

# IMPA GUARANTEE TERMS & CONDITIONS



## IMPA PAINTS PRODUCT WARRANTY

### CONTRACT-USE VERSION (FINAL FULLY EXPANDED LEGAL DOCUMENT)

#### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Product Warranty, unless the context clearly indicates otherwise or a contrary intention appears from the wording or structure of any clause, the following words and expressions shall bear the meanings assigned to them hereunder, and such meanings shall apply consistently throughout this document, including all annexures, schedules, certificates and supporting documentation, and cognate expressions shall bear corresponding meanings:

- 1.1.1 **“Applicator”** shall mean any individual, contractor, company, close corporation, partnership or other legal entity appointed, authorised or mandated by the Consumer, whether directly or indirectly, to perform, supervise, manage or otherwise be responsible for any aspect of the surface preparation, priming, coating, application or finishing of the Products, and shall include any employee, agent or subcontractor acting under the control or direction of such Applicator.
- 1.1.2 **“Consumer”** shall mean the purchaser of the Products and/or, where applicable, the owner of the property, the developer, the main contractor, subcontractor or any other contracting entity responsible for the project or works on which the Products are applied, and shall include its employees, agents, subcontractors, representatives, successors in title and permitted assigns.
- 1.1.3 **“Products”** shall mean those specific coating products manufactured and supplied by Impa Paints and purchased by the Consumer, which are applied to the relevant Surfaces, and which are more fully described in the applicable Technical Data Sheets, product documentation, project specifications, batch records and supporting information forming part of the Warranty registration and/or project documentation.
- 1.1.4 **“Surfaces”** shall mean the substrate or substrates onto which the Products are applied, including but not limited to plaster, concrete, masonry, metal, timber or any other material, as defined, described and limited in the applicable Technical Data Sheets issued by Impa Paints, and shall include any condition of such substrate which may influence coating performance.
- 1.1.5 **“Specifications”** shall mean all instructions, recommendations, requirements, guidelines and technical information issued by Impa Paints in relation to the storage, handling, preparation, priming, application, curing, use and maintenance of the Products, including but not limited to Technical Data Sheets (TDS), Safety Data Sheets (SDS), product labels, written specifications, project specifications, method statements, site instructions, inspection reports and any formal written technical advice issued by Impa Paints from time to time.
- 1.1.6 **“Paint Failure”** shall mean the failure of the Product to perform in accordance with its intended function and the Specifications due solely and exclusively to a material defect in the manufacture of the Product, and shall include, but not be limited to, cracking of the paint film beyond acceptable

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industry standards, blistering of the coating system, loss of adhesion between coats or between the coating and the substrate, excessive chalking, and abnormal or premature fading or discolouration of the coating, provided always that such failure occurs under normal service conditions and is not attributable, whether directly or indirectly, to any act, omission, environmental condition, substrate defect or any other excluded cause, and further subject always to reasonable wear and tear over time.

- 1.1.7 **“Warranty”** shall mean this Product Warranty, together with all annexures, schedules, project specifications, inspection records, certificates and supporting documentation incorporated herein by reference or issued pursuant hereto.
- 1.1.8 **“Warranty Period”** shall mean the applicable period of cover, being 7 (seven), 8 (eight), 12 (twelve) or 15 (fifteen) years depending on the Product concerned, calculated from the Commencement Date and subject to the pro-rata liability provisions contained herein.
- 1.1.9 **“Commencement Date”** shall mean the date upon which the Warranty is duly registered and accepted by Impa Paints in accordance with clause 4 of this document, or, in the case of project-based warranties, the date of practical completion or handover of the works as confirmed in writing by Impa Paints.
- 1.1.10 **“CPA”** shall mean the Consumer Protection Act 68 of 2008, as amended from time to time, including all regulations promulgated thereunder.

1.2 In the interpretation of this Warranty, unless inconsistent with the context:

- 1.2.1 words importing any gender shall include all genders;
- 1.2.2 words importing the singular shall include the plural and vice versa;
- 1.2.3 words importing natural persons shall include juristic persons and vice versa;
- 1.2.4 the rule of construction that a contract shall be interpreted against the party responsible for drafting it shall not apply;
- 1.2.5 the use of the words “including”, “in particular” or similar expressions shall not be construed as limiting the generality of any preceding words.

