

# 10 YEAR Limited Materials Warranty

ADEX **GRAPHEXCOAT**

**The Agreement:** by way of this Agreement, ADEX Systems Inc. (hereinafter referred to as "ADEX") warrants to the Buyer, subject to the conditions and limitations stated herein, that the exterior insulating materials and systems or exterior finishing materials manufactured and sold by ADEX (hereinafter referred to as "materials") shall remain free of penetration damage through the lamina from drumming or pecking bird species.

**Duration of Agreement:** this Agreement shall remain in effect for a period of **ten (10) years** from the date of original installation. Where new materials are provided by ADEX following a claim made under this Agreement, the new materials shall remain subject to this Agreement and only for any unexpired portion of the period of warranty provided herein that is still in effect.

**Conditions of Agreement:** ADEX shall have no obligation to repair the damages under this Agreement unless or until the following conditions are met or exceeded: A) within five (5) days from the discovery of any damage, defect or deficiency that may be covered by this Agreement, the owner must notify in writing ADEX SYSTEMS INC., 7911 Marco Polo Avenue, Montreal, Quebec, H1E 1N8. The notice shall include a description of the damages, defects or deficiencies noticed; B) requests from ADEX for information regarding any alleged product failure, including photographs, samples, and other pertinent data, are complied with in a timely manner; C) ADEX has received full payment for all materials, and any other related fees or costs; D) the materials were installed by a competent trade professional; E) the materials were installed in strict accordance with any and all applicable procedures, specifications, technical requirements entirely consistent with the latest ADEX documentation and specifications at the time of installation, and all enforceable building codes, construction by-laws and pertinent rules of the art (hereafter, collectively referred to as "Requirements"); F) any and all alterations made to the materials, including modifications, improvements, changes or works, not previously authorized by ADEX or meeting the applicable Requirements, have been made with the prior written approval of ADEX, with reason and date of said alteration; G) the materials have been, at all times since their installation, properly inspected and diligently maintained by the Buyer or qualified contractors for the Buyer; H) the Warranty Request and Declaration has been completed, signed by the qualified professional applicators, and returned to ADEX by way of facsimile or courier to the above-noted address or by email to info@adex.ca, within thirty (30) days after the completion of the installation. The facsimile number is 514.648.9597; any default to respect one or more of the above-mentioned conditions will render this Agreement null and void.

**General Exclusion from Warranty:** for purposes of clarification, the scope of coverage of this Agreement extends only to conditions arising due to bird pecking damages through the lamina and is limited by the terms set out herein, including, but not limited to, the following: A) ADEX shall not be liable for any damage, loss of enjoyment, inconveniences, or consequential damages arising from a failure by ADEX to comply with its obligations under this Agreement, where that failure is attributable to fire, flood, storm, hail, icy rain, radiations, chemical fumes, foreign matters in the atmosphere, strike, riot, vandalism, any terrorist act, any act of war (whether or not declared), or of any government or other similar entity exercising de facto sovereignty for the time being in any relevant jurisdiction, including any embargo or restriction upon shipping or transport; B) ADEX shall not be liable in respect of a failure by ADEX to comply with their obligations under this Agreement to the extent that the failure in question is attributable to any circumstance or cause beyond the reasonable control of ADEX or its affiliates, except where: i) that circumstance or cause is a reasonably foreseeable consequence of the negligence or

deliberate act of ADEX; or ii) the circumstance or cause could have been avoided through the exercise of reasonable diligence on the part of ADEX. C) ADEX shall not be liable for defects in the materials wholly attributable to normal manufacturing processes; D) where due to supervening circumstances arising at any time after the date of this Agreement that could not reasonably be foreseen as of that date, performance by ADEX of its obligations under this Agreement is rendered commercially impractical, ADEX may terminate its obligation hereunder on written notice to the Buyer; E) ADEX shall not be liable with respect to a failure to perform its obligations under this Agreement where the failure is attributable to the either the Buyer or ADEX' compliance with any statute, regulation, directive or policy of any federal, provincial or state government (including any judicial, administrative, regulatory or military authority constituted by any of the foregoing) that has de facto or de jure authority in any jurisdiction relevant to the performance by the party of its obligations under this Agreement, whether or not that statute, regulation, directive or policy has the force of law; and F) except as expressly provided in this warranty, ADEX excludes all express or implied warranties, conditions and obligations of ADEX, whether statutory or otherwise, concerning the quality of the materials or their fitness for any purpose.

