



# HULAMIN

31 October 2018

## Guarantee on Aluminium Gutter Coil

### GUARANTEE

We, Hulam Operations (Pty) Ltd trading as Hulam Rolled Products (hereinafter referred to as the Company), do hereby guarantee the material as supplied by the Company and described above, against:

- A. Perforation of the substrate aluminium material attributable to corrosion arising out of normal atmospheric conditions under normal conditions of use (refer to Performance of Substrate below).
- B. Cracks, Blistering, Peeling, Loss of Adhesion, Flaking, Change of Colour and Fading, Chalking, Film Erosion and Loss of Gloss of the painted surface in the normal conditions of use of the product under normal environmental and atmospheric conditions (refer to Performance of Painted Surface below).

### Performance of Substrate

The substrate aluminium material described above is guaranteed for a period of 10 years subject to the General Terms and Conditions listed below.

### Performance of Painted Surface

The painted surface described above is guaranteed for a period of 10 years.

This guarantee is subject to the General Terms and Conditions of this guarantee as listed below. The guarantee is also subject to the following Special Conditions.

A failure of the Painted Surface is determined with reference to the Performance Attributes in the table below.

Performance Attribute:- the Guarantee is against:	Method of measurement of attribute (Test Standard)	Measurement
Cracks, Blistering, Peeling, Loss of Adhesion, and Flaking of the painted surface in the normal conditions of use of the product under normal environmental and atmospheric conditions	Tape test to EN 1396:2007	No loss of adhesion of the coating when tested with tape
Change of Colour and Fading of the painted surface	under standard laboratory conditions subject to the standard EN13523-10:2002 QUV test after 2000 hours	Maximum change 2 $\Delta E$ Units measured using EN13523-3:2001 CIELAB

### .GENERAL TERMS AND CONDITIONS

The guarantee shall not apply in respect of any failure which is attributable to:

1. Edge operations such as cutting and stripping, roll forming, pressing or any other post-painting forming operation carried out by any person or organization other than the Hulam customer or their approved contractors.
2. Mechanical or chemical damage to the painted surface

3. The use of inappropriate cleaning materials or agents, abrasive materials or any form of scratching or abrasion caused by any person other than the Company
4. Cracking due to mechanical deformation, flanging, bending or other operations carried out to the material by any person other than the Company
5. Acts of God, fire, storm, misuse, radiation, earthquakes, lightning, abuse, riot, vandalism etc.
6. Improper handling and storage
7. Exposure to excessive temperatures, exceeding 80°C, for any significant length of time
8. Contact with dissimilar metals
9. The materials being erected in such a manner that rainwater cannot run off the material
10. Use of inappropriate jointing, fixing or sealing materials
11. A failure in the case of side or vertical cladding to clean the surfaces having external exposure at least once every 12 months, and in the case of surfaces not being exposed to rain, once every 6 months.
12. failure to remove any ferrous shavings, swarf or residue which come into contact with the material
13. a failure to carry out post-erection painting in accordance with the Company's recommendations
14. A failure to maintain the building in which the materials are used and to keep the materials free of corrosion products (for example failure to keep gutters and down pipes free from blockage and sheeting free from cement, rubbish or other debris)
15. A failure to erect the materials in accordance with standard industry erection practice, and particularly to avoid bi-metallic corrosion caused by a failure to insulate the materials from foreign metals. Note in particular the responsibility of the installer to use the correct fasteners and fitting materials with appropriate insulation to prevent bi-metallic corrosion.
16. Any material change in the detrimental environmental conditions affecting the contract site after the date of issue of this guarantee.
17. Uneven exposure to the sun's rays and/or the environment.

