



## 10 YEAR PRODUCT ONLY WARRANTY

### THE COMPANY'S LIABILITY UNDER THIS WARRANTY IS LIMITED. PLEASE READ AND UNDERSTAND THE CONDITIONS APPEARING HEREIN.

#### LIMITED WARRANTY

Tuff Industries Inc. (referred to as the "Company") warrants, subject to the terms, conditions and limitations contained in this Limited Warranty Agreement (the "Warranty"), to the Customer (as defined below), as the Customer of the Company's Tuff-Shield® vinyl membrane product (the "Product"), for a period of ten (10) years (the "Warranty Period"), that under normal use the Product shall be free from manufacturing defects which result in water leakage, provided that the Customer strictly adheres to all of the terms and conditions set out in this Warranty and performs the requirements of the Customer's Maintenance Program, as set out below. If water leakage occurs within the Warranty Period, the Company will, at its sole option: (i) repair or replace any portion of the Product which is determined by the Company to be defective; or (ii) refund to the Customer a prorated portion of the original purchase price for the Product (the "Pro Rata Refund") determined by multiplying the original purchase price of the Product by the number of remaining months of the Warranty Period (at the time that the Company receives the Notice (as defined below)) divided by the total number of months of the Warranty Period. Provided, however, that the Customer agrees that in the event that the original purchase price of the Product cannot be determined, the Company, at its sole discretion, shall be entitled to establish a fair value to be used in lieu of the original purchase price, which fair value so determined shall not exceed the then "list" price of the Company as at the date of sale of the Product to the Customer.

For the purposes of this Warranty reference to "Customer" means the original customer of the Product manufactured by the Company. For the purposes of this Warranty, the term "original customer" is limited to, as applicable: (i) a contractor which has purchased the Product from the Company or a dealer of the Company, (ii) the purchaser of the Property (as defined below) from a contractor if a contractor owns the Property at the time of the purchase of the Product, or (iii) the owner of the Property at the time that the Product is installed at the Property.

For the purposes of this Warranty reference to "Property" means the property at which the Product is installed and as may be described on the Invoice (as defined below).

\*The Warranty Period commences from the later of the: (i) date of installation of the Product at the Property, which installation date shall be deemed to be the date of the invoice rendered to the Customer in connection with the installation of the Product (the "Invoice"); or (ii) date of completion of the project at which the Product is being installed, which completion is evidenced by the issuance of a Certificate of Completion by a Payment Certifier pursuant to the British Columbia Builders Lien Act or issuance of an equivalent certificate or document in another jurisdiction in the event that the Property is located outside British Columbia.

#### REQUIRED CUSTOMER MAINTENANCE:

Once each year during the Customer's ownership of the Product, the Customer agrees to inspect the Product and perform the following maintenance tasks:

- Check and repair, or cause to be repaired, all caulking, seams, fasteners and sealants to confirm proper adhesion. Repair or replace, or cause to be repaired or replaced, questionable areas with approved products.
- Do a complete visual inspection of deck surface to confirm the absence of cuts or abrasions. Contact Company if any suspect areas are located.
- Never allow pressure treated lumber to contact vinyl.
- Any and all leaks or water penetration of the Product are to be reported to the Company immediately.
- Check all portions of the Product for evidence of corrosion, and clean, repair or replace components as required including, without limitation, as caused by accident, abuse, misuse, negligence, fire, or Act of God, or if damaged by modifications, alterations or attachments made by, or other acts of, the Customer which have not been authorized in writing by the Company.