## 2. SCOPE AND APPLICATION OF WARRANTY

- 2.1 This Warranty shall apply exclusively to those Impa Paints Products listed in the registered Warranty documentation and/or project specifications and shall apply only where such Products have been supplied by Impa Paints and applied strictly in accordance with their intended use, the Specifications, and all conditions set out in this Warranty.
- 2.2 This Warranty shall only be valid, enforceable and of full force and effect where all of the following conditions are complied with fully, strictly and without any deviation whatsoever:

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- 2.2.1 The Products have been applied to Surfaces which are suitable for coating, structurally sound, properly cured, dry, stable, free from contamination, defects, movement, moisture ingress or any other condition which may adversely affect coating performance.
- 2.2.2 The complete Impa Paints coating system, including all specified primers, sealers, undercoats and finishing coats, has been utilised in strict accordance with the Specifications, and no substitution, omission, dilution or deviation from such system has occurred without the prior written approval of Impa Paints.
- 2.2.3 All Specifications, including but not limited to surface preparation requirements, application methods, environmental conditions, minimum and maximum film thickness, number of coats, drying times, curing times and maintenance requirements, have been strictly adhered to in all respects.
- 2.2.4 The Products have been used only for their intended purpose and on the specific Surfaces for which they are designed, as set out in the applicable Technical Data Sheets and project specifications.
- 2.2.5 Where applicable, Impa Paints has been afforded reasonable and unrestricted access to the site in order to inspect, approve, monitor or advise on the application of the Products.

## 3. PRODUCTS COVERED BY WARRANTY

- 3.1 This Warranty is limited to covering the following Impa Paint Products (hereinafter referred to as “the Products”):
  - 3.1.1 Endura Velvet Sheen – interior application, 15 (fifteen) year Warranty applies.
  - 3.1.2 Endura Ultra Matt – interior application, 15 (fifteen) year Warranty applies.
  - 3.1.3 Endurashield – interior & exterior application, 15 (fifteen) year Warranty applies. Be aware of a slight textured feel when applying internally.
  - 3.1.4 Endura Roof & Paving – exterior application, 15 (fifteen) year Warranty applies. Paving excluded.
  - 3.1.5 Endura Gloss – interior & exterior application, 15 (fifteen) year Warranty applies.
  - 3.1.6 Endura WB Gelcoat – interior & exterior application, 15 (fifteen) year Warranty applies.
  - 3.1.7 Bath & Kitchen – interior application, 12 (twelve) year Warranty applies.
  - 3.1.8 Tuftex Fine – exterior application, 12 (twelve) year Warranty applies.
  - 3.1.9 Tuftex Medium – exterior application, 12 (twelve) year Warranty applies.
  - 3.1.10 Tufklad – interior & exterior application, 12 (twelve) year Warranty applies.
  - 3.1.11 Gelcoat SB – interior application, 12 (twelve) year Warranty applies.
  - 3.1.12 Reno Super Acrylic – interior & exterior application, 7 (seven) year Warranty applies.
  - 3.1.13 Super High Gloss Enamel – interior application, 7 (seven) year Warranty applies.
  - 3.1.14 Craft Soft Sheen – interior application, 8 (eight) year Warranty applies.
  - 3.1.15 Craft Tex – exterior application, 8 (eight) year Warranty applies.
  - 3.1.16 Craft Roof – exterior application, 8 (eight) year Warranty applies.

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## 4. PROJECT CONDITIONS AND TECHNICAL COMPLIANCE

- 4.1 The Consumer and the Applicator acknowledge and agree that the performance, durability and longevity of the Products are directly dependent upon strict adherence to proper surface preparation, correct application techniques, environmental control and full compliance with all Specifications.
- 4.2 The Consumer shall ensure, and shall procure that the Applicator ensures, that all preparation and application work is carried out in accordance with recognised industry best practice, all applicable Specifications, any project-specific requirements and any applicable South African National Standards.
- 4.3 Without limiting the generality of the foregoing, the Consumer shall ensure that all surfaces are properly prepared, cleaned, repaired and primed as required, that the specified dry film thickness is achieved, that environmental conditions are suitable during application and curing, that only approved products are used, and that all application work is carried out by suitably qualified and experienced Applicators.
- 4.4 Any failure to comply with any provision of this clause shall render this Warranty null and void and of no force or effect.

