



Whelan Properties
A Service-Disabled Veteran-Owned
Small Business

MEMORANDUM

Project: Wilkes Barre VAMC Roof Replacement Project (35)
Contract #: VA244-C-0547
Project #: 693-08-990
Date: August 11, 2009
Subject: Warranty Information

Wilkes Barre VA Medical Center
1111 East End Blvd.
Wilkes Barre, PA 18711

Please find enclosed the following warranty documents:

- 20 year NDL Manufacturers Warranty (Viridian Systems)
- 5 year Contractor Warranty
- 10 year Coating Warranty (ELMS)
- Lightning Protection Letter

If a leak is to occur on RA-35 for the duration of the warranty period:

- Locate and place the approximate leak location on the provided roof plans in the folder.
- Fax the roof plan to Whelan @ 610-388-2399 or scan and e-mail to jcordrey@teamrri.com and include a description of the severity and nature of the leak.
- Call 610-388-2328 (Whelan Properties Office) or Joe Cordrey (610-496-7375) to ensure the leak report was received.
- Whelan Properties will respond and mobilize a crew to review the issue and make repairs as necessary.

Sincerely,
Joseph Cordrey
Project Manager



300 Southwest Avenue
Tallmadge, OH 44278

Leak Service Agent: 888-292-2924
Bus: 440-248-7760 Fax: 440-248-6524

ROOF MEMBRANE WARRANTY

Building Name	WILKES BARRE VA HOSPITAL
Building Address	1111 EAST END BLVD., WILKES BARRE, VA 18711
Building Owner	DEPARTMENT OF VETERAN AFFAIRS
Roof Identification	BUILDING 35
Contractor	JOTTAN INCORPORATED
System Type	MODIFIED BITUMEN
Flashing Type	TORCH DOWN
Total Sq./Ft. Coverage	9800 SQ. FT.
Lin. Ft. Flashing	560 LF
Completion Date	12/24/2008
Warranty Term	20-YEAR

Viridian Systems ("Viridian"), warrants to the above-named Building Owner ("Owner") that, when the Viridian roof membrane is installed in accordance with current Viridian-approved specifications, Viridian will, at Viridian's expense, repair the roofing membrane as necessary to stop any leaks about which Viridian has received written notice during the Warranty Term, subject to the terms and conditions of this Warranty. Owner acknowledges and agrees that such repair will be Owner's sole and exclusive remedy under this Warranty.

The cost of removal or replacement of all roof system components, except the Viridian membrane, shall be borne by the Owner, and will be completed by a Viridian approved contractor with Viridian approved materials.

This Warranty will commence as of the date of completion as indicated above and will extend for the Warranty Term indicated above, subject to the terms and conditions of this Warranty, but this Warranty will become effective only upon Viridian's receipt of full payment of all invoices for services and materials used in connection with installation of the roofing membrane, and any delay in the effective date of this Warranty due to non-payment will not extend the Warranty Term indicated above. This Warranty is not assignable, or transferable, directly or indirectly, as a result of the sale of the premises or otherwise.

OWNER RESPONSIBILITIES

- In the event of a leak in the roofing membrane or flashing membrane system, the Owner will immediately notify Viridian's service agent at 1-888-292-2924, and confirm in writing to Viridian at the address specified above. In order to be eligible for coverage under this Warranty, Viridian must receive written notice of a leak prior to expiration of the Warranty Term.
- By notifying Viridian, you authorize Viridian to investigate the cause of the leak or claim. If the investigation reveals that the leak or claim is not covered by this Warranty, you agree to pay an investigation cost of \$500. This Warranty will be cancelled if you fail to pay this cost within 30 days of the receipt of an invoice for it.
- The Owner will provide Viridian, or its agent, free access to the building and roof during regular business hours over the Warranty Term.
- The Owner will notify the general office of Viridian at the address specified above in writing of any proposed modification, repair or addition, on or through the roof or base flashing for each situation occurring after the completion date on this Warranty prior to the commencement of any proposed modification, repair or addition. Drawings or plans showing the location of the proposed changes must be provided to and approved by Viridian prior to commencing work on any such modification, repair or addition. Any roofing modification, repair or addition must be completed with Viridian material installed by a Viridian approved contractor.
- In the event repairs are required which are not covered by this Warranty, Viridian will advise Owner of such repairs and Owner will be required to make such repairs at Owner's expense, using Viridian materials and a Viridian approved contractor. If, within thirty (30) days after Viridian advises Owner of