#### **VOIDING OF GUARANTEE**

The guarantee shall be rendered null and void if:

1. There is material non-disclosure or incorrect disclosure of information in the questionnaire (Guarantee Application for Aluminium Sheet Material for Gutter Applications) submitted by the Beneficiary for the purposes of the guarantee
2. The Beneficiary cedes its rights in respect of the guarantee without prior written consent of the Company
3. Any repairs, renovations or post erection work are carried out without prior notice to the Company or not in accordance with the Company's instructions, recommendations or standard procedures, if applicable.
4. If the Beneficiary fails to keep confidential the details of any claims and settlements made pursuant to the guarantee
5. The person or entity liable for the price of the materials which are the subject of this guarantee has not paid the full invoice price in respect of the materials concerned

#### **LIMITS OF LIABILITY**

The Company's liability under this guarantee shall be limited as follows:

1. If the Company receives notice of a claim in respect of defective material within five years of the delivery of that material by the Company, the Company will supply replacement material ex works Edendale, Pietermaritzburg, free of charge.
2. If the Company receives notice of a claim in respect of defective material after five years of the delivery of that material by the Company, the Company will, subject to the Beneficiary delivering the defective material to the Company, pay financial compensation to the Beneficiary in accordance with the following formula:

$$C = (1 - (A/B)) \times P$$

Where:

- C is the amount of the financial compensation payable;
- A is the number of years including parts of a year elapsed from date of original delivery of the material to the date on which the Company receives written notice of the claim;
- B is the period of the guarantee; and
- P is the original price paid for the material, escalated in accordance with the Consumer Price Index described as "CPI Headline" as published by Statistics South Africa in its PO141 Statistical Releases, with the base index being the index as at the date of original delivery of the material compared to the index applicable as at the date that the Company receives notice of the claim concerned.

Notwithstanding anything else contained herein and without detracting from the generality of the foregoing, the Company shall not be liable for:

1. Any costs associated with providing full access for removal and replacement of material.
2. Any costs associated with dismantling and removing defective material.
3. Any consequential, indirect or special loss or damages, damage to property or loss of profits howsoever arising.
4. Any claim where the accumulated defective area on any one project is less than 10% or 100 square metres, whichever is the lesser, of the aluminium material supplied by the Company in respect of the project concerned.

#### **WRITTEN NOTICE**

The Company shall incur no liability under this guarantee unless the Beneficiary gives the Company written notice, within a reasonable time, not exceeding three months, after the alleged failure of the Company's materials came to the Beneficiary's attention or ought to have come to its attention by the exercise of reasonable care, and the Beneficiary furnishes details of the failure, a copy of the guarantee relied on and details of the contract where the materials have been installed.

#### **ACCESS TO SITE**

The Beneficiary undertakes to afford the Company and its representative's access to the site at which the materials have been installed and to permit the Company to carry out tests on the materials, and, if necessary, remove samples of the materials during the currency of this guarantee.

## **NO WAIVER OF RIGHTS**

The failure of the Company to enforce any of the terms and conditions contained in this guarantee shall not affect the Company's right to require performance of any such term or condition in the future and shall not be construed to be a waiver of any of the Company's rights.

## **JURISDICTION**

All disputes arising out of this guarantee shall be submitted to and decided upon by arbitration subject to the following terms and conditions:

- The arbitration shall be held in such a place as may be agreed upon between the parties. If the parties are unable to agree upon the place where the arbitration hearing will take place, the arbitration will be held in such place as the arbitrator may direct.
- The arbitrator shall be such person as may be mutually agreed upon between the parties. If the parties fail to reach agreement regarding the appointment of an arbitrator, either of them may request the Association of Arbitrators (Southern Africa) to appoint an arbitrator, in which event the standard administrative procedures and the schedule of costs of the Association of Arbitrators (Southern Africa) shall apply.
- The rules governing the arbitration shall be the rules of the Association of Arbitrators (Southern Africa) or its successor, in force at the time that the dispute is referred to arbitration.
- The language to be used in the arbitral proceedings shall be English.

## **EXCLUSIVE CLAIMS**

Save as provided herein, the Beneficiary shall have no claim against the Company in respect of any Failure of the materials howsoever arising.

## **GOVERNING LAW**

The validity of this guarantee, its interpretation, the respective rights and obligations of the parties and all other matters arising in any way out of it, including without limitation all claims, shall be determined in accordance with the laws of the Republic of South Africa.

## **SCOPE OF WARRANTY**

The warranty for replaced or repaired material is restricted to the period that remains up to the end of the original warranty period.

## **NON VARIATION**

No purported amendment or modification of this guarantee shall be valid unless in writing and signed by the Company.