cleaner & degreaser and is a safer alternative to toxic cleaners, bleaches & solvents. The concentrated formula cleans, degreases & deodorizes without harsh chemicals. The formula is non-toxic, non-abrasive, non-corrosive and safe for use on all water-safe washable surfaces.

TRP-1 ULTRA SEAL is a silyl-modified polyether high-performance, multi-purpose, low VOC, single-component construction adhesive/sealant designed for bonding and sealing a wide range of porous and non-porous construction materials. NOT INTENDED FOR USE ON TPO. TRP-1 forms a superior waterproof seal to most roofing materials including metal flashings, copings and skylights.

Polyester Fabric #932 Fabric is non-woven, spun bonded 100% that covers 10 squares per roll, firm or soft. Tropical Roofing Products #932 is available in various widths and used with #9400 Eterna-Sil Seam Sealer to reinforce seams, penetrations, joints or transitions that are subjected to high shear.

This Tropical Roofing Products SYSTEM-GUIDELINE SPFC is an abbreviated outline of coating/roofing requirements and is intended for use as a submittal with a bid package. Contractors, Specifiers and the Authorized Roofing Applicators must comply with the "Application" section of Technical Data Bulletins on the first page of this document prior to design or bid. The "Products" and "Safety" sections included in the Technical Data Bulletins and SDS contain information pertaining to the proper usage of products as well as applicable safety precautions. These sections must be thoroughly reviewed prior to the installation of this roofing system. Tropical Roofing Products Care & Maintenance program must be implemented in order to ensure that your roof will continue to perform to its fullest during the entire time of the warranty.



Tropical Roofing Products- TPO/EPDM/SPF/PVC – 2.5G#924

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PART III - EXECUTION

SURFACE PREPARATION

1. Preparation of the roof substrate is the responsibility of the installer, who shall address and correct all the conditions listed in this section. Examine substrates to receive new roofing. Do not proceed with the Installation of the Tropical Coating System until unsatisfactory conditions have been corrected in a manner acceptable to Tropical Roofing Products.
2. If the EPDM substrate roof is newly installed, do not coat with the silicone system for a minimum of 30 days to allow for full "cure".
3. Thoroughly Inspect the TPO/PVC/EPDM/SPF substrate for delamination & defects (holes & other openings tears, cuts, and open or partially opened seams). If the defects are larger than 1/8", repair before coating application (refer to flashing section).
4. Apply a 12" x 12" test patch of the silicone coating system prior to full roof surface installation to ensure adequate adhesion. Please refer to test patch application instructions.
5. Surface must be clean, dry and free of dust and dirt.
6. All areas that are to be coated or repaired must be clean, dry and free of dust, dirt, grease, wax, or other incompatible substances to promote satisfactory adhesion.
7. Replace deteriorated or structurally unsound decking.

APPLICATION

#990 RINSEABLE PRIMER (EPDM ONLY) SUBSTRATE APPLICATION

1. Apply #990 Eternalastic rinseable primer at a rate of 1 gallon per 500 sq. ft.
2. #990 Eternalastic rinseable primer should be applied with a conventional compressive air sprayer/Hudson sprayer.
3. The EPDM surface must next be pressure washed with water at a rate of max 2500 psi to remove remaining debris.
4. #990 Eternalastic rinseable primer is mandatory for maximum adhesion. Any residue of the #990 Eternalastic rinseable primer left on the EPDM will also have disastrous adhesion results. Therefore, a complete second rinse with water is essential.