the Non-Warranty required repairs, such required repairs are made as provided in the foregoing sentence, this warranty shall remain in effect for the unexpired portion of the Warranty Term. If Owner does not make the required repairs within such thirty (30) day period, this Warranty shall be automatically terminated without further notice from Viridian.

- The Owner will provide Viridian with prior written notice of any changes in the original usage of the building within thirty (30) days prior to implementation of such change in usage. If, in Viridian's sole judgment, Viridian determines that such change in usage would materially and adversely impact the roofing system, this Warranty will terminate unless Owner obtains the prior written consent of Viridian to implement such change in usage and further agrees to take such other action or make such other repairs, additions or modifications to the roofing system as recommended by Viridian in connection with such proposed change in use.
- Viridian recommends that Owner participate in the Preventative Maintenance Service Plan offered by Viridian. Contact Viridian for details.

OWNER ACKNOWLEDGES AND AGREES THAT THE WARRANTY SET FORTH HEREIN IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND VIRIDIAN HEREBY EXPRESSLY DISCLAIMS ALL OF SUCH OTHER EXPRESS AND IMPLIED WARRANTIES.

INSPECTION REQUIREMENTS

OWNER MUST REQUEST, IN WRITING, AN INSPECTION EVERY FIVE YEARS DURING THE WARRANTY TERM. THE INSPECTION REQUEST MAY BE MADE ANYTIME BETWEEN THE SIXTH AND TENTH MONTH OF THE FIFTH YEAR OF THE WARRANTY TERM; THEN EACH FIFTH YEAR ANNIVERSARY THEREAFTER.

UPON RECEIPT OF SUCH REQUEST, VIRIDIAN WILL PROVIDE AN INSPECTION OF THE ROOF SYSTEM TO DETERMINE WHETHER ANY REPAIRS NOT COVERED BY THIS WARRANTY ARE REQUIRED TO MAKE THE SYSTEM ELIGIBLE FOR THE ADDITIONAL FIVE-YEAR CONTINUATION OF THIS WARRANTY, SUBMITTING A DETAILED INSPECTION REPORT TO THE OWNER OUTLINING THE NATURE AND EXTENT OF SUCH REQUIRED REPAIRS.

After the Owner has caused any such non-covered required repairs to be made (at Owner's sole expense and by a contractor approved by Viridian and using Viridian-approved materials) and notifies Viridian in writing of its desire for this Warranty to continue no later than sixty (60) days prior to expiration of the then-current five-year increment of the Warranty Term, Viridian will then provide a re-inspection of the roofing membrane's acceptability for a five-year warranty continuation. The cost of both inspections will be paid by the Owner. Provided the above inspection requirements are met, this Warranty will be continued until and subject to, the next inspection requirement.

LIMITATIONS OF WARRANTY

This Warranty is not a maintenance agreement or an insurance policy. Because Viridian does not practice Engineering or Architecture, neither the issuance of this Warranty nor any review of the Building's construction or inspection of roof plans (or the building's roof deck) by Viridian's representatives shall constitute any warranty by Viridian of such plans, specifications or construction or in any way constitute an extension of the terms and conditions of this Warranty.