## 5. REGISTRATION, COMMENCEMENT AND CERTIFICATION

- 5.1 This Warranty shall only become valid and enforceable if it is duly registered with Impa Paints within thirty (30) days of the date of purchase of the Products, or, in the case of project-based warranties, within thirty (30) days of practical completion of the works.
- 5.2 The Consumer shall submit all required documentation, including proof of purchase, batch numbers, product details, site details, application records and any additional information required by Impa Paints.
- 5.3 Impa Paints reserves the right to verify compliance and to issue a written Warranty Certificate confirming acceptance of the Warranty.
- 5.4 No Warranty shall be deemed valid unless such registration and verification process has been completed to the satisfaction of Impa Paints.

## 6. WARRANTY UNDERTAKING

- 6.1 Subject to strict and full compliance with all terms, conditions and Specifications contained in this Warranty, Impa Paints warrants that the Products will perform in accordance with their intended purpose and the Specifications for the duration of the Warranty Period.
- 6.2 This Warranty constitutes the sole and exclusive warranty provided by Impa Paints, and all other warranties, whether express or implied, including but not limited to any implied warranties of

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merchantability or fitness for a particular purpose, are expressly excluded to the fullest extent permitted by law.

6.3 This Warranty shall apply only in the event of Paint Failure and shall not apply to normal wear and tear, gradual deterioration or aesthetic changes which do not affect the functional performance of the coating.

## 7. EXCLUSIONS

7.1 The exclusions contained in this clause shall apply to the fullest extent permitted by applicable law, including the Consumer Protection Act 68 of 2008, and shall not be interpreted as limiting or excluding any rights which may not lawfully be excluded.

7.2 This Warranty shall not apply to, and Impa Paints shall have no liability whatsoever in respect of, any Paint Failure, defect, damage or deterioration arising directly or indirectly from any cause outside the reasonable control of Impa Paints, including, but not limited to, the following:

## 8. APPLICATION & SYSTEM FAILURES

8.1 Improper, inadequate or defective surface preparation, including failure to clean, repair, prime or treat surfaces in accordance with the Specifications.

8.2 Incorrect application of the Products, including but not limited to incorrect film thickness, number of coats, drying times, curing conditions or application methods.

8.3 Failure to strictly comply with the Specifications, Technical Data Sheets or written instructions issued by Impa Paints.

8.4 The use of non-approved, incompatible or inferior products in conjunction with the Products, or any substitution, dilution or deviation from the specified coating system without prior written approval from Impa Paints.

## 9. SUBSTRATE & STRUCTURAL ISSUES

9.1 Defects in or failure of the substrate, including but not limited to cracking, movement, structural defects, moisture ingress, rising damp, efflorescence or inadequate curing of surfaces.

9.2 Any inherent defect, instability or unsuitability of the substrate material, including corrosion, rusting, electrochemical reactions or deterioration of the underlying mater.

9.3 Design defects, engineering deficiencies or poor construction practices affecting the performance of the coating system.

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## 10. ENVIRONMENTAL & EXTERNAL FACTORS

- 10.1 Environmental conditions, including but not limited to excessive moisture, humidity, temperature fluctuations, UV exposure, salt spray, coastal conditions, industrial pollution, chemical exposure or atmospheric contamination.
- 10.2 Acts of God, including but not limited to fire, flood, storm, hail, lightning, wind damage or any other natural disaster or extreme weather condition.

## 11. HUMAN & THIRD-PARTY FACTORS

- 11.1 Any act, omission, negligence, misuse, abuse or vandalism by the Consumer, Applicator or any third party.
- 11.2 Mechanical damage, impact damage, abrasion, wear and tear beyond normal service conditions or damage caused by equipment, tools or external forces.

## 12. COATING COMPATIBILITY & EXISTING CONDITIONS

Application over previously coated surfaces where such coatings are incompatible, unstable, poorly adhered or unsuitable for overcoating.

## 13. COLOUR, AESTHETICS & NATURAL WEATHERING

- 13.1 Exterior colours may experience uniform fading over time, resulting in a consistent change in colour brightness due to exposure to sunlight and environmental conditions. This shall not constitute Paint Failure, provided that the fundamental colour element (hue) remains substantially unchanged.
- 13.2 Variations in colour, gloss or finish arising from batch differences, application methods, film thickness, substrate absorption or environmental conditions.
- 13.3 Perceived colour differences due to lighting conditions, viewing angles or surrounding colours.
- 13.4 The use of colours not recommended for exterior application, as indicated in Impa Paints' standard or fan-deck colour charts, in which case such use shall be at the Consumer's own risk.

## 14. MAINTENANCE & AFTERCARE

Failure by the Consumer to carry out reasonable and necessary maintenance of the coated surfaces, including cleaning, inspection and repair of minor defects during the Warranty Period.

