**PPG Australia Pty Limited**
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# PPG ARCHITECTURAL COATINGS PERFORMANCE GUARANTEE

**Owner:** Core Developments

**Name:** Mulberry

**Project Address:** **Northbourne Ave Dickson ACT**

**Specification number:** WR.4.03.21

**Guarantee Commencement Date:** 28/02/2022

**Guarantee term:** Seven (7) Years internal (10 years external) **(this Performance Guarantee Excludes Exterior Timber)**

PPG Architectural Coatings guarantees that PPG Architectural Coatings products supplied in connection with this project will conform with PPG Architectural Coatings high standards of quality. Any material which fails to give satisfactory results when applied in accordance with PPG Architectural Coatings specifications, on surfaces which are properly prepared and in sound condition, will be replaced in accordance with the conditions overleaf.

PPG Architectural Coatings manufacturing sites have been approved by Lloyds Register Quality Assurance Limited to the quality management system standards

The quality management system is applicable to the manufacture and storage of water based and solvent based paint coatings.

AS/NZS ISO 9001:2015

PPG Architectural Coatings policy of closely supporting applicators and project managers assists in ensuring that a high standard of finish is achieved and maximum durability and protection are obtained.

This guarantee is only valid if the PPG Architectural Coatings product is applied in line with our specification (see attachment). Terms and conditions of the guarantee are displayed on the reverse of this document.

With over 100 years experience PPG Architectural Coatings has established a reputation of quality and service, which clearly demonstrates our commitment to our products and our customers.

**For and on behalf of the Guarantor**
PPG Architectural Coatings
ABN 82 055 500 939

***Martin Watt*** ***1/03/2022***

Authorised Signatory Date

**For and on behalf of the owner**

_____

Authorised Signatory Date

In acknowledging that PPG's Performance Guarantee is only valid if the PPG Architectural Coatings product is applied in line with our specification, the Applicator hereby confirms that it has appropriate training and qualifications to apply the PPG Architectural Coatings product in accordance with best practice and the provided specifications and shall be responsible for any loss or damage caused or contributorily loss it caused by the applicators defective application.

Business Name:_____ ABN:_____

_____

Authorised Signatory Date

# PERFORMANCE GUARANTEE

PPG Architectural Coatings ("the Guarantor") offers Core Developments ("the Owner") to guarantee the performance of the coating system set out in Appendix 1 ("the Coating System") attached as supplied for MULBERRY ("the Project") on the following terms and conditions:

**1. EXTENT OF GUARANTEE**

(a) The Guarantor will provide replacement coating materials (but will not be responsible for application or the cost of application thereof) as may be necessary to repair Defective Areas in accordance with Clause 4, provided that the Guarantor's entire liability under any circumstances under this Guarantee shall be no more than the agreed value of the original materials supplied by the Guarantor in connection with the Coating System.

(b) The liability of the Guarantor in respect of the project shall be limited to 100% of the agreed value for the first twelve months, decreasing by 15% for each 12 months period thereafter for the duration of the Guarantee.

(c) Throughout this Guarantee the words "Defective Areas" mean an area, or areas aggregated, exceeding 10% of the total coated surface per area coated (excluding those areas referred to in Clause 3 (b)(ii))where visual, non-destructive testing shows that spontaneous detachment of the coatings from each other or from the substrate has occurred.

**2. COMMENCEMENT AND DURATION**

a) This Guarantee shall commence on the first of the following dates to occur ("the Commencement Date"):

(i) the date the project is completed

(ii) 28th February 2022

b) The Guarantee period will terminate seven years internal/ 10 years from the Commencement Date and shall not be extended if repairs are carried out under this Guarantee or otherwise.

**3. CONDITIONS OF GUARANTEE**

(a)The Guarantor shall not be liable unless:

(i) the technical specification and application system set out in Appendix 1 attached as part of this Guarantee is strictly followed.

(ii) any surfaces and coatings damaged during work on the Project are repaired to the Guarantor's satisfaction.

(iii) all cleaning and maintenance procedures are appropriate to the particular coating system.