FLASHING APPLICATION & REPAIR WITH #9400 ETERNA-SIL

1. After completion of substrate preparation, all flashing details, penetrations and curbs shall be covered with #9400 Eterna-Sil at 1/8" thick and shall be feathered at the edges for the water to flow over the various flashing details.
2. **Blisters/Splits:** Large splits/blisters are required to be repaired use #932 polyester Reinforcing fabric with #9400 Eterna-Sil Seam Sealer at 1/16" thick in a three-course fashion and spread to 2" to 4" beyond the splits/blisters areas.
3. **Membrane Repair:** Thoroughly inspect the roof substrates for defects (holes and openings). For repairs over 1/8" wide, use #932 polyester Reinforcing fabric with #9400 Eterna-Sil Seam Sealer at 1/16" thick in a three-course fashion and spread to 2" to 4" beyond the repaired areas.
4. **Roof Drains:** Remove clamping ring and clean all existing build-up from around the drains and sumps. Apply #9400 Eterna-Sil across the entire drain/sump area. Extend the application into the drain bowl from center of drain onto the deck 6" beyond drain sump. Allow to cure. Replace clamping ring. The silicone coat application shall be applied over the #9400 Eterna-Sil.
5. **Curb Flashings:** All curb flashings shall be dressed in at least a 2" wide x 1/8" thick of #9400 Eterna-Sil.
6. **Fasteners:** Encapsulate all fasteners using #9400 Eterna-Sil or TRP-1 MS Polymer Sealant ensuring a water tight seal from the base to the top of the fastener.
7. **Penetrations:** #9400 Eterna-Sil Seam Sealer shall be applied around the base of the penetration, extending at least 4" onto the vertical and 4" onto the base. Use additional #9400 Eterna-Sil as necessary to accommodate the shape of the penetration.
8. **Seams:** All seams and areas around roof protrusions (vents, scuttle hatches, etc.) are to be treated with #9400 Eterna-Sil Seam Sealer at 1/8" thick to achieve a watertight reinforced seal.
9. **Pitch Pans:** Pitch pans shall be covered using #9400 Eterna-Sil.
10. **Curbed AC Units:** All curb flashings shall be covered with at least a 2" wide x 1/8" thick of #9400 Eterna-Sil Seam Sealer. The perimeter shall be flashed with #9400 Eterna-Sil Seam Sealer.
11. **Skylights** All exposed skylight fasteners shall be covered with #9400 Eterna-Sil. All curbed corners joints shall be covered with #9400 Eterna-Sil at least 2" wide x 1/8" thick.
12. **Inspect Preliminary Work / Flashing Details** for problem areas (e.g., gaps, cracks, fish mouths, air pockets, etc.) before proceeding to the application of #924 Eterna-Sil silicone coating.

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Tropical Roofing Products- TPO/EPDM/SPF/PVC – 2.5G#924

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#924 ETERNA-SIL 100% SILICONE:**DO NOT DILUTE, THIN OR FREEZE THE PRODUCT[S]**

Weather Restrictions: #924 Eterna-Sil silicone coating is not to be used when weather conditions are below 40°F, or when there is a chance that temperatures will fall below 32°F within a 24-hour period after application.

1. When product is in 5-gallon pails, use a 3" min diameter-mixing blade. Hand mixing with a suitable mixing blade is acceptable. When product is in drums, use a 6" min diameter-mixing blade. **DO NOT OVER-MIX.**
2. Containers are packaged with a layer of nitrogen gas to keep latent moisture from prematurely starting the curing process. After opening a container, apply immediately, or reseal with a layer of nitrogen gas.

Coating Application of #924 Eterna-Sil 100% Silicone:

1. #924 Eterna-Sil Silicone Coating may be sprayed, brushed, or rolled.
2. Do not apply coating when moisture is present on the substrate or if rain is expected before coating will properly cure.
3. Wind barriers shall be used if wind conditions could affect the quality of the material being applied.
4. The recommended gallons for minimum mil thickness is a guideline and should be verified by the contractor to ensure that the minimum mil thickness is applied to the roof surface.
5. Coating must be evenly applied and pinhole-free.
6. Coating must be extended beyond the substrate to create a self-terminating flashing.

Minimum Application Thickness:

1. #924 Eterna-Sil coating thickness shall be 38 Minimum TDM (Total Dry Mils).
2. Application rates must be checked periodically to assure proper coating thickness. This may be done with a wet film gauge, or by checking coverage of a known quantity.
3. Contractor should estimate coating requirements based on actual experience and needs to figure losses due to applicator experience, surface texture, wind, waste, and other factors increasing estimated gallons required.