This Warranty is valid only when applied by a Viridian-approved roofing contractor. All repairs, modifications or additions must be authorized in advance by Viridian and be completed using a Viridian approved contractor and Viridian approved materials. This Warranty shall not be applicable and may be void if, in the sole judgment of Viridian, any of the following shall occur:

- I. The roofing membrane is damaged by natural disasters including, but not limited to, fire, floods, lightning, hail, earthquakes, wind damage, insects, animals, etc.
- II. The roofing membrane is damaged by structural movement or failure or movement of any material underlying the roofing membrane or base flashing.
- III. The roofing membrane is damaged by acts of negligence, misuse, or accidents including, but not limited to, use of roof for other than waterproofing the building, vandalism, civil disobedience, or acts of war.
- IV. Discoloration or change in the visual appearance of the roof membrane or Viridian top coating.
- V. Damage to the roofing membrane resulting from:
 - A. Infiltration or condensation of moisture in, through, or around walls, copings, building structure or underlying or surrounding areas.
 - B. Lack of positive drainage.
 - C. Movement or deterioration of metal adjacent or built into the roof membrane or base flashings.
 - D. Contaminant attacks on the roofing membrane by chemicals which have not been approved or accepted by Viridian.
 - E. Building design or construction.
 - F. Traffic or storage of materials on roof.
 - G. Defects in, failure or improper application of the underlying or material used as a base which the roof membrane is applied.
 - H. Acts of parties other than Viridian or Viridian's authorized roofing contractor.
 - I. Loss or erosion of surfacing materials including, but not limited to, reflective coating, granules or aggregate.

VI. Failure of the Owner to notify Viridian in writing and receive written approval of:

A. Changes in the usage of the building in accordance with Owner Responsibilities set forth herein.

B. Modifications, repairs or additions to the roofing membrane.

Refer to Guidelines for Adding or Modifying Rooftop Equipment in your Care and Maintenance Guide for process details.

VII. Failure of the Owner to comply with each and every term or condition stated herein.

VIII. Failure of the Owner to properly maintain the roof as described in the Care and Maintenance Guide that accompanies this warranty.

VIRIDIAN HEREBY DISCLAIMS AND ASSUMES NO RESPONSIBILITY FOR (AND OWNER AGREES TO INDEMNIFY AND HOLD VIRIDIAN HARMLESS AGAINST ALL LOSS, COSTS AND EXPENSES INCURRED BY VIRIDIAN DUE TO OR ARISING FROM) ANY DAMAGE THAT OCCURS TO THE STRUCTURE OR INTERIOR OF THE STRUCTURE, INCLUDING THE CONTENTS THEREIN, FROM ANY TYPE OF LEAKS. VIRIDIAN FURTHER SHALL NOT BE LIABLE FOR ANY OTHER CONSEQUENTIAL, INDIRECT, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING FROM, RESULTING FROM OR DUE TO MOLD, MILDEW OR ALGAE. OWNER'S SOLE REMEDY AND VIRIDIAN'S SOLE LIABILITY AND RESPONSIBILITY FOR ANY AND ALL CLAIMS ARISING UNDER, IN CONNECTION WITH OR IN ANY WAY RELATING TO A LEAK IN THE ROOF MEMBRANE IS THE COST OF REPAIR OF THE ROOFING MEMBRANE.

This Warranty shall be construed under and in accordance with the laws of the State of Ohio. Any disputes or claims arising under, as a result of or in connection with this Warranty shall be subject to the sole and exclusive jurisdiction of the state and federal courts located in Cleveland, Northern District, Ohio, and the Owner hereby irrevocably consents to the personal jurisdiction of such courts.

In the event that any one or more of the provisions contained in this Warranty shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Warranty shall be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

This Warranty constitutes the sole and only warranty of Viridian and supersedes any prior understandings of written or oral warranties between the parties respecting the subject matter within.

The absence of Owner's signature below shall not impact the validity or enforceability of this Warranty.



300 Southwest Avenue, Tallmadge, OH 44278

By:

Title:

Date:

WARRANTY MANAGER

Warranty Acceptance: The owner hereby accepts and agrees to the terms and conditions set forth in this Warranty.