#### THIS WARRANTY DOES NOT APPLY IF:

- The Product or any part thereof has been damaged by accident, vandalism, abnormal usage or abuse, misuse, negligence, fire, natural disasters (including, but not limited to, lightning, wind, hail, floods, earthquakes, gales, hurricanes, tornadoes) or other act of God; settlement, distortion, failure, normal weathering, cracking or movement of any deck, wall or foundation of building(s) on the Property; any damage by traffic on or

about the Product or by impact of foreign objects or by contamination of any Product by corrosive chemicals, oils, greases, gases or any misuse, neglect or improper handling of the Product; infiltration or condensation or moisture in, through, around or above the walls, copings, HVAC systems or any part of any buildings or structures; ponding water caused by inadequate slope, improperly positioned drains or settling of any building or structure; warping, lack of venting or the failure of any building or structure to which the Product is attached; failure of the building or structure to prevent ingress of wind, vapor diffusion or precipitation into the Product; or by other causes beyond the control of the Company;

- The Product or any part thereof has been damaged by delivery or transport damage or work, modifications, alterations, repairs or attachments made by, or other acts of, the Customer or third parties which have not been authorized in writing by the Company;
- The Product or any part thereof has been damaged as a result of the failure of any sealant or caulking used in connection with the installation of the Product; • The Project, the Product or any part thereof has been damaged through contact with pressure treated lumber or wood or if the product or project is damaged from raw wood materials being left in unprotected contact with the product;
- The Product has not been maintained in accordance with the then current instructions supplied by the Company which instructions can be located at the following website: [www.tuff-shield.com](http://www.tuff-shield.com);
- The Product has not been installed in accordance with the then current instructions supplied by the Company which instructions can be located at the following website: [www.tuff-shield.com](http://www.tuff-shield.com);
- The Product was installed or used in commercial, industrial or any other application which is not residential.

#### THIS WARRANTY EXCLUDES:

- Any problems arising as a result of improper preparation of the surface upon which the Product is installed or constructed, the materials used in the construction of such surface, or the installation or workmanship relating to the installation of the Product;
- Problems due to moisture including, without limitation, growth of mold, fungus, bacteria, spores, mycotoxins and the like, discoloration, alkali, condensation or hydrostatic pressure;
- Product appearance problems such as color variations from samples or printed illustrations compared to actual production runs, fading, reduction of gloss or discoloration resulting from, but not limited to: weathering, puddling, pedestrian traffic, misuse, neglect, hydrostatic pressure, fungus or bacterial growth; biodegradable matter; problems due to inadequate slope of the surface, improperly positioned drains or building or structure settling or joint expansion which results in ponding water, lifting of nails, screws or substrate seams or cracks which become visible;
- Any imperfections (e.g., plywood joints, nails or screws, substrate delamination, telegraphing) which are not seen or visible to the human eye under the high noon sun from a minimum distance of five (5) feet;
- In the event a claim is approved under this Warranty: (i) the costs and expenses associated with the removal and replacement of siding, stucco, railings, hot tubs, planters, furniture, carpeting or any other materials either permanently or temporarily attached to the building or structure on which the Product was installed; (ii) cleaning the building or structure on which the Product was installed (since the repair or replacement of the Product may require the application of a sealer); it is the responsibility of the Customer to provide a clean surface for maximum adhesion of the Product; (iii) color matching of the Product; and (iv) the costs and expenses associated with the repair, removal or replacement of any and all overburden installed, placed or located on top of or near the Product and which shall include, without limitation, rooftop gardens, earth, soil, pavers, decks, patio and walking surface materials, planters, furniture, carpeting or any other materials either permanently or temporarily attached to the building or structure on which the Product was installed, all of which above actions, costs and expenses shall be the sole responsibility of the Customer.

*This is a two page document, please read the entire warranty to understand your rights and responsibilities.*



## 10 YEAR PRODUCT ONLY WARRANTY

### QUALIFICATIONS FOR, AND CONDITIONS TO, WARRANTY COVERAGE WARRANTY COVERAGE HEREUNDER SHALL ONLY BE PROVIDED BY THE COMPANY IN ACCORDANCE WITH THE FOLLOWING:

• If the full purchase price for the Product and its installation and related services, has been paid to the Company and any third party which has provided such installation and related services, as applicable.

• All claims under this Warranty are to be made by the Customer in writing to the Company (the "Notice") within thirty (30) days of the discovery of the alleged defect in the Product and within the period covered by this Warranty. All claims shall include a copy of the Invoice or contract establishing the date of purchase and installation of the Product at the Property and the original cost of the Product. The Company must be allowed a reasonable opportunity to inspect, as provided above, any alleged defect before any warranty claim is processed, or repairs, replacements or Pro Rata Refunds are made, hereunder. The Company must also, as a result of such inspection, acknowledge in writing that the alleged defect in the Product is covered by this Warranty.