Poured-In-Place (roll or squeegee) Application Option #924 Eterna-Sil Coating:

1. Use 3/8" to 1" nap rollers.
2. Use smooth or notched squeegee
3. Use short bristle brush/roller on smooth substrates.
4. Use longer bristle brush/roller on rough substrates.
5. After the #9400 Seam Sealer are thoroughly cured, pour base coat onto roof in a narrow pass for approximately 20 feet and spread with the squeegee or 18" applicator brush at an application rate designed to achieve the required minimum 38 TDM (Total Dry Mil).
6. Immediately back-roll the area evenly with an 9"-18" x 3/8"-1" nap roller, perpendicular to the squeegee pattern. (Care should be taken to back-roll immediately before coating begins to dry).
7. Note: Temperature, coating type, applicator technique, substrate, as well as other factors will affect coating thickness.
8. The #924 Eterna-Sil coating shall completely cover the expansion joint covers, parapets and flashings applied at an application rate designed to achieve the required minimum 38 TDM.

Spray Application Option: #924 Eterna-Sil Silicone Coating Pump Minimum Specification to Apply #924 Silicone:

1. High-pressure airless pump capable of producing a minimum of 4000 PSI at the spray gun head should be used.
2. The pump should have a min of 3 gallons per minute output and be fed by a 5:1 transfer pump to prevent cavitation.
3. Always use components rated for pump pressure.
4. Hoses should be BUNA-N jacketed for prevention of moisture contamination.
5. Hoses should have a minimum I.D. of 3/4" and an adequate working pressure.
6. The spray gun should be high pressure (5000 PSI) with reverse-a-clean spray tip.
7. The spray gun should also have a minimum orifice of .030 and a 50° fan tip.
8. **DO NOT USE** hose that has been used for acrylics or emulsions, as the liner may absorb moisture and initiate the silicone curing process.
9. Spray #924 Eterna-Sil Coating at an application rate designed to achieve the required 38 TDM (Total Dry Mil) for the project. Contractor needs to figure losses due to surface texture, which will increase estimated material requirements.
10. Pay special attention to overspray, which can texture or discolor finished sections. Wind direction should conduct overspray away from finished roofing surfaces.

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Tropical Roofing Products- TPO/EPDM/SPF/PVC – 2.5G#924

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FIELD QUALITY CONTROL

1. Maintain Job Progress Report / Daily Log of work completed as required to assure installation is in accordance with manufacturer requirements.
2. Provide on-the-job inspections, technical assistance and material application guidance as may be necessary to complete roofing material application in accordance with Tropical Roofing Products warranty requirements.

JOB COMPLETION

1. Inspect completed coating system and correct all defects to meet the specification and/or warranty requirements.
2. **Transparent or Thin Areas:** If areas appear to be undercoated, recoating may be needed to ensure final thickness to meet the Tropical Roofing Products Specifications Minimum Total Dry Mills.
3. **Delamination:** Verify that all coated areas appear to be fully adhered to the substrate. Complete a visual inspection for typical signs of poor adhesion such as flaking, blistering etc. Recoating will be required if such areas are apparent.
4. **Pin Holing:** Certain job or site conditions may result in pin holing or off gassing during curing or cause pin holes in the substrate. Again, a visual inspection looking for typical signs of off gassing such as excessive pockmarks, pinholes etc. should be done.
5. **Texture Finish:** Heavy patterns, blistering, "skinning," etc. may appear in the final finish. Check with Tropical Roofing Products Technical Representative for remedial advice.
6. Restrict foot traffic and equipment movement on the completed coating system to essential personnel and only after 72 hours of the completion of the coating application. Provide appropriate protection against traffic and construction activities on completed roofs. Damage to the roof by other trades shall not be the responsibility of Tropical Roofing Products.

