

We welcome your feedback. Please contact Suzanne Phillips ([suzanne.phillips@eriemetal.com](mailto:suzanne.phillips@eriemetal.com), phone 716-542-3991) with any comments or questions.

For previous editions of *Tech Topics* or additional information about our products and services, visit our website: [www.eriemetal.com](http://www.eriemetal.com)

Welcome to *EMS Tech Topics*. This monthly e-publication covers technical subjects related to expansion joints. Each edition covers a different topic such as expansion joint use and function, installation, maintenance, warranties, etc. All current and previous [editions](#) are available on our website in Adobe Acrobat Reader (.pdf) format.

## EXPANSION JOINT WARRANTIES



Warranties are provided by manufacturers to guarantee the quality of their products. By definition, a warranty is a written guarantee, issued to the purchaser of an article by its manufacturer, promising to repair or replace if necessary within a specified period of time. Manufacturer's of expansion joints guarantee that their products meet their published specifications.

However, as a design architect/engineer or owner, you are concerned with the entire expansion joint "package" which includes both the expansion joint materials, and the installation of these materials. The type of warranty specified for the project can significantly impact the degree of coverage provided by the manufacturer and installing contractor.

Although the length of time for a warranty may vary, there are two general types of warranties: Material Limited Warranty and Joint and Several Warranty. In this edition of *Tech Topics* we will briefly outline each type of warranty and then compare their similarities and differences. Examples of each type of warranty offered by Erie Metal Specialties are also included.

## MATERIAL LIMITED WARRANTY

The Material Limited Warranty is issued by the manufacturer to cover materials only. A separate warranty is generally provided by the contractor for any labor required for repairs that are due to installation issues.

The Material Limited Warranty guarantees that materials will be free from defects for a specified period of time. Defects covered include:

- Cohesive or adhesive failure due to defective materials
- Material failure due to weathering
- Abrasion or tear due to defective materials

Items not covered include:

- Defects that are the result of abuse
- Structural defects
- Any cause other than normal wear and tear from automobile light truck and pedestrian traffic
- Snow removal equipment
- Acts of God



The actual warranty should be reviewed in detail for a complete listing of all of the items that are and are not covered by the warranty.



Materials are proven to be defective through testing by an independent test laboratory or qualified individual that is agreed upon by the owner and manufacturer. The materials must be certified as being defective with the cause of defect clearly defined by the testing laboratory or individual.

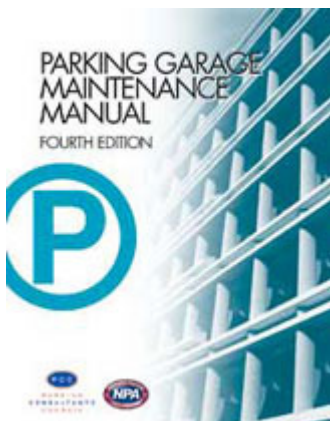
It is the owner's responsibility to notify the manufacturer and contractor of the need for repairs whether or not those repairs may be covered by the warranty. This notification must take place as soon as a potential issue is discovered. The manufacturer's representative must be given the opportunity to inspect the area that may need repair prior to any repairs being performed.

Whether or not the repairs are covered by the warranty, the owner must arrange for the contractor, or another contractor authorized by the manufacturer, to promptly make repairs to avoid further damage. If the material is determined to be defective, the manufacturer is responsible for providing the replacement material only for the repairs. The contractor or owner is responsible for all labor costs associated with the repairs.

### JOINT AND SEVERAL WARRANTY

For a Joint and Several Warranty, the manufacturer and installing contractor joint and severally agree to repair faults in the joint system. This means that both the manufacturer and installing contractor are responsible for making sure that the warranty is honored. They are essentially "married" to the project for the duration of the joint and several warranty.

The items covered and not covered by the warranty are very similar to the material warranty, however, in the joint and several warranty, faults due to installation of the material are covered in addition to defects in materials. Testing by an independent laboratory or qualified individual is also required to determine the root cause of the problem. This is important for several reasons: (1) the root cause of the problem needs to be established to determine if the repairs are covered under warranty, (2) the corrective action will be based on the conclusions presented by the testing lab or qualified individual, and (3) the results will help the manufacturer and contractor to determine their portion of the total liability related to the repairs.



A critical aspect of the joint and several warranty is the owner's responsibility for housekeeping and maintenance. The owner must follow the guidelines of the National Parking Association Parking Garage Maintenance Manual and all recommendations provided by the manufacturer to assure that the joint and several warranty is not void.

## SIMILARITIES AND DIFFERENCES

There are several similarities between the Material Limited Warranty and the Joint and Several Warranty. There are also significant differences. The similarities and differences are outlined below.

### SIMILARITIES

#### **Determine the Root Cause of the Problem**

Occasionally, this determination can be made using observations made by the manufacturer and contractor. However, many times the root cause cannot be determined by what can be seen on the surface and further investigation is required by a testing lab or qualified individual. It is critical that the root cause be accurately determined because this will be the basis for determining if the repairs are covered under warranty, and for establishing the corrective actions that will resolve the issue. If incorrect assumptions are made about the cause of the problem, it can lead to costly repairs that do not fix the problem.



#### **Notification of All Parties Involved**

Prompt notification by the owner to the contractor and manufacturer will help to assure that the issue is addressed quickly. Delaying notification of either party may exacerbate the problem. Also, delays may cause the warranty to be void due to lack of proper notification. The sooner all parties involved begin working together to solve the problem, the better the end result will be for everyone.