• At the Company's sole option, either the Company's own employees or agents or an authorized dealer of the Company may make the repair or replacement of a defect covered by this Warranty. The Customer acknowledges and understands that the Company and any dealer or installer which sold or installed the Product to or for the Customer are separate entities. The Customer further understands that any such dealer or installer which installed the Product for the Customer is solely liable for all installation-related repairs and defects.

• Any defective Product may, at the Company's sole option, become the Company's property or be disposed of by the Customer.

• This Warranty is for the exclusive benefit of the Customer, as the original customer of the Product, and is not assignable or transferable by the Customer.

### LIMITATION OF LIABILITY

The Company's Product or any part thereof claimed to be defective shall be held until inspected by an authorized representative of the Company and, upon written approval from the Company to proceed with the specific instructions of such representative, the Company's Product or any part thereof found to be defective will be repaired or replaced or the Pro Rata Refund made, at the sole option of, and by, the Company, as provided herein and, in the case of repair or replacement, with the same, or substantially similar, to the extent reasonably possible, color design or grade of Product. The Company's method of inspection may take the form of inspection of photographs (such inspection to be either in place of a physical inspection by the Company or in addition to a physical inspection, all as determined in the sole discretion of the Company), provided by the Customer, of the Product or any part thereof allegedly defective. If requested by the Company, the Customer agrees to provide photographs of the Product or any part thereof allegedly defective as well as a detailed, written explanation of the alleged defect and, if so requested, the Company's obligation to continue to process the Customer's claim under this Warranty shall be subject to its receipt of the requested photographs and explanation. Any replacement Product is subject to the availability of same from the Company's inventory or to the availability of same from the Company's suppliers. The Company reserves the right to repair or replace defective Product with Product of the nearest color, gauge or pattern available at the time of repair or replacement. The Company shall not be responsible for differences in color between replacement Product and the original Product. Any such repair or replacement or Pro Rata Refund by the Company hereunder shall not extend the Warranty Period and all Product provided by the Company as a result of a warranty claim hereunder is warranted under the terms and conditions of this Warranty only for the balance of the Warranty Period for the Product which was the subject of the warranty claim. The Company's obligations hereunder shall be limited solely to repair or replacement of any defective Product or Pro Rata Refund as provided herein.

THE LIABILITY OF THE COMPANY, ITS OFFICERS, DIRECTORS, AGENTS AND SERVANTS AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND SERVANTS TO THE CUSTOMER WITH RESPECT TO THE PRODUCT HEREIN SHALL BE LIMITED TO REPAIR OR REPLACEMENT OR PRO RATA REFUND AS PROVIDED HEREIN TO A MAXIMUM OF THE COST OF THE PRODUCT INSTALLED AT THE PROPERTY, AS INDICATED ON THE INVOICE, AND DOES NOT INCLUDE ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. SUCH SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE OF ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF LABOUR, COST OF SUBSTITUTE OR REPLACEMENT EQUIPMENT, FACILITIES OR SERVICES, DOWN TIME, CUSTOMER'S TIME AND CLAIMS OF THIRD PARTIES.

THE COMPANY, ITS OFFICERS, DIRECTORS, AGENTS AND SERVANTS AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND SERVANTS SHALL NOT BE LIABLE FOR PERSONAL INJURIES OR DEATH TO ANY PERSON OR FOR ANY LOSS, DAMAGE, LIABILITY, CLAIM OR EXPENSE OF ANY KIND OR NATURE WHETHER TO OR RELATED TO THE PRODUCT, THE PROPERTY, THE CUSTOMER, OR ANY OTHER PROPERTY, CAUSED OR CONTRIBUTED TO, DIRECTLY OR INDIRECTLY, BY THE COMPANY'S PERFORMANCE OF THE WARRANTY WORK HEREUNDER, BY THE OWNERSHIP, DELIVERY, INSTALLATION, OR POSSESSION OF THE PRODUCT, BY THE PRODUCT OR ANY INADEQUACY THEREOF FOR ANY PURPOSE OR ANY DEFICIENCY OR DEFECT THEREIN, THE USE OR MAINTENANCE THEREOF, ANY REPAIRS, SERVICING OR ADJUSTMENTS THERETO, OR ANY INTERRUPTION OR LOSS OF SERVICE OR USE THEREOF OR ANY LOSS OF BUSINESS, OR BY ANY OTHER CAUSE OR REASON WHATSOEVER OR HOWSOEVER CAUSED, CONSEQUENTIAL OR NOT, INCLUDING THE NEGLIGENCE OR DEFAULT OF THE COMPANY, AS ALL SUCH RISKS AS BETWEEN THE COMPANY AND THE CUSTOMER ARE TO BE BORNE BY THE CUSTOMER.