HOUSEKEEPING ITEMS

1. Contractor shall take photographs of representative roof areas, including detail work before work commences, after the surface has been properly prepared, after all flashing and detail work has been performed, and after the application of the #924 Eterna-Sil coating.
2. Installer shall provide the following support for on-site inspections by a representative from Tropical Roofing Products (list is not comprehensive):
 - a. Representative from the contractor's company who has authority to make binding decisions.
 - b. Required means to access all areas of the treated roof.
 - c. Previous photographs of the roof.
3. Installer shall take special care when moving spray hoses and other equipment on the roof to prevent damage to the flashing work and encapsulated fastener heads.

REPAIRS

If the #924 Eterna-Sil Coating is damaged or punctured, repairs are to be performed using #9400 Eterna-Sil as follows:

- a. Damaged areas are to be cut, cleaned and dried.
- b. Apply #9400 Eterna-Sil, and feather out onto the existing #924 Eterna-Sil coating with a minimum of 2-4 inches beyond the existing coating.

CLEAN UP

1. Remove masking and protection tapes.
2. The HVAC vents and units can be opened and restarted once the spray operation is complete.
3. Remove all roof related trash and debris from jobsite.
4. Dispose of containers in accordance with local regulations.
5. For application questions, please contact Tropical Roofing Products at 1-877-827-2622.

ENGINEERING

Tropical Roofing Products does not practice Engineering or Architecture. Any review of the building's construction or inspection of roof plans or inspection of the building's structural roof deck by Tropical Roofing Products representatives shall not constitute any warranty by Tropical Roofing Products of such plans, specifications or construction. Any roof inspections are solely for the benefit of Tropical Roofing Products.

MAINTENANCE

To maintain your warranty coverage and ensure that your roof will continue to perform to its fullest during the entire time of the warranty, always adhere to Tropical Roofing Products Care and Maintenance program and guidelines.

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Tropical Roofing Products- TPO/EPDM/SPF/PVC – 2.5G#924

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LIMITATIONS

Eterna-Sil #924 silicone roof coating should not be considered for:

1. Use on pedestrian, deck or frequent traffic bearing surfaces.
2. Cold storage roofing application without vapor barrier, cryogenic tank applications, or continuous water immersion service.
3. Unprepared surfaces including but not limited to those that are wet, dusty, oily, mildewed, heavily chalked, blistered or otherwise structurally unsound.
4. Building materials that might bleed oil or solvents. These include, but are not limited to, certain vulcanized rubber products, tapes, failed sealants, some caulking compounds and asphaltic/mastic materials unless appropriate preparation or primers are used. Consult Tropical Roofing Products technical services for primer recommendations.
5. Surfaces where adhesion has not been verified by testing.
6. Inclement weather may negatively affect uncured Eterna-Sil #924 silicone roof coating by displacement of uncured material; therefore, application of coating should not proceed if heavy rain, hail or snowfall is impending or expected within 24 hours of application.
7. Eterna-Sil #924 silicone roof coating requires atmospheric moisture for propagation of cure thus it is not suitable for use in totally confined spaces.

IMPORTANT:

The applicators strict adherence to this specification is the only way Tropical can ensure that this product will perform as intended. Accordingly, any changes made to specifications must be reviewed, approved in writing and signed by Tropical Roofing Products Director of Manufacturing & Technical Services prior to application.

End of Section
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#9400 ETERNA-SIL PREMIUM SILICONE MASTIC

TECHNICAL DATA SHEET

PRODUCT DESCRIPTION

#9400 Eterna-Sil Premium Silicone Mastic is a professional grade, high performing seam sealer and repair mastic for protection of seams, penetrations, and fasteners on various architectural surfaces and roofing substrates. Upon cure, **#9400** forms a durable, breathable and water-resistant barrier that is resistant to degradation from UV and natural weathering.

PRODUCT LIMITATIONS

#9400 should not be applied to unprepared surfaces including but not limited to those that are wet, dusty, oily, mildewed, heavily chalked, blistered or otherwise structurally unsound. Asphaltic and/or bituminous substrates may cause discoloration or bleeding of the silicone mastic. It is recommended that the use of Tropical's **#996 Eterna-Sil Premium Bleed Blocker** be used prior to the application of **#9400** to mitigate this discoloration and bleeding effect from occurring. Refer to **#996** Data Sheet for complete details.