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## 15. ACCESS & INVESTIGATION

Any situation where Impa Paints is denied reasonable access to inspect, assess or investigate the alleged Paint Failure or to carry out remedial work.

## 16. COSTS EXCLUDED

This Warranty shall not cover any labour costs, application costs, removal costs, access costs, equipment costs, supervision costs or any associated expenses of whatsoever nature relating to the application, removal, repair or replacement of any coating system.

## 17. CONSEQUENTIAL LOSS

Without limiting any other provision of this Warranty, Impa Paints shall not be liable for any indirect, incidental, special or consequential damages of any nature whatsoever, including but not limited to loss of profit, loss of business, loss of revenue, loss of opportunity or any claims by third parties.

## 18. CLAIMS PROCEDURE AND TECHNICAL INVESTIGATION

- 18.1 Any claim arising under this Warranty shall be submitted by the Consumer to Impa Paints in writing within thirty (30) days from the date upon which the Consumer first becomes aware, or ought reasonably to have become aware, of the alleged Paint Failure, defect or deficiency giving rise to such claim, failing which the claim may, at the sole discretion of Impa Paints, be rejected.
- 18.2 The Consumer shall, at the time of lodging such claim, provide full and comprehensive information and documentation relating to the alleged Paint Failure, including but not limited to proof of purchase, product identification, batch numbers, a detailed written description of the defect or failure, photographic evidence illustrating the nature and extent of the alleged failure, details of the surface preparation and application process followed, environmental conditions prevailing at the time of application and thereafter, and any maintenance or repair history relevant to the coated surfaces.
- 18.3 Impa Paints shall, upon receipt of such claim, be entitled to conduct a full and comprehensive technical investigation into the alleged Paint Failure, which investigation may include site inspections, sampling of coatings and substrates, laboratory testing and analysis, and consultation with independent experts or specialists appointed at the discretion of Impa Paints.
- 18.4 The Consumer shall provide full cooperation to Impa Paints in the conduct of such investigation, including granting reasonable access to the site, providing access to all relevant documentation, and making available any personnel or contractors involved in the application of the Products.
- 18.5 The Consumer shall not, under any circumstances, undertake or permit any repair, alteration, removal or interference with the coating system or affected areas prior to the completion of the investigation, unless prior written consent has been obtained from Impa Paints.

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18.6 Any failure by the Consumer to comply with the provisions of this clause shall entitle Impa Paints, at its sole discretion, to reject the claim in its entirety.

## 19. LIABILITY, REMEDIES AND LIMITATION

19.1 In the event that Impa Paints determines, following a proper investigation conducted in accordance with clause 7, that a valid claim exists under this Warranty, Impa Paints shall, at its sole and absolute discretion, elect to provide one of the following remedies, namely the replacement of the defective Product, the supply of an equivalent or comparable Product of similar specification and performance, or the refund of the value of the Product calculated at the date of the claim and subject to any applicable pro-rata reduction.

19.2 The remedy selected by Impa Paints shall constitute the sole and exclusive remedy available to the Consumer in respect of any claim arising under this Warranty, and the Consumer shall not be entitled to claim any alternative, additional or consequential remedies.

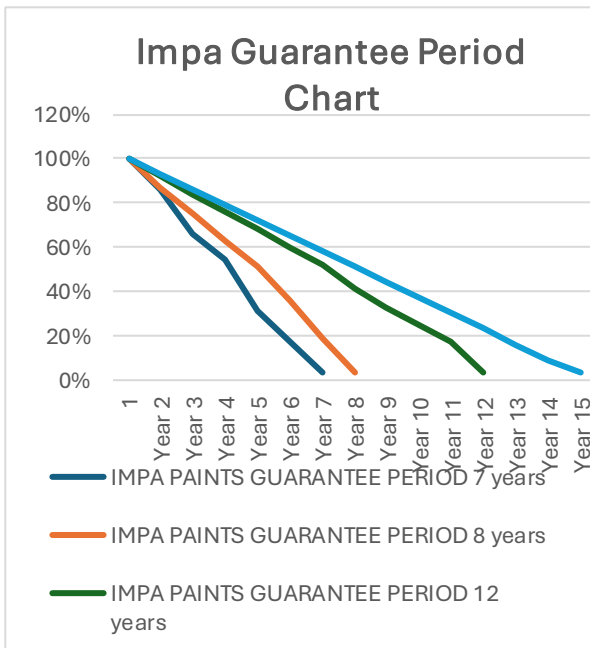
19.3 Under no circumstances whatsoever shall Impa Paints be liable, whether in contract, delict (tort), statute or otherwise, for any indirect, incidental, special or consequential damages of any nature whatsoever, including but not limited to loss of profit, loss of business, loss of revenue, loss of opportunity, delay costs, penalties, or any claims by third parties arising out of or in connection with the use, performance or failure of the Products.

