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## **BOYD ALUMINUM MFG. CO. LIMITED WARRANTY**

**Warranty.** Boyd provides this Limited Warranty to the original commercial purchaser, which may include the owner, as provided below (the “Covered Party”), for Boyd’s Products, and Boyd and the Covered Party agree, that the Products, when properly installed, without excessive force, or bending, in a commercial application as new construction or as replacements, (a “Covered Use”), are warranted as follows: Glass-will not form a material obstruction to vision through the glass, and laminated glass will not separate, as the result of a manufacturing defect, but not including cracking, fracturing, breakage of the glass surface, or breakage of the glass seal that occurs during installation or through improper use; Finish-will resist chipping, cracking and peeling, but does not include minute fracturing that may occur in fabrication or installation; Aluminum Structure-aluminum products and related trim manufactured by Boyd shall be free of significant defects in workmanship. If the Products do not conform to this Warranty within the applicable Warranty Periods, beginning from the Effective Date as noted below, and subject to this Warranty being signed by an authorized representative of Boyd, Boyd, if it determines that a defect exists for which it is responsible, and for which an exclusion to this Warranty does not apply, at its election and expense, shall repair the Products, provide replacement Products, grant allowances for the repair or replacement of the defective Products, or refund the purchase price charged by Boyd applicable to the defective portion of the Products, but only after receiving written notification from the Covered Party of any defects within thirty (30) days of the discovery of the same, and substantiation that the Products have been properly handled, stored, installed, maintained and used in accordance with American Architectural Manufacturing Association’s (AAMA) recommendations, and not subjected to accident, alteration, abuse, misuse, breakage, improper service, corrosive environments or chemicals, disassembly or assembly, in each case by the Covered Party or others. Loss or damage to materials in the vicinity of the Products, loss or damage to other equipment or parts, loss or damage to other property or materials, the cost to repair or replace the foregoing other property, the cost of labor to repair or replace the Products, the cost of freight to ship replacement Products, and the other exclusions for coverage, as hereinafter provided, are not included in this Warranty. This Warranty also applies to Products that have been repaired or replaced under this Warranty, but only for the unexpired Warranty Period applicable to the Products. **THIS WARRANTY IS EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, COMPLIANCE WITH ANY BUILDING OR SAFETY LAWS OR CODES, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHER WARRANTY, WHETHER EXPRESSED OR IMPLIED, EXCEPT THE WARRANTY OF TITLE AND AGAINST PATENT INFRINGEMENT FOR PRODUCTS OF BOYD’S DESIGN.** This warranty does not extend to equipment, parts and finishes (collectively “other products”) not of Boyd’s manufacture: as to such other products, Boyd conveys to the Covered Party, the warranty, if any, of Boyd’s vendors and suppliers, to the extent transferable without additional cost to Boyd. Oral statements by Boyd’s employees or representatives do not constitute warranties, and shall not be relied upon by anyone. No other warranties are given beyond those set forth in this document, notwithstanding any different, conflicting, or additional terms contained in any request for bid, project specifications or plan, order documents, purchase orders, order confirmations or acceptances, unless Boyd and the Covered Party have executed a written agreement that expressly references this Warranty and expressly states that this Warranty is being changed thereby.

**Persons Covered, Transferability.** This Warranty extends only to the Covered Party, and only when Boyd Products are installed in a Covered Use. This Warranty is not transferable, without the prior written consent of Boyd.

**Exclusions from Coverage.** In addition to all other exclusions and conditions contained herein, this Warranty does not cover damage or defects relating to the use of applied tints or films, glass or acrylic breakage or fracturing, alterations including but not limited to customer-applied finishes, normal wear and tear including but not limited to pitting or fading of exterior finishes, acts of nature (e.g. fire, hurricane, flood, earthquake, lightning, etc.), damage to the Products during transportation and installation, damage to other products and materials caused by the Products or repairs or replacement of Products, lack of proper drainage or pooling of liquids on or around the Products, loss or damage caused by leakage, mold, fungi and bacteria, excessive building movement, Products used outside the Continental United States unless approved in writing by Boyd, or incompatibility of materials contained in the Products with other materials in the vicinity of the application. Normal wear, including discoloration, on Products and hardware component finishes are not defects and are not covered by this Warranty. This warranty does not apply to any products that are installed in any application that has a non-drainable EIFS, DEFS, or similar siding product.

**Corrosion Disclaimer.** Boyd is not responsible for pitting, corrosion or suitability of use for any products, materials, or finishes in any particular application. The corrosion resistance and suitability of use for any products, materials, or finishes is dependent on environmental conditions, cleaning practices, and many other factors beyond the control of Boyd. Loss of functionality of moving portions of the Products, and pitting and corrosion caused by environmental conditions and the performance of, or absence of, cleaning/ maintenance practices are excluded from coverage under this warranty. The Covered Party assumes all responsibility and risk for pitting, corrosion or suitability for use of all products, materials, or finishes in their particular application.