PHYSICAL PROPERTIES

ETERNA-SIL PREMIUM SILICONE MASTIC	
Tensile Strength	305 ± 10 psi @ 73 °F
Elongation	60% ± @ 73 °F
Tear Resistance	25 ± 5 lbf/in @ 73 °F
V.O.C.	<50 g/L
Solids by Weight	97% ± 2

Solids by Volume	91% ± 2
Tack-Free Cure	2 hours
Dry to Touch	6 hours
Shelf Life**	18 months (un-opened containers) **when stored between 35°-75°F

PONDING WATER

Tropical's **#9400 Eterna-Sil Premium Silicone Mastic** can be applied over properly prepared surfaces that exhibit ponded water, however, The National Roofing Contractors Association (NRCA) considers ponding water an undesirable non-standard roofing practice and recommends that all roof systems be designed and built to ensure positive drainage. (See the NRCA Roofing and Waterproofing Manual). Please contact Tropical Roofing Products Technical Department for any specific questions regarding the application of this product.

PREPARATION

All surfaces to be coated must be clean, dry, and paintable. It may be necessary to power wash and/or prime to enhance adhesion. See application specification for more details.

MIXING PROCEDURES

#9400 should be applied as received and dilution with solvent is not recommended. If settling in the package has occurred, stir or shake the material prior to use.

APPLICATION EQUIPMENT

#9400 can be applied by trowel, stiff brush or gloved hand.

APPLICATION

Apply **#9400** to ensure a uniform build and thorough coverage typically applied in one application. If applying in multiple applications, allow adequate time between each application for the mastic to cure before applying additional material. Final cured thicknesses must be free of voids, pinholes, cracks or blisters. Refer to Specifications for complete details.

COVERAGE

Recommended 100 linear feet coverage per gallon. Application rates will vary by surface, porosity, and job conditions. Please consult Tropical Roofing Products for total dry film thickness requirements.





#9400 ETERNA-SIL PREMIUM SILICONE MASTIC

TECHNICAL DATA SHEET

PRECAUTIONS

#9400 should not be applied at ambient temperatures lower than 40° F. Be sure that all surfaces are not wet or damp and that rain is not forecasted during application window or for at least 1 hour after application has ended.

CLEANUP

Cleanup of equipment containing uncured material may be accomplished by cleaning with mineral spirits or toluene. **DO NOT USE** water or alcohol based solvents.

CURE TIME

Tack Free cure in 2 hours. Dry to Touch cure in 6 hours. Cure time is dependent on temperature, humidity and film thickness.

SHELF LIFE

18 months from date of manufacture when properly stored in cool, shaded, and dry conditions. #9400 can be stored in unheated warehouses during the cooler months without the risk of freezing.

PACKAGING

Container 2.0 Gallons (7.57 Liters)

SHIPPING INFORMATION

D.O.T. Classification: Roof Coating, Not Regulated NFMC #170080

CONTAINER SIZE	CLASS
2 Gal.	55

KEEP OUT OF REACH OF CHILDREN. Close container after each use. **DO NOT TAKE INTERNALLY!** If swallowed, do not induce vomiting. **CALL PHYSICIAN IMMEDIATELY!**

To the best of our knowledge, all technical data contained herein is true and accurate as of the date of the issuance and subject to change without prior notice. User must contact TROPICAL ROOFING PRODUCTS (TRP) to verify correctness before specifying or ordering. We guarantee our product to conform to the quality control standards established by TRP. We assume no responsibility for coverage, performance or injuries resulting from use. Liability if any, is limited to replacement of the product. NO OTHER WARRANTY OR GUARANTEE OF ANY KIND IS MADE BY TRP EXPRESSED OR IMPLIED, STATUTORY, BY OPERATION OF LAW, OR OTHERWISE, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**CONSTRUCTION CONTRACT
BETWEEN
CLIFF CASTLE CASINO HOTEL
AND
BEHMER ROOFING & SHEET METAL**