THIS WARRANTY GIVES THE CUSTOMER SPECIFIC LEGAL RIGHTS AND THE CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO CERTAIN CUSTOMERS.

### DISCLAIMER OF WARRANTIES

THIS WARRANTY IS IN SUBSTITUTION FOR DAMAGES TO WHICH THE CUSTOMER MIGHT OTHERWISE BE ENTITLED AT LAW OR IN EQUITY AND, IN PARTICULAR, IN LIEU OF AN ACTION FOR FUNDAMENTAL BREACH OF CONTRACT, THE CUSTOMER WILL BE BOUND BY THE PROVISIONS OF THIS WARRANTY. THE WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, AGREEMENTS, REPRESENTATIONS OR CONDITIONS OF THE COMPANY WHETHER WRITTEN, ORAL, COLLATERAL, STATUTORY, EXPRESSED, IMPLIED OR OTHERWISE INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THE COMPANY SHALL NOT BE VIRTUE OF HAVING SUPPLIED THE PRODUCT OR PERFORMED THE WORK IN CONNECTION WITH A CLAIM UNDER THIS WARRANTY BE DEEMED TO HAVE MADE ANY OTHER WARRANTY, AGREEMENT, REPRESENTATION OR CONDITION WHATSOEVER. NO REPRESENTATIVE, EMPLOYEE, AGENT OR CONTRACTOR OF THE COMPANY OR ANY OTHER PERSON IS AUTHORIZED TO ASSUME ANY ADDITIONAL LIABILITY OR RESPONSIBILITY IN CONNECTION WITH THE PRODUCT OR THE WORK PERFORMED BY THE COMPANY HEREUNDER EXCEPT AS DESCRIBED HEREIN.

SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO CERTAIN CUSTOMERS.

### OTHER INFORMATION

This Warranty is conclusively deemed to be a contract made under the laws of the Province of British Columbia and for all purposes is to be governed by, and construed and enforced in accordance with, the laws of the Province of British Columbia without regard to principles of conflicts of law that would impose a law of another jurisdiction. Any and all disputes arising under this Warranty, whether as to interpretation, performance or otherwise, shall be subject to the exclusive jurisdiction of the courts of the Province of British Columbia. The parties hereby irrevocably and unconditionally attorn to the exclusive jurisdiction of the courts of the Province of British Columbia and all courts competent to hear appeals therefrom.

If two or more individuals, corporations, partnerships or other entities (or any combination of two or more thereof) shall be subject to the terms and conditions of this Warranty as the Customer, the liability of each of them under this Warranty shall be deemed to be joint and several.

No condoning, excusing or waiver by the Company of any default, breach or non-observance by the Customer at any time or times in respect of any covenant, proviso or condition herein contained shall operate as a waiver of the Company's rights hereunder in respect of any continuing or subsequent default, breach or non-observance, or so as to defeat or affect in any way the rights of the Company in respect of any such continuing or subsequent default breach or non-observance, and no waiver shall be inferred from or implied by anything done or omitted to be done by the Company.

This is a two page document, please read the entire warranty to understand your rights and responsibilities.

**WARNING:** Various products can discolor vinyl decking, specifically but not limited to pressure treated lumber and rubber or bitumen based products. Ensure all materials are compatible before leaving them in contact with your new vinyl deck surface.

October 01, 2015