19.4 Without limiting the generality of the foregoing, Impa Paints shall not be liable for any labour costs, application costs, removal costs, access costs, equipment costs, supervision costs or any other costs or expenses associated with the application, removal, repair or replacement of any coating system.

19.5 The maximum aggregate liability of Impa Paints under this Warranty shall in all circumstances be limited to the original purchase price of the Products giving rise to the claim.

19.6 Impa shall reduce the liability over the Quality Guarantee period according to the following scale:

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IMPA PAINTS QUALITY GUARANTEE PERIOD				
Year	7 years	8 years	12 years	15 years
1	100%	100%	100%	100%
Year 2	86%	87%	92%	93%
Year 3	66%	75%	84%	86%
Year 4	54%	63%	76%	79%
Year 5	31%	51%	68%	72%
Year 6	17%	36%	60%	65%
Year 7	3%	19%	52%	58%
Year 8		3%	41%	51%
Year 9			33%	44%
Year 10			25%	37%
Year 11			17%	30%
Year 12			3%	23%
Year 13				16%
Year 14				9%
Year 15				3%

## 20. INDEMNITY

20.1 The Consumer hereby irrevocably indemnifies, holds harmless and agrees to defend Impa Paints, its directors, officers, employees, agents and representatives against any and all claims, demands, damages, losses, liabilities, costs and expenses of whatsoever nature, including legal costs on an attorney and own client scale, arising directly or indirectly out of or in connection with any failure to comply with this Warranty, any misuse of the Products, any act or omission by the Consumer, Applicator or any third party, or any claim brought by a third party in relation to the Products or their application.

20.2 This indemnity shall survive the termination or expiry of this Warranty for any reason whatsoever.

## 21. GOVERNING LAW AND JURISDICTION

21.1 This Warranty shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

21.2 The Consumer hereby consents and submits to the jurisdiction of the courts of the Republic of South Africa in respect of any dispute, claim or matter arising from or in connection with this Warranty, provided that nothing herein shall prevent Impa Paints from instituting proceedings in any other court of competent jurisdiction where it may deem it appropriate.

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## 22. CONSUMER PROTECTION ACT

22.1 This Warranty does not take precedence over the Consumer Protection Act 68 of 2008 (“CPA”), which shall at all times govern the terms and conditions of any supply of Products between Impa Paints and a Consumer who qualifies as a consumer in terms of the CPA.

22.2 In the event of any conflict between this Warranty and the provisions of the CPA, the provisions of the CPA shall prevail to the extent of such conflict.

22.3 The terms of this Warranty shall be interpreted and, where necessary, adjusted to ensure compliance with the CPA, and nothing contained herein shall be construed as limiting or excluding any rights or remedies available to a Consumer under the CPA, except to the extent permitted by law.

## 23. DISPUTE RESOLUTION

23.1 In the event of any dispute, disagreement or claim arising between the Parties in connection with this Warranty, the Parties shall, in the first instance, endeavour to resolve such dispute amicably and in good faith through negotiations between duly authorised representatives.

23.2 Should such dispute not be resolved within a reasonable period of time following the commencement of such negotiations, either Party shall be entitled to refer the dispute to a court of competent jurisdiction in accordance with clause 10.

23.3 Nothing in this clause shall preclude either Party from seeking urgent or interim relief from a court where such relief is necessary.

## 24. ENTIRE AGREEMENT AND VARIATION

24.1 This Warranty constitutes the entire agreement between the Parties in relation to the subject matter hereof and supersedes all prior agreements, representations, warranties or understandings, whether written or oral.

24.2 No amendment, variation, addition to or cancellation of this Warranty or any provision thereof shall be valid or binding unless reduced to writing and signed by a duly authorised representative of Impa Paints.

24.3 No indulgence, relaxation, leniency or extension of time granted by Impa Paints shall constitute a waiver of any of its rights, nor shall it operate as an estoppel against Impa Paints.

24.4 If any provision of this Warranty is found to be invalid, unlawful or unenforceable, such provision shall be severed from the remaining provisions, which shall continue to be of full force and effect.