FOR THE CLIFF CASTLE CASINO ROOFING PROJECT

**APPROVED BY YAVAPAI-APACHE NATION TRIBAL COUNCIL RESOLUTION NO.
___-2021, JUNE 10, 2021**

SCHEDULE C

SPECIAL CONDITIONS

- 1. Yavapai-Apache Nation Tribal Employment Rights Office Code.** This Contract is subject to the Yavapai-Apache Nation Tribal Employment Rights Office Code (TERO). A copy of the TERO Code is included in these Special Conditions and made a part of the Contract Documents. The Contractor agrees to fully comply with all requirements of the TERO Code. The Contractor acknowledges that this contract is subject to all provisions of the TERO. Prior to issuance of a Notice to Proceed under this Contract, the Contractor shall meet with the Nation's TERO Officer and negotiate and enter into a Compliance Agreement as required under the Code. The Contractor acknowledges that under the Code the Contractor has the initial and primary responsibility to ensure that all of Contractor's Subcontractors comply with the Code.

For additional information on Indian Employment and the Indian Preference requirements under this Agreement, the Contractor is advised to contact the TERO Officer; Phone (928) 567-1080.

- 2. Article 13 "WARRANTY", Section 13.3 of the Contract is supplemented by the following: (a) Contractor's Warranty provision dated _____, 2021 (date to be inserted upon Contractor's satisfactory completion of the Work), and (b) the "Manufacturer's Warranty" titled "Tropical Roofing Products – Warranty and Inspection Requirements & Procedures" both of which are appended to this Schedule C and incorporated fully into the Contract as a Special Conditions.**



WARRANTY

Date: _____

Project Information	
Project Name:	Cliff Castle Casino Roof Coating
Address:	555 W Middle Verde Rd, Camp Verde, AZ 86322
Customer:	Yavapai-Apache Nation
Contact:	Mike Fox
Contact Phone:	928-567-7954

Project Description	
Description of work performed and material supplied.	
<i>Install Tropical Silicone Roof Coating over existing membrane roof</i>	

Contractor/Supplier	
Company Name:	Behmer Roofing & Sheet Metal
Address:	8711 E. Pinnacle Peak Rd., Scottsdale, AZ 85255
Phone:	928-282-5323
Fax:	n/a

Owner / Contact Information		
Name:	Matt Behmer	
Email:	matt@behmerco.com	
Project Manager:	Jeff Cary	
Email:	jeff.cary@behmerroofing.com	

The above-named Contractor / Supplier does hereby warrant its work performed on and/or material supplied to the above named project for a period of **5 YEARS** from the date of the **Substantial Completion**, this in addition to an additional 15 year warranty from Tropical Roofing Coatings, for a total combined duration of 20 years.

The work and/or material is guaranteed to remain free from all defects and is guaranteed to comply with all requirements of the Specifications and other Contract Documents governing the work.

Should there be any defects in the workmanship and/or material requiring repair and/or replacement the Owner must notify the above named Contractor/Supplier in writing immediately upon discovery and must allow the Contractor/Supplier a reasonable amount of time in which to make the repair (s) / replacement (s).

This warranty becomes null and void should any party other than the above named Contractor/Supplier or its authorized representatives make or attempt to make any repairs and/or replacements to any work performed and/or material supplied by the above named Contractor/Supplier.

Owner agrees to perform all necessary preventative maintenance as required by manufacturer. Failure to perform (or have performed preventative maintenance may result in the warranty being deemed null & void.

This warranty does not cover damage caused by windstorm, tornado, lightning, hail, and all other acts of nature whether wholly or in part, nor does it cover negligence of any party not directly associated with the above named Contractor/Supplier. This warranty does not cover deferred maintenance.