Owner:

Signed By:



Whelan Properties
A Service-Disabled Veteran-Owned
Small Business

Project: Wilkes Barre VAMC Roof Replacement Project (35)
Contract #: VA244-C-0547
Project #: 693-08-990
Completion: July 8, 2009
Subject: Contractor Warranty

Wilkes Barre VA Medical Center
1111 East End Blvd.
Wilkes Barre, PA 18711

Whelan Properties is providing a Contractor Workmanship Warranty on the above referenced project effective from project closeout for a period of five (5) years. The Contractor Workmanship warranty will cover all installed materials and components in direct scope of the project.

Please see the warranty leak procedures provided by Whelan Properties for future leak investigation and mitigation.

Sincerely,

Joseph Cordrey
Project Manager



LIMITED MATERIAL WARRANTY

Job Name: **Roof Replacement of RA-35**

Job Address: **1111 East End Blvd., Wilkes Barre, PA 18711**

Certified Roofing Company: **Whelan Properties**

Owner: **Department of Veterans Affairs, Wilkes Barre**

Date: **July 1, 2009**

1. Warranty:

Green Products, LLC warrants to the Customer that the Environmental Liquid Membrane System[®] ("ELMS[®]") will be free of manufacturing defects, and when properly applied to a sound and suitable surface at the recommended minimum wet mil rate, will create a waterproof membrane from the date of completion for a period of 10 years. The completed waterproof membrane is referred to herein as "the System".

2. Remedy:

If the System fails to provide a waterproof surface as a result of being defective, Green Products, LLC sole liability under this Limited Warranty shall be, at its option, to provide sufficient quantities of ELMS[®], at no cost to Customer, to restore the roof to a waterproof condition.

3. Exclusions:

This Warranty does not cover the following:

- A. Damage caused directly or indirectly by natural disasters including, but not limited to: fire, lightning, tornadoes, force winds, hail, hurricanes, storms, earthquakes, floods, cyclones, vandalism, animals, penetration of the membrane, chemical attack by outside agents or any other extraordinary or unusual events.
- B. Physical damage to the System resulting from but not limited to: falling objects, foot traffic, debris, vandalism, maintenance or structural work to the applied roof surface.
- C. Damage, distortion, expansion, or contractions of the System resulting from settlement or deflection of roof decking, walls, foundation or any part of the building structure, damaged or faulty insulation or other damaged materials underlying the roof

system, damage caused by faulty building design or construction, damage caused by moisture penetration in, around or through including but not limited to walls, copings, parapet walls, underlying components, chimneys, skylights, vents, hardware, equipment or other building components.

- D. Failure of the System due to the failure of the underlying surface, including previous or existing layers of roofing materials underneath the System that have lost adhesion, cracked, bubbled or lifted.
- E. Color change of the System due to normal weathering and exposure or atmospheric conditions or air contaminants due to pollution or air-borne emissions.
- F. Failure of ELMS[®] or the System due to thinning, dilution or altering of the system in any way.
- G. Failure of ELMS[®] or the System due to improper surface preparation, including but not limited to failure to (i) properly prepare the surface, (ii) remove dirt or contaminants from the surface, (iii) remove unstable or peeling sub-layers of material prior to the application of ELMS[®], (iv) apply ELMS[®] to a dry surface.
- H. Failure of ELMS[®] or the System due to the presence of or development of mold, mold spores or any micro organisms that may require removal, abatement or remediation now or in the future.
- I. Failure due to the use of materials not specified or previously approved by Green Products, LLC.
- J. Failure due to any intentional or negligent act on the part of the Customer or third party including, but not limited to misuse, excessive traffic, storage of, or discharge of materials or effluent on the roof or building structure.
- K. Failure as a result of exposure of ELMS[®] or the System to chemicals and/or substances that are determined by Green Products, LLC to be detrimental to the system.