**Liabilities Excluded from Agreement:** this Agreement does not cover or apply to, and ADEX shall not be responsible for, any of the following: A) improper installation of the materials not in strict accordance with the applicable Requirements, and any damage that may stem or result thereof; B) improper application of the materials that does not satisfy the applicable Requirements, and any damage that may stem or result thereof; C) installation made by applicators or third parties, and any other warranty or representations made by applicators or third parties, that are not expressly covered by this Agreement, and any damage that may stem or result thereof; D) any consequences resulting from poor drainage around the foundation walls, a defect or insufficiency of waterproofing or sealant between the materials covered under this warranty and any other materials; E) any defect, lack or deficiency in the wall structure, or in other structural or architectural elements on which the materials were installed, or that are of such a nature as to affect the materials, and any damages that may stem or result thereof; F) improper storage or handling of the materials, and any damage that may stem or result thereof; G) products from other manufacturers not furnished directly by ADEX, and any damage that may stem or result thereof; H) products from other manufacturers produced for ADEX, but that are not specifically sold by ADEX or its authorized distributors (meaning those distributors expressly authorized to install ADEX products), and any damage that may result thereof; I) any and all alterations made to the materials, including modifications, improvements, changes or works, not previously authorized by ADEX or meeting the applicable Requirements, that is of such a nature as to affect the materials, or further the support on which these materials have been installed, and any damages that may stem or result thereof; J) any damage, defect or deficiency resulting from an unusual or abusive use of the materials, being pointed that these products must not serve as supports for exterior elements rebounding surfaces, or for the deposit or the accumulation of goods, and that such use amounts, for ADEX, unusual and abusive use; K) damages resulting from an unusual pollution of the environment, including air pollution, in which the materials are used; L) the use, for maintenance or repair purposes, of techniques, materials or chemicals not approved by ADEX, and any damage that may stem or result thereof; M) water leaks or infiltrations, and any damage that may stem or result thereof; N) any damage, whether caused by the materials or other causes, affecting other parts of the building or other properties, as well as any loss of enjoyment, inconveniences, or consequential damages as may arise thereof; O) any damage that is considered by ADEX as being purely esthetical; P) any damage, defect or deficiency resulting from torts, errors or omissions in architecture, engineering or works from other contractors; Q) any damage, or aggravation of damages, resulting

from the default to correct, within a reasonable amount of time as determined having regards to all relevant factors that impact the industry, a damage, defect or deficiency otherwise detectable by a careful examination from a reasonably well informed person in the industry; or R) any damage suffered by third persons other than the Buyer to whom was a party to the present Agreement.

**Responsibilities:** where the materials fail during normal usage during the warranty period, ADEX (or an authorized distributor) shall supply new and/or equivalent materials to repair the damages, such repairs to be made without charge, and the liability of ADEX under this warranty shall be limited to that repair. That is to say, the sole responsibility and obligation of ADEX regarding this Agreement is to supply replacement materials and to repair the damages. No other charge or expense that may be engaged by the Buyer, and especially no demolition or renovation pertaining to the installation of new materials shall be admitted or payable by ADEX. Upon receipt of notice of any defect as above-mentioned, ADEX will dispose of a reasonable delay and of the necessary authorizations to take samples and proceed to the examinations it may deem necessary in order to properly investigate and determine the causes of the defects or deficiencies reported and, the case being, to have performed by ADEX any repair or replacement work it shall estimate necessary, at its sole discretion.

**In order to maintain this Agreement,** the Buyer must maintain the installed materials in accordance with that which is set out in the Requirements.

**The Buyer shall,** as need may be, carry out the necessary and appropriate temporary repairs in order to prevent further damages to the structure or the content of his building, and this, until the cause of any damage, defect or deficiency is identified. Recommendations concerning permanent repairs are to be made by or with the approval of ADEX.

**Non-Transferable:** this Agreement, and its terms, is issued for the sole benefit of the original owner of the structures on which ADEX materials have been incorporated at the time of such incorporation of ADEX materials. It is accordingly purely personal and non-transferable.

**Governing Law:** this Agreement is subject to and shall be construed in accordance with the laws of the Province in which the structure on which ADEX materials have been incorporated, and the Buyer hereby consents to the exclusive jurisdiction of the courts of that Province, with respect to any dispute arising under it. Any proceeding brought in contravention of this section shall be deemed conclusively to be an abuse of process and shall be automatically stayed on the application of ADEX, in accordance with the rules governing procedures in that court. All costs incurred by ADEX in securing a stay under this section shall be paid on a full indemnity (solicitor and client or substantial indemnity or equivalent) basis by the Buyer, forthwith on demand. If the Buyer is in default of payment of such costs, the Buyer may not take any other step in instituting, prosecuting or defending another proceeding brought in relation to Agreement (whether by that party or another person) unless and until all such costs have been paid in full.

**Materials:** the materials covered by this Agreement are construction materials and are not aimed for consumer sale as defined in the applicable Consumer Protection legislation.

<b>Name of project</b>				<b>Warranty no.</b>	
Address		City		Postal code	
<b>Owner</b>	SPECIMEN				
Address					
<b>Applicator</b>					
Product				Colour	
<b>SIGNATURE</b>				<b>DATE</b>	