Company/Supplier

Date

Owner Signature



Warranty and Inspection Requirements & Procedures

Tropical Roofing Products offers **Limited Product Warranties (Material Only)** and **Limited Full System Warranties (Labor & Material)**. All Warranties require the completion and submission of the Warranty Application Form to initiate the process, and adherence to the **Tropical Care & Maintenance Guidelines**.

Each Tropical Roofing Products Warranty is specific to a single property address and a single Tropical Roofing Products Fluid-Applied Roof Coating System. If your project includes multiple buildings or multiple systems, a separate Warranty Application Form must be submitted for each building or installed system.

A. LIMITED PRODUCT WARRANTY (Material Only)

Tropical Roofing Products offers a **Limited Product Warranty (Material Only)** for all our Fluid Applied Roof Coatings. There is no additional fee. The warranty term is specific to the Fluid Applied System as shown in the table below.

#911 Acrylic Elastomeric Coating = 12 Year Limited Material Warranty
#921 Acrylic Elastomeric Coating = 10 Year Limited Material Warranty
#901HS Acrylic Elastomeric Coating = 5 Year Limited Material Warranty
#924 ETERNA-SIL High Solids Silicone Coating = 10, 15- or 20-Year Limited Material Warranty

The requirement for the issuance of a Limited Material Only Warranty are:

1. Submission of Material Only Warranty Application Form.
(<http://www.tropicalroofingproducts.com/products/warranty>)
2. Proof of purchase (invoices) from a Tropical Roofing Products Authorized Distributor.
3. Products must be installed/applied according to issued specification and/or published application guidelines.
4. Submission of digital pictures documenting scope of work in accordance with specification/application guidelines.

Note: Tropical Roofing Products may not inspect Material Only Warranty projects.



B. LIMITED SYSTEM WARRANTY (Material & Labor)

Tropical Roofing Products offers **Limited Material & Labor Warranties in 10, 15 and 20-Year Terms** based on the following fee schedule and requirements:

TERM	Acrylic Fee	Silicone Fee	Min. Fee \$
10-Year Limited System Warranty	\$.07 per sq. ft.	\$.10 per sq. ft.	\$1,000
15-Year Limited System Warranty	\$.09 per sq. ft.	\$.12 per sq. ft.	\$1,500
20-Year Limited System Warranty	N/A *	\$.15 per sq. ft.	\$2,000

1. Submission of Material and Labor Warranty Application Form.
(<http://www.tropicalroofingproducts.com/products/warranty>).
2. Proof of purchase from a Tropical Roofing Products Authorized Distributor.
3. Products must be applied by a Tropical Roofing Products Authorized Contractor, licensed and insured by standards governing the scope of work.
4. Products must be installed/applied according to issued specification and/or published application guidelines. (see www.tropicalroofingproducts.com)
5. Application must be inspected by a Tropical Roofing Products Technical Sales Manager as follows:

1 st Inspection:	Prior to start of job
2 nd Inspection:	Completed Primer/Fabric Phase
Final Inspection:	Upon completion
6. All CARE & MAINTENANCE GUIDELINES must be followed.

*** Warranties nearing expiration may be extended after inspection and any necessary repairs and restoration are completed satisfactorily. Warranties may be "transferrable" if request is in writing and roof passes inspection.**

Inspection Procedures: Tropical Roofing Products Technical Sales Manager is available to make the necessary site inspections, as needed, to inspect the application stages before the applicator may continue. Number of inspections may vary depending on job type, contractor experience, project characteristics and other factors. It shall be the responsibility of the contractor to notify Tropical Roofing Products in advance of these scheduled times to enable the inspections and provide safe access as per governing standards. The contractor shall be responsible for ensuring a weather-tight building for the entire duration of the project. Next day inspections cannot be guaranteed, please schedule accordingly. Manufacturer warranties are issued only after a project has been issued a specification, manufacturer inspections are completed, warranty requirements are satisfied, and project is completed.



TERMS & CONDITIONS *Warranty Disclaimer*

(A.) Notification of contract award (Warranty Application Form) from the Authorized Roofing Contractor must be received at least fourteen (14) days prior to start of application of roofing on all Warranted jobs.