4. Manufacturer's Liability

- A. The obligations contained in this Limited Warranty are expressly in lieu of any other obligations, guarantees and warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose.
- B. The sole and exclusive remedy for Customer under this Limited Warranty shall be for Green Products, LLC to provide sufficient quantities of ELMS[®] at no cost to Customer, to restore the roof to a waterproof condition. Customer shall not be entitled to any other remedy, including, but not limited to, incidental or consequential damages for lost profits, lost sales,

injury to property, labor costs and expenses or any other incidental or consequential loss.

5. Customer's Responsibilities

- A. The Warranty contained herein is available only when ELMS[®] has been installed by a Green Products Approved Elite Applicator.
- B. This Warranty contained herein shall not be issued or in full force until:
 - 1. All bills for installation, supplies, and services sold in connection with ELMS[®] and the System have been paid in full.
 - 2. The project has been satisfactorily completed
- C. Customer will perform necessary housekeeping and maintenance.

6. Implied Warranty:

THIS WARRANTY IS IN LIEU OF ANY AND ALL OTHER WARRANTIES, OBLIGATIONS OR AGREEMENTS, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ANY RIGHTS OR REMEDIES AGAINST ANY PERSON OR ENTITY UNDER THE UNIFORM COMMERCIAL CODE OR OTHERWISE WITH RESPECT TO THE SALE OF GOODS AND/OR SERVICES. THE REMEDIES AND OBLIGATIONS STATED IN THIS WARRANTY ARE THE SOLE AND EXCLUSIVE REMEDIES OF AND OBLIGATIONS TO THE CUSTOMER FOR ANY AND ALL MATTERS ARISING WITH RESPECT TO OR IN ANY WAY CONNECTED WITH THE COATING, OR ANY GOODS OR SERVICES RELATED THERETO, REGARDLESS OF THE SOURCE OR PROVIDER OF SUCH GOODS OR SERVICES. NO REPRESENTATIVE OF GREEN PRODUCTS, LLC, OR ANY EMPLOYEE OR AGENT HAS AUTHORITY TO VARY OR ALTER THESE TERMS. IN NO EVENT SHALL GREEN PRODUCTS, LLC BE LIABLE FOR ANY DAMAGE TO THE BUILDING ITSELF, THE CONTENTS OF THE BUILDING, OR ANY OTHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. THE TOTAL LIABILITY OF GREEN PRODUCTS, LLC OVER THE LIFE OF THE WARRANTY, SHALL NOT IN ANY EVENT EXCEED THE ORIGINAL CONTRACT PRICE FOR THE COST OF THE PURCHASED ELMS[®] PRODUCT. GREEN PRODUCTS, LLC SHALL NOT BE LIABLE FOR ANY DAMAGES WHICH ARE BASED UPON NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY.

7. Cessation of Limited Warranty Obligations

The obligations of Green Products, LLC shall cease if any of the following occur:

- A. The roof or any part of it is used in a manner or for a purpose for which it was not designed or the use of the Building is changed in any manner which changes the physical conditions to which the roof is subject, to the extent that all of same may adversely affect the watertight integrity of the roof.
- B. Any additions, modifications, alterations or repairs are made to the roof by anyone except, after written notice to the Green Products, LLC, a person authorized by the Green Products, LLC.
- C. Violation of any of the provisions of Section 3 - Terms and Conditions above or the failure of Customer to comply with the provisions of Section 5 – Customer's Responsibilities.
- D. Customer fails to permit a representative of Green Products, LLC access to the roof to inspect it on request, or to fails to permit Green Products, LLC to fulfill any of the Warranty Obligations set forth herein, after receipt of reasonable prior written notice.

8. Exclusive Agreement

This Limited Warranty sets forth the complete and exclusive agreement between Customer and Green Products, LLC concerning ELMS® and supersedes any and all prior oral or written agreements or representations.

9. Governing Law and Legal Fees

- A. This Agreement will be governed by the laws of the State of Illinois.
- B. If suit is brought, each party shall be responsible for their own legal fees and expenses.

10. Transferability

The Limited Warranty contained herein is not transferable and shall apply only to the Customer of the Building at the time of installation.