



INTRODUCTION TO THE DULUX POWDER COATINGS PERFORMANCE WARRANTY

Dulux Powder Coatings, a division of DuluxGroup (hereinafter, **Dulux**) is a reputable supplier of high quality Powder coating products to the Australian market and is committed to supporting the use and performance of these coating materials. The highest level of technical development in coating formulation, manufacturing excellence and expertise in the selection of products for their intended environment and service use provides our clients with the highest possible confidence in our coatings potential to deliver an appropriate level of durability and performance.

In recent times, specifiers and facility owners have been increasingly requesting that paint manufacturers provide formal written warranties for performance of these Powder coatings materials. The purpose of this introduction is to inform any party interested in receiving a valid performance warranty of the respective roles and responsibilities of the parties in achieving effective Powder coating performance, and of the process involved.

Roles and Responsibilities

Warranties have a value to the recipient and also, they have a cost. Some of these costs are reflected in the price of the coating product itself, others are the obligation on the recipient to address certain performance-related matters as a condition of warranty protection.

For effective performance from Powder coatings, a number of issues need to be considered and addressed prior to the commencement of any work. Other issues must be considered and addressed during and after application. These are:

1. High quality Powder coating products, not generic materials, must be used.
2. A thorough evaluation of the operating environment and careful selection of the coating products known to be suitable for this service performance must be made.
3. A high level of care and attention is essential in steel fabrication and substrate detailing prior to surface preparation and coating application. This includes issues such as sharp edges, weld spatter, weld undercut and so on. Sometimes the performance of a coating system can be undermined by the original condition of the substrate, apart from the surface preparation thereof.
4. The selection must be made of a coating contractor that is experienced, capable, fully equipped and who has a demonstrable quality system, applicable to the type of work to be performed. Contractors should be accredited to the appropriate level of the Australian Institute of Surface Finishing Accredited Powder Coater scheme or some similar quality standard that embraces the fundamentals of the scope of the coating specification. Contractors which are accredited by Dulux are preferred and selection should be based on quality standards, history and aptitude, not price alone.
5. The Owner/Builder should request a workmanship warranty from the application contractor. Dulux has no obligation and will not endorse the workmanship of another party beyond their control.
6. Independent third-party qualified coatings inspection is advised to verify and oversee all surface preparation and coating application. Dulux is not liable for any third-party inspection costs.
7. Handling, packing, transport, storage and erection must be performed so that damage is minimised and all repairs to coating damage or site welding must be completed to the specified standards by applicators experienced as in Item 4. Above.
8. A detailed inspection and declaration should be undertaken and completed by a suitably qualified person, once all installation/erection work and touch-up is complete to this specified standard. Such an inspection and declaration is a prerequisite to the issuing of a warranty by Dulux.
9. A similar regular inspection (suggested to be at intervals no less than biannually) including cleaning to remove dirt and contaminants and the performance of any touch-up needed, is recommended and will be required to maintain the warranty.

Dulux has access to coating performance and exposure data from our own resources and from the best coating performance analysts in the world, and the predicability of time to first maintenance of most generic coating systems is well established. Only if all of the above items are considered and actioned by the owner/builder, can the expected durability and cost savings that come from a long life be realised. There are no short cuts to quality and the existence of a document detailing some form of warranty does not substitute for inattention to these vital requirements.

Our Warranty Process

In order to receive a valid performance warranty from Dulux, the following basic steps must be carried out:

- a) A Dulux representative must be advised that Dulux materials will be used on the nominated project and a performance warranty is required, prior to the commencement of the project. Requests for a warranty received after the commencement or completion of the project will not be entertained.
- b) A current Dulux-endorsed set of Coating Schedules must be drafted or provided to match the requirements of the project and be issued to the owner/builder, as per Items 1 and 2 above. A formal and comprehensive specification document, meeting all Dulux requirements and augments the aforesaid Coating Schedules, is required to be developed and issued for the Project.
- c) The applicator shall make available, from time to time as agreed by mutual arrangement, their quality control documents and purchase invoices to substantiate that Dulux products were used throughout that specific part of the project and were applied in accordance with the nominated Dulux-endorsed Specification and the Coating Schedules.
- d) All coating products and related items or services supplied by Dulux in connection with the Project have been paid for in full, irrespective of whether they are to the Owner’s account or the Coating Contractor’s account. If payments due to Dulux for coating products or related items are more than 90 days overdue, this warranty shall be considered null and void.