(B.) Receipt and acknowledgment of this notice does not obligate Tropical Roofing Products to issue warranty on the roof unless all conditions of the Tropical Roofing Products warranty program for the completed roofing system are strictly complied with.

(C.) Acceptance of this application warranty in no way will diminish any responsibility of the roofing contractor including being responsible for all labor costs for the first two-years of the warranty term.

(D.) Authorized Contractor agrees to give Tropical Roofing Products notice of exact dates when work begins and is completed.

(E.) Tropical Roofing Products assumes no responsibility for specification, construction, or design of the building including the roof system except as stated in the roofing warranty.

(F.) This application must be authorized and signed by an officer or owner of the contracting company.

(G.) Authorized Contractor agrees to install the Tropical Roofing Products roofing system in accordance with the current Tropical Roofing Products selected specifications.

(H.) Authorized Contractor agrees to adhere to the Tropical Care & Maintenance Guidelines including documentation of all inspections and repairs. See next page for full Care & Maintenance Guidelines that can be also located at www.tropicalroofingproducts.com

TRP Care and Maintenance Program

In order to ensure that your Tropical Roofing Products roof coating will continue to perform to its fullest, and to maintain your warranty, you must follow, implement and satisfy this Care and Maintenance program.

- A. Maintain a file for all records relating to this roof, including the Tropical Roofing Products agreements, reports, invoices, repair and maintenance bills, original drawings and specifications, etc.
- B. Inspect the roof and coating at least twice each year, typically in the spring and fall. The most common areas of damage or distress are at drainage points, penetrations, perimeter flashings and in traffic areas.
- C. Inspect for damage from the elements after severe weather conditions, such as hailstorms, heavy rains, high winds, etc.
- D. Arrange for prompt repairs necessary to correct non-guaranteed conditions affecting the roof surface. Repairs to the surface must be promptly performed by Tropical Roofing Products approved contractors with approved products and repair methods that are consistent with the type and quality of the warranted coating so that such repairs will last as long as the Tropical Roofing Products coating.
- E. Regularly remove any debris, such as leaves, branches, dirt, rocks, bottles, refuse, that may accumulate on the roof surface. Clean gutters, downspouts, scuppers, and surrounding roof areas to ensure proper drainage.
- F. Examine all metal flashings, counter-flashings, expansion joints and pitch pockets for rust, detachment, deteriorated sealant, and damage. Reattach loose metalwork. Replace sealant as necessary. Prepare and paint rusted surfaces.
- G. Examine masonry walls and copings for cracks, bad mortar joints, deteriorated sealant, loose masonry/coping stones, and indications of water absorption. Repair all such conditions to prevent water infiltration.
- H. Examine rooftop equipment such as air conditioners, ductwork, gooseneck vents, powered ventilators, evaporative coolers, antennas, equipment screens, skylights, satellite dishes, etc. for excessive movement, spillage of coolant, condensation, oil, grease, water/liquid release, etc., and damage to sheet metal cabinets and rubber or fabric gaskets that may allow water infiltration. Employ, keep and maintain drainage systems for release of water, etc. from rooftop equipment to avoid surface water buildup. Keep all roof top equipment in good condition.
- I. Regularly examine for any cracks, blistering, or flaking. Promptly contact Tropical Roofing Products regarding any such cracks, blistering or flaking and recoat/patch any such areas with approved Tropical products.
- J. Minimize rooftop traffic. Establish paths which confine roof traffic to designated areas only. Service personnel should take care to avoid dropping tools, equipment, parts, etc. on the roof surface. Service personnel should not make any penetrations of or repairs to the coating. All work affecting the coating must be performed by an approved Tropical Roofing Products contractor.

This Tropical Roofing Products Care and Maintenance information is intended to address conditions commonly found on buildings. Other conditions may exist that require special maintenance considerations. It is the responsibility of the Building Owner to ensure that the care and maintenance program followed for a particular building is adequate, given that building's specific condition.