

## Accoya® Wood and Accoya® Color Grey CERTIFICATE OF LIMITED WARRANTY

(Worldwide)

**THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS, WHICH VARY BASED ON JURISDICTION.**

**WE LIMIT THE DURATION AND REMEDIES OF ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE TO THE DURATION OF THIS EXPRESS LIMITED WARRANTY. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.**

**OUR RESPONSIBILITY FOR DEFECTIVE PRODUCTS IS LIMITED TO THE EXPRESS REMEDIES AS DESCRIBED BELOW IN THIS CERTIFICATE OF LIMITED WARRANTY.**

### 1. Scope of Limited Warranty

- 1.1. This limited Warranty (“**Warranty**”) is given by Accoya USA LLC, a Delaware limited liability company (“**Accoya USA**”) for Accoya® wood, which for the purpose of this Warranty, includes uncolored Accoya® wood and Accoya® Color Grey.
- 1.2. This Warranty is exclusive to the original purchaser of Accoya® wood from Accoya USA, the original owner of any structure on which the Accoya® wood is installed, and the next legal owner of such structure. This Warranty is non-transferrable or assignable to any other person.
- 1.3. Accoya USA warrants that Accoya® wood shall remain free of material damage (as defined below at paragraph 2.1) from the date of delivery of the Accoya® wood as stated on the invoice and for:
  - a) 50 years when the Accoya® wood product is used above ground<sup>1</sup>; and
  - b) 25 years when the Accoya® wood product is used:
    1. at or below ground level; or
    2. as deck boards on fresh and saltwater docks.

### 2. Definition of Material Damage

- 2.1. For the purposes of this Warranty, Accoya® wood will be considered to be “materially damaged” if it is shown that in ordinary usage:
  - a) the Accoya® wood product has been materially damaged by fungal decay or rot (for the purposes of this Warranty fungal decay or rot shall be limited to decay or rot caused by fungal species in independent European industry standard durability testing of modified wood *Poria placenta*, *Coniophora puteana*, *Gloeophyllum trabeum*, *Corriolus versicolor*, *Serpula lacrymans* and shall not include common surface mold, mildew or any other organisms, bacteria or other fungi); or

<sup>1</sup> For the avoidance of doubt, where the end-product does not comply with established norms for water drainage or water evaporation or its position is less than 8 inches above ground the 25-year Warranty shall apply.

b) the maximum swell or shrinkage on one direction is greater than 2.5% during normal use<sup>2</sup>; and

c) in both (a) and (b) above, such that the Accoya® wood does not perform its intended function.

### 3. Remedy

- 3.1. In the event of a breach of this Warranty, Accoya USA shall at its sole discretion either replace, repair or compensate by payment any Accoya® wood that is materially damaged from the date of delivery until the expiry or the periods as set out at paragraph 1.3 above. Any compensation shall be limited to the cost of replacement of the Accoya® wood shown on the original invoice for the Accoya® wood purchased.
- 3.2. The remedy at paragraph 3.1 provides the sole and exclusive remedy available under this Warranty.
- 3.3. This Warranty does not cover the costs associated with removal of damaged Accoya® wood or installation of replacement Accoya® wood or any remanufacturing or recoating costs.

### 4. Exclusions of Remedy and Warranties

- 4.1. THE REMEDIES DESCRIBED ABOVE ARE THE SOLE AND EXCLUSIVE REMEDIES RELATIVE TO THE PRODUCTS HEREUNDER AND ACCOYA USA'S ENTIRE LIABILITY FOR ANY BREACH OF THIS LIMITED WARRANTY. ACCOYA USA'S LIABILITY SHALL UNDER NO CIRCUMSTANCES EXCEED THE ACTUAL AMOUNT PAID FOR THE DEFECTIVE PRODUCT. IN NO EVENT WILL ACCOYA USA BE LIABLE FOR ANY INCIDENTAL, ECONOMIC, EXEMPLARY, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER DIRECT OR INDIRECT, HOWSOEVER ARISING, INCLUDING BUT NOT LIMITED TO DAMAGE TO PROPERTY AND LOSS OF PROFITS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, AND THEREFORE, THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY DEPENDING ON THE JURISDICTION.
- 4.2. THE STATEMENTS IN THIS WARRANTY CONSTITUTE THE ONLY WARRANTY GIVEN BY ACCOYA USA AND ACCOYA USA MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS HEREUNDER. ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE (SAVE WHERE ARISING UNDER APPLICABLE PRODUCT WARRANTY LAWS THAT CANNOT BE LAWFULLY DISCLAIMED) ARE HEREBY EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT POSSIBLE BY LAW.

### 5. Conditions

This Warranty is subject to the following terms and conditions:

- 5.1. Claims must be made in writing Accoya USA within 30 days after discovery of suspected material damage and before beginning any permanent repair. The claim must be accompanied by a copy of this Warranty, copies of the relevant invoice(s), a statement describing the suspected material damage and photographs showing the suspected material damage.
- 5.2. Accoya USA reserves the right to inspect the suspected material damage *in situ* on notice within 90 days of receipt of the claim and prior to the authorization by Accoya USA, in its sole discretion, of

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<sup>2</sup> Swelling and shrinkage can only be validated by removal and testing that the swell or shrinkage is greater than 2.5% from fully water saturated to oven dry according to standard tests (details of which are available from Accoya USA), performed by an independent research institute approved in writing by Accoya USA.

any repair, replacement or financial compensation. From the date suspected material damage is detected, the claimant must take all reasonable steps to protect the Accoya® wood from any further damage.

