

20 Year Roof System Agreement

Warranty Serial No.: SAMPLE

Building Name: SAMPLE

Building Address: SAMPLE

Date of Substantial Completion: SAMPLE

Building/Area Name	Used As	Area Warranted (Sq. Ft.)
SAMPLE	SAMPLE	SAMPLE

AGREEMENT entered on "CONTRACT DATE" by and between JCPENNEY COMPANY, INC., a Delaware corporation with its principal place of business at 6501 Legacy Drive, Plano, TX 75024 ("JCP"), and Sika Sarnafil a Division of Sika Corporation with its principal place of business at 100 Dan Road, Canton, MA 02021 ("Manufacturer").

WITNESSETH:

WHEREAS, JCP operates retail merchandising facilities and owns or leases various buildings for the operation of its business (the "JCP facilities"); WHEREAS, Manufacturer is the manufacturer of a single-ply roofing system known as the Sikaplan System consisting of and including but not limited to, the insulation, flashings, fasteners, and membrane ("the Roofing System"); and WHEREAS, JCP wishes to have the Roofing System installed on various JCP facilities in existence and buildings to be constructed; WHEREAS, JCP and Manufacturer have agreed upon the following terms and conditions under which the Roofing System will be installed on JCP facilities; NOW, THEREFORE, in consideration of the promises and covenants herein contained, the parties hereto do hereby agree as follows:

- 1. Applicability.** This Agreement shall apply to all JCP facilities on which the Roofing System shall be installed, whether by direct contract between Manufacturer and JCP or by contract between Manufacturer and a general contractor who requests a bid for a JCP facility. Nothing contained herein shall require Manufacturer to deal with any specific general contractor.
- 2. Design.** Manufacturer shall design and prepare all necessary plans and specifications for the roof of each JCP facility on which the Roofing System shall be installed. Nothing contained herein shall require Manufacturer to design or install the structure of the roof deck, such design and installation being the responsibility of JCP. Manufacturer shall consult with the architect or other design professional and shall design all aspects of the roof to be placed on the JCP facility, including, but not limited to, the insulation, flashings, fasteners and membrane. Manufacturer shall prepare its design with due consideration to the type of roof deck to be installed and to any other factors relevant thereto and shall approve all attachment areas of the roof deck as meeting Manufacturer's requirements for attaching the roof system. Manufacturer shall submit its design to JCP or JCP's design professional for approval, which approval shall not relieve Manufacturer of any of its responsibilities under this Agreement.
- 3. Installation.** Manufacturer shall be responsible for the installation of the Roofing System, including all necessary materials and labor in accordance with the design prepared to Paragraph 2 of this Agreement. Manufacturer shall coordinate all aspects of the installation of the Roofing System with any other Work (as defined in the contract between JCP and Manufacturer and/or JCP and its general contractor) being performed at the JCP facility.
- 4. Annual Inspection.** Once each year for a period of 20 years commencing six months after the acceptance of the roof, Manufacturer shall make an inspection of the roof. Manufacturer shall at its own expense make any repairs and perform such preventive maintenance to keep facility water tight and the insulation dry as it deems appropriate.
- 5. Repairs.**
 - (a) For a period of 20 years commencing with the acceptance of the roof, Manufacturer shall, at its own expense, make or cause to be made all repairs including replacing wet insulation which are or become necessary to maintain the Roofing System and to keep the facility watertight and free of leaks.
 - (b) Manufacturer shall respond within forty-eight hours to any complaint, request for repairs or report of leaks by JCP and shall make any necessary repairs without regard to cause or to fault. JCP shall give Manufacturer notice of any such complaint, request or report either by telephone (508-207-6691) or by telegram at the telephone number and/or address designated by Manufacturer. JCP shall confirm any complaint, request or report made by telephone in writing sent to Manufacturer at the address designated by Manufacturer.
 - (c) In the event that repairs are required as a result of provable neglect by JCP, JCP shall reimburse Manufacturer for the cost of such repairs including all insulation. If Manufacturer shall claim that a repair is reimbursable under the provisions of this subparagraph, Manufacturer shall make such tests and shall prepare such reports as may be necessary to enable JCP to review Manufacturer's claim. Any dispute which may arise as to the responsibility for repairs shall be submitted to an independent roofing consultant, selected by the mutual agreement of the parties, whose decision shall be final and binding. The cost of such consultant shall be borne by the party responsible for the cost of the repairs. In the event that the parties cannot agree to the selection of a consultant, each party shall designate an independent consultant. The consultants selected by the parties shall designate an independent consultant who shall decide the dispute and whose decision shall be final and binding upon the parties.
 - (d) Manufacturer's obligation to repair shall not extend to damage caused by hurricanes, tornadoes, earthquakes, vandalism, excessive traffic damage during and after the install of a photovoltaic (PV) system, hail, lightning or winds in excess of seventy-four (74) miles per hour, measured at the National Weather Service station nearest to the JCP facility.
 - (e) No modifications shall be made to the Roof System, including photovoltaic (PV) systems, except under the authorization of Manufacturer. Owner is responsible for removal and replacement of any photovoltaic (PV) system and for rendering any PV system inoperable and safe, prior to and during any investigation or repair.
- 6. Certification.** Upon the completion and acceptance of the installation of the Roofing System on a JCP facility, Manufacturer shall issue its certificate, which certificate shall (a) identify the JCP facility, (b) state that the roof is subject to this Agreement and (c) state the date on which the roof was accepted. Each such certificate shall be attached as an exhibit to this Agreement.
- 7. Consequential Damages.** From and after the acceptance of the roof, Manufacturer shall not be liable for consequential damages sustained by JCP as a result of roof leaks, except that Manufacturer shall not be relieved of consequential damages arising as a result of its failure to make repairs or to timely commence and complete the making of repairs pursuant to this Agreement.
- 8. Incorporation.** Except as expressly provided herein to the contrary, all of the terms and conditions of the contracts between JCP and Manufacturer and/or JCP and its general contractors are incorporated herein.
- 9. Term.** This Agreement shall be commenced as of the date first written below and shall continue in full force and effect until the expiration of Manufacturer's obligation to make repairs for the last JCP facility on which the Roofing System is installed.
- 10. Miscellaneous.** This Agreement contains the entire understanding of the parties and may not be changed, altered or modified except in writing and signed by the party against whom the change, alteration or modification is sought to be enforced.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written below.

This Warranty Is Effective From: SAMPLE through: SAMPLE

SAMPLE
J.C. Penney Company Inc.

SAMPLE
Date:

SAMPLE
Authorized Signature(1):

SAMPLE
Date:

SAMPLE
Authorized Signature(2):

SAMPLE
Date:

SIKA SARNAFIL
Roofing System Certification
Warranty Serial No. SAMPLE

Sika Sarnafil hereby certifies that the Sika Sarnafil Roofing System installed on the JCPenney Facility, located at CITY, STATE, ZIP has been accepted by Sika Sarnafil and SAMPLE on SAMPLE and is subject to the terms and conditions of The Roof System Agreement, JCP 703 or 704 contract and agreed upon Pricing Schedule and is warranted for the duration of a period not to exceed 20 years from date of acceptance.

SAMPLE
J.C. Penney Company Inc.

SAMPLE
Date:

SAMPLE
Authorized Signature(1):

SAMPLE
Date:

SAMPLE
Authorized Signature(2):

SAMPLE
Date:

This Warranty Is Effective From: SAMPLE through: SAMPLE

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