#### **Prompt Repairs**



Once the root cause of the problem has been established and corrective actions determined, repairs should be completed promptly to avoid additional damage to the expansion joint system and/or surrounding structures.

#### **Defects Covered/Not Covered by Warranty**

It is important that the owner thoroughly understands what is and is not covered by the warranty. The items covered and not covered are similar for both types of warranties.

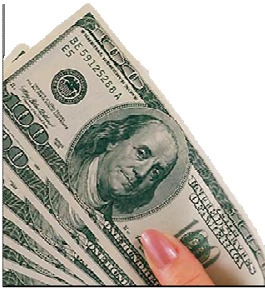
## DIFFERENCES

### Separate Warranties

Separate warranties from the manufacturer and contractor can lead to finger pointing and hassles for the owner. Joint and several warranties eliminate the need for the owner be directly involved in settling disputes between manufacturers and contractors over the cause of the problem.



### Cost



Some manufacturers charge a premium for joint and several warranties. Erie Metal Specialties, Inc. does not require an additional charge for joint and several warranties because we believe it is a better option for owners, and provides a better overall product and service to the industry.

### Approved Applicators/Contractors

Joint and Several warranties generally require that the contractor installing the expansion joint system has been approved or certified by the manufacturer for their products. The contractor has been thoroughly trained in the proper methods of installation, and they have demonstrated the ability to meet all of the manufacturer's requirements.



### Benefit to Owners



When executed properly, Joint and Several warranties can provide a significant benefit to owners because they are assured that issues with expansion joint systems that are covered under warranty will be addressed by both the manufacturer and contractor. The responsibility to determine the degree of liability between the contractor and the manufacturer does not directly involve the owner, reducing the stress and hassles associated with getting a warranted repair completed quickly.

In the next edition of *Tech Topics* we will look at some of the maintenance issues associated with expansion joint systems and how proper care and maintenance of expansion joint systems can extend the life of the joints and assure that issues with the product are covered under warranty.



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## **Material Limited Warranty** **One 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 one (1) year 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:** \_\_\_\_\_



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## Joint and Several 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)

Applicator and Manufacturer do jointly and severally agree to repair faults in the Joint System installed at subject location herein described for a period of five (5) years, commencing on date of substantial completion of such installation, caused by reasonable wear and tear, faulty materials or faulty workmanship in Joint System installation. This Warranty does not extend to, and neither Applicator nor Manufacturer shall be responsible for faults caused by natural force, abnormal or abusive traffic, accidents, acts of God, inadequate or faulty structural design, structural defects, building alterations, cracks or ruptures in structural base, other causes beyond Applicator's or Manufacturer's control, including movement that is found to exceed that of the Manufacturers published range.

**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.**

**NOTIFICATION OF REPAIRS -** It is the responsibility of the Owner or his authorized representative to notify Manufacturer and Applicator in writing of the need for any repairs, 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 potential requirement for repairs. 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 Applicator of defects, or having said defects repaired without notice to Manufacturer and Contractor, shall result in rendering this Joint and Several 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 Applicator.

**REPAIRS -** After providing Manufacturer and Applicator with notice of the need for any repairs, Owner shall promptly arrange for the Applicator, 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. Such repairs will be commenced within a reasonable period of time after receipt of said notice from the Owner, subject to delays of strikes, acts of God, or other causes beyond reasonable control of Applicator, provided Owner has furnished to Applicator releases of liability from building occupants who might be affected by repair operations and has removed at Owner's expense obstructions, additional equipment, or structures installed after the date of the Joint System installation, which would hinder or interfere with repairs being made in a most expedient and least expensive manner. If Applicator and/or Manufacturer conduct repairs which are not their responsibility under the terms of this Joint and Several Warranty, the Owner shall be responsible for the entire cost of such repairs, and Applicator and/or Manufacturer shall be paid all costs incurred plus normal overhead and profit.

Manufacturer's responsibility and obligation under this joint and several 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 - OWNER AGREES TO ACCEPT REPAIRS**



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REFERRED TO HEREIN AS OWNER'S SOLE AND EXCLUSIVE REMEDY AND THE LIMIT OF APPLICATOR'S AND MANUFACTURER'S LIABILITY REGARDLESS OF OWNER'S DAMAGES, AND APPLICATOR AND MANUFACTURER DISCLAIM ALL LIABILITY FOR SUCH DAMAGES BEYOND PERFORMANCE OF THE REPAIRS REFERRED HEREIN, INCLUDING DIRECT, INCIDENTAL AND CONSEQUENTIAL DAMAGES, AND REGARDLESS OF OWNER'S LEGAL THEORY, INCLUDING TORT, CONTRACT OR STRICT LIABILITY, AND REGARDLESS OF WHETHER SUCH DAMAGES ARISE OUT OF OR RESULT FROM FAULTS OR OTHER INSTALLATION FAILURE.

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 JOINT AND SEVERAL WARRANTY - This Joint and Several Warranty may not be changed or altered in any way except in writing containing a reference to this Joint and

Several Warranty and signed by an officer or principal of the Manufacturer and Owner. If any provision of this Joint and Several 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 Joint and Several 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 Joint and Several 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 Joint and Several 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.

**APPROVED APPLICATOR:**

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

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

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

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

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

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

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

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

**SUPPLIER:** (Where Applicable)

**OWNER:**

**NAME:** \_\_\_\_\_

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

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

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

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

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

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

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

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