- 5.3. Accoya® wood must be stored, installed, maintained and/or used in accordance with all Accoya® wood written instructions and all certification bodies and building codes adopted by federal, state or local governments or government agencies and applicable to the installation. Failure to install Accoya® wood in accordance with Accoya USA written instructions will invalidate this Warranty. The Accoya® Wood Information Guide and application specific guides can be found at [www.accoya.com](http://www.accoya.com).
- 5.4. Accoya® wood used as decking should be cleaned annually with a deck cleaning product and inspected after cleaning with repair to any damage undertaken. Failure to follow these conditions will invalidate any claim under this Warranty.

## 6. Exclusions

This Warranty does not cover:

- 6.1. any use of the Accoya® wood that contravenes the requirements set out in the American Wood Protection Association Use Category Designation: UC1, UC2, UC3 for the Warranty stated in paragraph 1.3 (a) above (50 year Warranty) and UC4 for the Warranty stated in paragraph 1.3 (b) above (25 year Warranty) (NB see also footnote 1);
- 6.2. any contact between Accoya® wood and liquids that have a pH lower than 3 and higher than 9;
- 6.3. any extended immersion between Accoya® wood in salt and/or brackish water (American Wood Protection Association Use Category Designation UC5);
- 6.4. any contact or proximity between Accoya® wood and other wood types exhibiting wood rot, decay or high levels of moisture build up;
- 6.5. any Accoya® wood subsequently modified or impregnated or otherwise contaminated, for example by chemical treatments, without the prior written approval of Accoya USA;
- 6.6. any characteristic, property, appearance, defect or damage other than as expressly provided for herein, including but not limited to anything related to checking, cracking, weathering, grading, fastenings, paint, coatings and/or (in relation to Accoya® Color Grey), fade resistance;
- 6.7. any product produced by Accoya USA other than uncolored Accoya® wood or Accoya® Color Grey and expressly excluding any colored Accoya® wood product other than grey;
- 6.8. damage or defects resulting from or in any way attributable to:
  - a) transportation, improper storage, improper use, handling, failure to follow the product instructions on installation or use of the Accoya® wood, failure to perform Accoya USA's recommended preventive maintenance, unauthorized modifications of any kind, unauthorized repair, normal wear and tear, or other actions or events beyond our reasonable control;
  - b) misuse, neglect, alteration or abuse of the Accoya® wood;
  - c) settlement or structural movement and/or movement of materials to which the Accoya® wood is attached;
  - d) damage from incorrect design of any structure or where the maximum designed wind loads are exceeded for any structure;

- e) acts of God, such as hurricane, tornado, hail, earthquake, flood or other severe weather or natural phenomena; and
- f) any cause other than manufacturing defects attributable to Accoya USA.

## **7. Geographical coverage**

- 7.1. This Warranty applies to Accoya® wood purchased from Accoya USA and installed and/or used anywhere in the United States of America, Canada, Mexico or the Caribbean.

## **8. Contact**

- 8.1. To obtain warranty service, you must contact Accoya USA by emailing [warrantyusa@accoyausa.com](mailto:warrantyusa@accoyausa.com).

## **9. Governing Law**

- 9.1. The law of the State of Tennessee is applicable to this Warranty, with the exclusion of the Convention on International Sale of Goods 1980.
- 9.2. Concerning the interpretation of international commercial terms, the “Incoterms 2020” as compiled by the International Chamber of Commerce in Paris (I.C.C.), are applicable.

## **10. Disputes**

- 10.1. All disputes or claims arising out of or in relation to this Warranty shall first be the subject of negotiation between the parties in good faith.
- 10.2. If the parties are unable to resolve the dispute through negotiation within thirty (30) days, then Accoya USA shall have the right in its sole discretion to elect arbitration as the dispute resolution forum for the dispute. Such election by Accoya USA is to be made within fourteen (14) days of the expiry of the thirty (30) period for negotiation.
- 10.3. Subject to paragraphs 10.1 and 10.2, and provided that we have elected to arbitrate and the fourteen (14) day period referred to at paragraph 10.2 has elapsed, any dispute, claim or controversy arising out of or relating to this Warranty or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Warranty to arbitrate, shall be determined by arbitration in Atlanta, Georgia USA before three arbitrators and administered by JAMS in accordance with its Comprehensive Arbitration Rules. The language of the arbitration will be English. Within fifteen (15) days of the commencement of arbitration, each party shall select one person to act as arbitrator, and the two so selected shall select a third arbitrator within thirty (30) days of the commencement of the arbitration. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator within the allotted time, the third arbitrator shall be appointed by JAMS in accordance with its rules. All arbitrators shall serve as neutral, independent and impartial arbitrators. Judgment on the award may be entered in any court having jurisdiction. This paragraph shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. In any arbitration arising out of or related to this Warranty, the arbitrators shall award to the prevailing party, if any, the costs and attorneys’ fees reasonably incurred by the prevailing party in connection with the arbitration. If the arbitrators determine a party to be the prevailing party under circumstances where the prevailing party won on some but not all of the claims and counterclaims, the arbitrators may award the prevailing party an appropriate percentage of the costs and attorneys’ fees reasonably incurred by the prevailing party in connection with the arbitration.
- 10.4. Subject to paragraphs 10.1 and 10.2, if we make no election within the fourteen (14) day period referred to at paragraph 10.2, either party may submit the dispute to the courts of the State of Tennessee which have exclusive jurisdiction.