**Limitation of Liability, Remedies.** The Covered Party's exclusive remedy for claims arising out of or related to the Products shall be for damages. Boyd shall not under any circumstances be liable for special or consequential damages, such as, but not limited to, loss of use; loss of profits; loss of rents or revenue; inconvenience or loss of time; costs of capital; facility shutdowns or slowdown; claims by the Covered Party's customers; loss or damage to other property or equipment; loss or damage to other products or materials; the cost and labor to repair or replace the Products; the cost of freight to ship replacement Products; loss or damage caused by leakage, mold, fungi, or bacteria; or loss or damage occurring during the repair or replacement of the Products; all of which are expressly excluded unless covered by policies of insurance issued to Boyd, from time to time, and in such cases damages are limited to purchaser's direct cost, fair market value, or the limits of any insurance in effect, and providing coverage for Boyd, whichever is less. The remedies of the Covered Party, and any other party, arising out of or related to the Products, set forth herein are exclusive, and the liability of Boyd with respect to the Products, or anything done in connection therewith, or from the manufacture, sale, delivery, resale, installation or use, or the repair or replacement of any of the Products sold by Boyd whether arising out of contract, negligence, strict liability, tort, or under any warranty, or otherwise, shall not exceed the price charged by Boyd for the portion of the Products upon which the liability is based.

**Entire Agreement, Severability.** This Warranty contains the entire agreement of Boyd and the Covered Party as to Boyd's warranty obligations and other matters referenced herein. In the event of any conflict between this Warranty and any other agreements between the parties, the terms, conditions and limitations of this Warranty shall control, unless the conflicting agreement or provision specifically references that it takes precedence over a particular term of this Warranty and is in writing signed by both parties. In the event that any provision of this Warranty is found to be invalid or unenforceable, such provision shall be reformed to the extent necessary to make it valid and enforceable, provided that if reformation will not remove the objection to validity or enforceability, such provision shall be deleted from this Warranty, and each and every other provision of this Warranty shall remain in full force and effect. This Warranty shall be construed and enforced in accordance with the internal laws of the State of Missouri.

**Payment by Purchaser.** Boyd's obligations under this Warranty are conditioned upon payment in full for the Products. If a default in payment occurs, the Products are sold AS IS, WITH ALL FAULTS, and without any warranty express or implied. Any delay in payment shall not toll the running of the applicable Warranty Period.

**Disputes Resolution.** The parties agree that either party may bring a suit against the other relating to this Warranty and the underlying agreements between the parties, when the amount in controversy in the initial claim or in any counterclaim in the suit is \$75,000.00 or less, exclusive of interests and costs, and the prevailing party in such suit shall be entitled to recover from the other party damages not exceeding \$75,000.00, plus interest and costs, and each party shall bear its own attorney's fees and litigation expenses. The parties agree that any proceedings in court or in arbitration, whether arising in contract, warranty, tort, statute, or otherwise shall be brought exclusively in the state or federal courts located in Springfield, Missouri in regard to suits, and in Springfield, Missouri for any arbitration hearing. THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY. Any dispute, controversy or claim arising out of or relating to this Warranty and the underlying agreements between the parties, whether based on theories of contract, negligence, strict liability, tort, laws or regulations, warranty, or otherwise, (including, but not limited to, any dispute relating to the existence, interpretation, breach or termination hereof or thereof, or the agreement of the parties to arbitrate disputes), where the amount in controversy in the initial claim or in any counterclaim exceeds \$75,000.00, exclusive of interest and costs, that cannot be resolved by the parties within thirty (30) days of notification by either party of the dispute, shall be resolved by binding arbitration administered by, and in accordance with the Construction Industry Rules of the American Arbitration Association. The arbitration award may be reduced to judgment by any court having jurisdiction thereof. The cost of the arbitration shall be shared equally between the parties, and each party shall bear its own attorney fees and expenses, provided that where a party asserting a claim in excess of \$75,000.00 is awarded less than the sum or value of \$75,000.00 computed without regard to any setoff, claim, or counterclaim of the other party, the party so failing to recover, shall bear all the fees of the arbitrator(s) and the arbitration service conducting the arbitration. The applicability of this agreement to arbitrate claims shall be determined by the arbitrator(s).

**Acceptance, Effective Date.** By accepting the Products, the Covered Party and the Covered Party's successors and assigns accepts, and shall be bound by all conditions, exclusions and limitations of this Warranty. This Warranty is effective as of the date provided below. If Covered Party does not sign and return a signed copy of this Warranty to Boyd within thirty (30) days of receipt, for signature by Boyd, Boyd may at its option, after notice to the Covered Party: declare this Warranty void, and in such case the Products are sold AS IS, WITH ALL FAULTS, and without any warranty express or implied; or Boyd, in its sole discretion, may deem this Warranty to have been signed by the Covered Party, and the Covered Party shall be bound hereby in all respects.

**Authority.** The undersigned represent that they are fully authorized to execute this Warranty on behalf of their respective party.

**Contact Us.** To obtain service under this Warranty contact Boyd in writing at Post Office Box 1565, Springfield, Missouri 65801.

**Warranty Periods.** (Boyd to complete as applicable).

GLASS	FINISHES	ALUMINUM STRUCTURE N/A years
Insulated Glass N/A years	Painted N/A years	
Laminated Glass N/A years	Anodized N/A years	

**EFFECTIVE DATE OF WARRANTY:** \_\_\_\_\_, 20\_\_\_\_.

**COVERED PARTY:** \_\_\_\_\_ **Original Purchaser, or** \_\_\_\_\_ **Original Purchaser and Owner (Boyd to mark as applicable).**

**BOYD PROJECT NO.** \_\_\_\_\_, **PROJECT LOCATION:** \_\_\_\_\_

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.**

**BOYD:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**COVERED PARTY:**

Original Purchaser: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(Effective only if signed by an Officer of Boyd)

Owner: \_\_\_\_\_

(applicable only if marked above)

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_