



## Limited Lifetime Coating Warranty for Metal Rain Gutter Products

### Warranty

Custom-Bilt Metals (hereinafter "CBM") hereby issues the following Limited Lifetime Coating Warranty ("Limited Warranty") exclusively to the original Owner (hereinafter "Owner") of CBM coated steel or aluminum gutters, downspouts and rain carrying accessories (the "Material") subject to the terms and conditions listed below.

During the lifetime of the Owner, and as long as Owner owns the building or structure on which the Material is installed, CBM warrants that the paint on the Material will not:

- (a) Peel, check, chip or crack. These terms shall not mean alterations to the paint as a result of exposed raw edges, embossing, end cutting, cut edge exposure or such crazing or slight cracking as may occur on tightly roll-formed edges or brake bends.
- (b) Fade or change color in excess of five (5) units of color difference (Hunter ΔE) calculated in accordance with ASTM D2244. Color Change is measured on an exposed painted surface that has been cleaned of surface soils and chalk and then compared to corresponding values measured on the original or unexposed coated surface. Fading and color changes may not be uniform, depending on sun and atmospheric exposure, and CBM does not warrant that color changes will be uniform.
- (c) Chalk or oxidize in excess of a numerical rating of eight (8) when properly maintained as described herein as measured in accordance with the standard procedures specified in ASTM D-659.

### Remedy

The sole and exclusive remedy under this Limited Warranty shall be one of the following to be chosen in CBM's sole discretion: repair, recoating, refinishing or one replacement of defective Material. The term "replacement" does not include labor costs of Material removal, fabrication or installation. Any repair, recoating, refinishing or replacement is limited to the Material only; CBM will NOT pay, or otherwise be responsible for, any costs associated with or related to anything else affixed to the Material, including, but not limited to, solar panels or television antennas, without its written consent prior to sale. Any repair, recoating, refinishing or replacement **WILL NOT** restart the warranty period. If repair, recoating, refinishing or replacement is not practical, CBM may elect, at its sole option, to refund the original purchase price of the Material paid to CBM. After any refunding of the original purchase price, CBM will cease to have any obligations under this Limited Warranty.

The extent of CBM's total liability for all claims of any kind (including liability for negligence and breach of any and all warranties) shall not exceed the original purchase price of the Material paid to CBM. For any claim arising after the 10<sup>th</sup> year from date of shipment, CBM will pay or refund only a portion of the repair, recoating, refinishing, replacement or purchase price paid to CBM based on the prorated basis below. **This is the only remedy for defective Materials.**

Year after purchase	Maximum warranty coverage available
1 through 10	100%
11 through 15	50%
16 through 20	25%
21 through lifetime	10%

**THIS LIMITED WARRANTY SUPERSEDES AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND CBM HEREBY DISCLAIMS ALL SUCH WARRANTIES. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

**THIS LIMITED WARRANTY ALSO SUPERSEDES AND IS IN LIEU OF ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN CONTRACT OR TORT, WHETHER OR NOT ARISING FROM CBM'S NEGLIGENCE, ACTUAL OR IMPUTED, OR STRICT LIABILITY. THIS LIMITED WARRANTY SHALL BE OWNER'S SOLE AND EXCLUSIVE REMEDY AGAINST CBM ARISING OUT OF OR RELATED TO THE MATERIAL OR THE ORDER OR DELIVERY OF THE MATERIAL.**

**UNDER NO CIRCUMSTANCES SHALL CBM BE LIABLE FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOSSES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, BUSINESS INTERRUPTION LOSSES OR LOST USE OF THE BUILDING OR ITS CONTENTS, EVEN IF CBM HAS RECEIVED NOTICE OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. OWNER SPECIFICALLY WAIVES THE RIGHT TO ATTORNEY'S FEES, INCLUDING ANY CLAIM FOR ATTORNEY'S FEES PURSUANT TO CHAPTER 38 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE, ANY OTHER STATUTE OR THE COMMON LAW.**

**CBM'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS OF ANY KIND (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE MATERIAL OR THE ORDER OR DELIVERY OF THE MATERIAL SHALL NOT EXCEED THE ORIGINAL PURCHASE PRICE OF THE MATERIAL PAID TO CBM.**

