



13311 Main Road  
Akron, NY 14001  
P: 716-542-3991  
F: 716-542-3996  
[www.eriemetal.com](http://www.eriemetal.com)

## **Material Limited Warranty** **Five Year**

**PROJECT:** \_\_\_\_\_  
(Structure's name or identifier or address)

**SYSTEM:** \_\_\_\_\_  
(Installed system name or type)

**EMS PROJECT NO.:** \_\_\_\_\_  
(EMS job number for reference)

**EFFECTIVE DATE OF WARRANTY:** \_\_\_\_\_  
(based on date of completion of installation)

Erie Metal Specialties, Inc. (EMS) (the "Manufacturer") warrants to Buyer per Seller's invoice furnished to Buyer (the "Products"), when applied in strict accordance with written specifications will be free from manufacturing defects for a period of five (5) years following the date Contractor completes installation of the material, or the time Owner allows occupancy of the space, whichever occurs first.

**EXCLUSION OF ALL OTHER WARRANTIES - THIS EXPRESS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES AND GUARANTEES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR OTHERWISE, with respect thereto, including but not limited to, any inaccuracy or ambiguity, or any results to be obtained therefrom.**

**DEFECTS - Defects covered by this Limited Warranty are limited to (1) cohesive or adhesive failure due to defective materials, (2) material failure due to weathering, or (3) abrasion or tear failure due to defective materials. For material to be proven at fault, it must be tested and inspected by an independent testing laboratory or other qualified individual and certified defective, with the cause of defect clearly defined. The testing laboratory or individual shall be agreed upon by the Owner and Manufacturer.**

**NOT COVERED BY LIMITED WARRANTY - This Limited Warranty does not cover defects that are the result of abuse, structural defects or any cause other than ordinary wear and tear from automobile, light truck and pedestrian traffic. The Manufacturer shall not be responsible for defects caused by abnormal or abusive traffic; snow removal equipment; accidents; acts of God; slab or building alterations; cracks or ruptures in the structure exceeding one-sixteenth (1/16) of an inch in width at any point; defects induced by concrete, asphalt, structural or design deficiencies such as, but not limited to, shifting, cracking, debonding, settling, scaling,**

splitting, joint edge spalling, aggregate popouts, freezing during placing or curing, joint movement in excess of design limitations expressly indicated or inferred in Contract Documents or customary or typical for joints of the nature in question; or any other cause beyond the control of the Manufacturer. Exceptions noted by the Contractor during installation, such as defects in existing work or other conditions affecting the successful functioning of the material, shall limit this warranty by excluding liability for failures resulting from the defect specified.

**DISCOVERY AND NOTIFICATION OF DEFECTS - It is the responsibility of the Owner or his authorized representative to notify Manufacturer and Contractor in writing of the need for any repairs, whether or not covered by this Limited Warranty, within thirty (30) days following the earlier of (i) the date the Owner discovered or (ii) the date the Owner, by reasonable inspection, should have discovered, any claimed breach of this Limited Warranty. The notification shall include the date of the alleged failure, including information as to the specific location and nature of the alleged failure. A representative of the Seller shall be given reasonable opportunity to inspect the alleged failure. Failure to notify the Manufacturer and the Contractor of defects, or having said defects repaired without notice to Manufacturer and Contractor, shall result in rendering this Limited Warranty null and void. All notices, requests, complaints and demands of papers, shall be duly mailed by registered or certified mail, postage prepaid, addressed to the Manufacturer and Contractor.**

**REPAIRS - After providing Manufacturer and Contractor with notice of the need for any repairs, whether or not covered by this Limited Warranty, Owner shall promptly arrange for the Contractor, or another contractor authorized by the Manufacturer, to make any and all repairs so as not to allow for further deterioration or propagation of the condition needing such repair; subject to delays caused by strikes, acts of God or other causes**



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beyond the reasonable control of Contractor or such authorized contractor.

Manufacturer's responsibility and obligation under this limited warranty shall become effective only upon receipt of full payment by Manufacturer for materials and becomes null and void if anyone not expressly authorized by Manufacturer performs any repairs during the period of this Limited Warranty.

Repair pursuant to the terms hereof does not extend the duration of this limited warranty or begin a new limited warranty period.

**EXCLUSIVE REMEDY / DISCLAIMER OF DAMAGES -** Manufacturer's sole responsibility under its Limited Warranty shall be to provide replacement material for material found to be defective, provided however, that the Manufacturer shall not be responsible for the replacement of any material in excess of the original quantity of material furnished by the Manufacturer in connection with the original contract. The Manufacturer shall not in any event be liable or responsible for any loss or damage, either direct, incidental or consequential, resulting from or arising out of or in connection with any leaks or other failures of the material or said installation, including such defects as Manufacturer has agreed to repair as provided herein. Consequential damages for purposes hereof shall include, without limitation, loss of use, income or profit, or losses sustained as the result of injury (including death) to any person, or loss or damage to property. Owner shall indemnify Manufacturer against all liability, cost or expense which may be sustained by Manufacturer on account of any such loss, damage or injury.

**HOUSEKEEPING -** Owner will take responsibility to reduce degradation of the material by keeping the surface and surrounding area free of debris which may prove deleterious, by periodic cleaning and

maintenance. At a minimum, the maintenance of this structure shall meet the standards set forth by the National Parking Association in the Parking Garage Maintenance Manual (1990) available from NPA, 2000 K Street N.W. Suite 350, Washington, DC 20006.

**ALTERATION AND INVALIDATION OF LIMITED WARRANTY -** This Limited Warranty may not be changed or altered in any way except in writing containing a reference to this Limited Warranty and signed by an officer or principal of the Manufacturer and Owner. If any provision of this Limited Warranty is held to be in conflict with any applicable statute or rule of law, or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering any other provisions herein contained invalid, inoperative, or unenforceable for any reason whatsoever.

This Limited Warranty is made and entered into in the State of New York, and shall in all respects be interpreted, enforced and governed under the laws of said state.

This Limited Warranty supersedes all prior communications, either written or oral, and all previous agreements, if any, between the parties with respect to the subject matter hereof, and sets forth the complete understanding of the parties with respect thereto. No affirmation by Manufacturer, by words or action, other than as set forth in this Limited Warranty, shall constitute a warranty.

No delay or omission of the part of the Manufacturer in exercising any right or remedy provided herein shall constitute a waiver of such right or remedy on any future occasion. This Limited Warranty is nontransferable and, as such, will be regarded as null and void upon a change in ownership of the facility.

**MANUFACTURER:** Erie Metal Specialties, Inc., 13311 Main Road, Akron, NY 14001

**BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_