(b) The Guarantor shall not be liable for:

(i) damage to the Coating System arising from external causes outside the Guarantor's control such as, but not limited to, welding or other heating, pollution, mechanical damage, hydrostatic pressure, electrical or electrolytic damage, incorrect cleaning or incorrect use, neglect, fire, explosion, radiation, collision or other accident, acts of God, wars (whether declared or not), riot, civil commotion, vandalism or other malicious damage, industrial action, adverse weather conditions (such as, for example, hail storms, sand storms) and the like.

(ii) damage to or deterioration of coatings on surface areas in respect of which, because of their physical shape, characteristics or configuration, water proofing is inadequate or which present special difficulties in effecting specified preparation and coating such as but not limited to steps, handrails and all small areas equipment and attachments.

(iii) any indirect or consequential damage, losses and expenses such as but not limited to demurrage, associated with coating repair work, loss of time, expenses due to the Owner's employees, agents, operators or sub-contractors, loss of profits and all claims by third parties against the Owner. (iv) damage to the Coating System arising from deterioration or movement of the substrate caused by any other substance or condition.

(v) deterioration of any part of the Coating System caused by work carried out on the project after the Commencement Date.

4. **CLAIMS AND REPAIRS**

(a) The Owner shall notify the Guarantor of any claim by letter, telex or facsimile, giving brief details of the nature of the defect and the circumstances in which it was discovered including the date of detection. Unless this notice is received by the Guarantor within 30 days of the date of detection, all claims shall be excluded and time barred thereafter. If the Guarantor wishes to inspect the area upon which a claim is being made, access shall be made available for such inspection within 30 days of receiving the Guarantor's request.

(b) If the Owner makes any claim under this Guarantee it shall show that the Defective Areas were not caused by failure to comply with the conditions set out under Clause 3(a) nor do they fall within the exclusions set out under Clause 3(b). The Owner will provide evidence to the Guarantor to supply any claim.

(c) No acceptance of any claim by the Guarantor shall be effective unless it is communicated to the Owner in writing, signed by a Company Director or General Manager.

(d) Repairs under this Guarantee may be carried out only after consultation with the Guarantor. Repairs to be carried out under the Guarantee by any third party (other than the Owner), shall be made only after written consultation with the Guarantor.

(e) The Guarantor is entitled to control repair work which is to be carried out in accordance with its specification and instructions.

(f) The Guarantor will use its best endeavours to ensure that coatings required to repairs are available as soon as practicable at the place where the repairs are to be carried out but does not assume liability for delay in this respect.

**5. INDEMNITY**

The Owner agrees that it will at all times hereafter hold harmless and indemnify the Guarantor against all third party claims for loss, damage or expenses brought against the Guarantor of whatsoever nature and howsoever arising caused by or related to the coating system or any repairs carried out hereunder.

**6. GENERAL**

(a) If there is any conflict between the terms of this Guarantee and the terms of the contract for the sale of the materials used in connection with the Coating System, the terms of this Guarantee shall prevail.

(b) Headings are inserted in this Guarantee for reference only and are not intended to affect its interpretation.
(c) Any alterations or modifications of this Guarantee (including any alterations or modifications to the technical specification and control system set out in Appendix 1) must be in writing and signed by authorised representatives of the Owner and the Guarantor.

(d) To the full extent permitted by law, the Guarantor's liability under this Guarantee shall be in substitution for all other liability in connection with the Coating System and all other covenants and warranties express or implied are hereby excluded.

**7. LAW AND ARBITRATION**

(a) This Guarantee shall be governed by the law of New South Wales, Australia, and the parties agree to submit to the jurisdiction of the Courts of that State.

(b) Any dispute arising out of this Guarantee (or out of any further agreements to which this Guarantee may lead) will be submitted to Arbitration in Sydney, New South Wales, Australia. The arbitrator shall be appointed by mutual agreement between the parties or, failing agreement, by the President for the time being of the Law Society of New South Wales. The decisions of the arbitrator shall be final and binding on the parties.

**8. NOTICE**

Any notice pursuant to this Agreement may be served either personally or by sending it by prepaid post or fax to the party to be served at its address set out herein or last notified by it to the party serving the notice. Notice shall be deemed to have been given:
(i) upon delivery where delivered by hand
(ii) on the second (2nd) day after posting if sent by post
(iii) upon receipt by the sender of confirmation of due transmission without error, if served by fax