### **Conditions, Limitations and Exclusions**

1. This Limited Warranty shall apply only to products used in the Continental United States, Hawaii, Alaska, Canada and Mexico.
2. This Limited Warranty is extended only to the original Owner and shall not inure to the benefit of any other party. This Limited Warranty is non-transferrable and non-assignable.
3. This Limited Warranty is only available for sales of Material of \$5000 or less, not including any applicable sales tax.
4. This Limited Warranty applies to Material shipped by CBM after April 15, 2014.
5. The Material covered under this Limited Warranty must be installed within six (6) months from date of purchase.
6. This Limited Warranty excludes any areas of the Material that are within  $\frac{3}{4}$ " of any edge that has been cut subsequent to the application of the paint to the substrate.
7. This Limited Warranty is conditioned upon the proper installation of the Material. The Material must be installed on a surface which allows for adequate circulation and on which no standing water accumulates. CBM does not warrant Material that is in contact with, or subject to, runoff from lead, copper, pressure-treated, green or wet lumber or wet insulation. CBM does not warrant Material which has been modified without CBM's express written approval, which has been improperly used or applied, or which has been painted after leaving CBM's custody. CBM does not warrant deterioration or damage to the Material caused directly or indirectly by Material contact with sealants or fasteners or by overdriving the fasteners. Selection of Material and proper long-lasting fasteners rests solely with Owner or his/her installer. In no event shall any information provided by CBM to assist in the selection of fasteners be an endorsement or warranty of performance of the Material with those fasteners, and Owner expressly acknowledges that Owner and his/her installer are not relying on such information in making any decision.
8. This Limited Warranty is limited to Material exposed solely to normal atmospheric conditions, which term excludes corrosive or aggressive atmospheres such as those contaminated with chemical fumes, ash, volcanic smog, cement dust, animal waste, constant fresh water spray, industrial corrosive environments, or chemical deposits. This Limited Warranty excludes Material installed thirty (30) miles from an active volcano.
9. This Limited Warranty does not extend to Material installed within one thousand (1,000) feet from salt water, unless Owner performs biannual maintenance of the Material in the form of a sweet water rinse (tap water). Owner is required to keep records of such maintenance for the Limited Warranty to be enforceable, and this maintenance is to be documented with written reports and date-stamped pictures.
10. CBM shall have no obligation under this Limited Warranty unless CBM has been paid in full for all Material covered by this warranty.
11. In no event will the original warranty period be extended by a warranty claim. The warranty for any repaired or replaced Material shall only be for the remainder of the original warranty period applicable to Owner.
12. This Limited Warranty does not extend to or cover damage to the Material caused by or as a result of: (a) improper handling, packaging, shipping, contamination, modification or storage of the painted Material by any party other than CBM prior to installation; (b) improper forming, fabrication or cutting of the Material by any party other than CBM; (c) improper installation of the Material, including, but not limited to, improper handling, scratching or abrading during or after installation; (d) mechanical damage or edge corrosion; (e) inadequate or improper drainage; (f) improper or deficient cleaning or maintenance, including, but not limited to, the use of high pressure washing systems; (g) any external contaminant or condition, including, but not limited to, chemical fumes, salt spray, animals, animal waste, vegetation, dirt, gravel or metal debris; (h) deterioration or failure of building components, including, but not limited to, the roof substrate, walls, mortar, HVAC units or walk ways; (i) movement or settlement of the building; (j) condensation or infiltration in, through, or around the walls, copings, rooftop, flashing, hardware or equipment, building structure or underlying or surrounding materials; (k) any acid, oil, harmful chemical, chemical or physical reaction and the like which comes in contact with the Material, (l) additions, alterations or repairs to the Material that are not completed in accordance with standard specifications by a licensed contractor; (m) reactions due to dissimilar metals; (n) natural disasters or acts of nature, including, but not limited to, winds in excess of 55 MPH, fires, hurricanes, tornadoes, hail, wind-blown debris, lightning, earthquakes, volcanic activity, atomic radiation, insects, animals or animal droppings; (o) any act, conduct or omission by any person other than CBM or action caused by the negligence of any person other than CBM; or (p) act(s) of war, terrorism or vandalism.

### **Notice**

Owner shall inspect Material received from CBM prior to installation so as to mitigate expenses related to repairing, recoating, refinishing or replacing defective Material. Any claim arising from an alleged Material defect or for any other cause whatsoever shall be deemed WAIVED by Owner unless written notice thereof is given to CBM within thirty (30) days after discovery of any alleged defect and within the applicable warranty period. All written notices given under this Limited Warranty shall be either personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, to Custom-Bilt Metals, 1333 Corporate Drive #103, Irving, TX 75038. To be effective, Owner's notice shall include such records as will enable CBM to establish the CBM invoice number and the date and address of installation.

### **Investigation**

CBM has no obligations under this Limited Warranty unless and until CBM has been allowed a reasonable opportunity to inspect and, if necessary, obtain a sample of the Material.

### **Governing Law and Venue**

This Limited Warranty shall be governed by and construed in accordance with the laws of the State of Texas without regard to choice of law rules. Any dispute, controversy or claim arising out of, related to, or in connection with this Limited Warranty shall be submitted to mediation prior to the commencement or filing of any action or legal claim in any forum. IN THE EVENT THAT OWNER AND CBM DO NOT RESOLVE THE DISPUTE, CONTROVERSY OR CLAIM IN MEDIATION, ANY ACTION, PROCEEDING OR LAWSUIT ARISING OUT OF OR RELATED TO THIS LIMITED WARRANTY MUST BE BROUGHT SOLELY AND EXCLUSIVELY IN THE STATE OR FEDERAL COURTS OF DALLAS COUNTY, TEXAS. VENUE IS IMPROPER IN ANY OTHER JURISDICTION. BY ACCEPTING THIS LIMITED WARRANTY, OWNER IRREVOCABLY CONSENTS TO THE JURISDICTION AND EXCLUSIVE VENUE OF THE ABOVE-IDENTIFIED COURTS.

**Modification, Waiver and Severability**

This Limited Warranty cannot be amended, altered or modified in any way except in writing signed by an authorized officer of CBM. No other person has any authority to bind CBM with any representation or warranty whether oral or written.

CBM's failure to enforce any of the terms or conditions stated herein shall not be construed as a waiver of any such condition or of any other term of this Limited Warranty. If any portion of this Limited Warranty is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force.

The supplier of the paint coating applied to CBM Material and the applicator of the paint coating have made certain warranties to CBM which are the same as (or substantially similar to) to the warranties made by CBM under this Limited Warranty. This Limited Warranty shall be of no further force or effect if such supplier, or its successors or assigns, can no longer perform its obligations under the their respective warranties made to CBM.

**End of Warranty**