On the above basis, Dulux will issue and support coating performance warranties for an appropriate portion of the coating system’s expected time to first maintenance.

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1.0 INTRODUCTION AND DEFINITIONS

1.1 Introduction

All Dulux coatings must be handled, stored and applied strictly in accordance with the instructions and procedures set out in:

- a) The nominated Coating Schedules that form part of the Project Specification;
- b) The Dulux-endorsed surface preparation and coatings Specification; and
- c) Current issue Dulux product data sheets and any relevant technical notes.

Any questions or enquiries relating to this information or general coating practices can be directed to Dulux’s representative or the author of the specification.

General advice, product data sheets and material safety data sheets can be obtained by calling Dulux Customer Service (Ph: 132499).

It is the responsibility of the Builder/Owner and not Dulux to ensure that the Applicator follows the correct application procedure.

The purpose of the Warranty is to protect the interested parties against the wholesale breakdown of the Dulux coating as a result of any defects in the Dulux as-supplied or as-manufactured coatings. The Warranty does not apply to breakdown resulting from the improper treatment, use or application of those products.

1.2 Definitions

In this Warranty:

“Applicator” means the applicator of the Dulux coating.

“Builder” means the person to whom the Applicator is contracted to for the application of the Dulux coating for the project and as nominated in the annexure in this Warranty.

“Coating Schedules” means a summary of the surface preparation and preparatory requirements plus a sequential list of the coating materials to be used in each coating system.

“Date of Practical Completion” means the date of practical completion of the Project set out in the Schedule or, if no date is contained in the Schedule, the date of practical completion of the Project.

"Dulux" means Dulux Powder Coatings, a business unit of DuluxGroup Pty Ltd.

“Inspector” means an independent inspector appointed by the Builder or Owner pursuant to the Specification.

“Owner” means the owner of the Project.

"Project" means the project described in the annexure to this Warranty.

"Specification" means the Dulux-endorsed specification drawn and issued in relation to the project and described in the annexure to this Warranty, and all Coating Schedules and attachments to it.

"Performance Measure" means the performance measures described in the annexure to the Warranty.

"Project Manager" means a nominated representative of Builder.

"Warranty" means this Dulux Warranty and all schedules attached to it.

"Warranty Period" means the term of warranty described in the annexure to the Warranty.

2.0 WARRANTY

Dulux warrants that the Dulux products supplied to the Project are of merchantable quality and will meet the Performance Measures for the term of the Warranty Period. This Warranty is subject to the terms and conditions of the Warranty and the Specification particularly the requirement that the products have been treated and applied by the Applicator strictly in accordance with the instructions and procedures set out in the Specification, the Coating Schedules and the relevant Dulux product data sheets.

This Warranty supersedes any and all other prior agreements, discussions, negotiations and understandings between the parties in relation to its subject matter.

2.1 Exclusions

Except as expressly set out in this document, all other terms, conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise relating to Dulux products are hereby excluded to the extent permitted by legislation.

2.2 Claims under the Warranty

Any claim made under the Warranty shall be conditional upon strict compliance with the following:

- 2.2.1 Dulux being notified in writing of the particulars of the claim. Any notice of such claim must be made within thirty (30) days of the claimant becoming aware of the allegedly defective product and within ninety (90) days of the alleged defect coming into existence; and
- 2.2.2 Following receipt of a claim under the Warranty, Dulux must be given a reasonable opportunity to inspect the product claimed to be defective, the place(s) of application of the allegedly defective product and the surfaces to which the allegedly defective product has been applied. All relevant records made and retained in relation to the application of the allegedly defective product must be provided upon request. Dulux will communicate in writing, its acceptance (in part or in full), or its rejection of any claim under the Warranty. No verbal or other implied method of acceptance will be binding upon Dulux.
- 2.2.3 If the Owner makes a claim under this Warranty it shall provide evidence to Dulux to support that claim and shall provide evidence that such allegedly defective areas were caused by circumstances other than those excluded under Clause 2.3.
- 2.2.4 Such evidence shall include verification that Dulux’s coating products have actually been used on the allegedly defective areas, and the identity of the Applicator who performed the particular work in question. On a Project where multiple coating applicators have been used, this may require a review of the processing or application records to identify the work area or item.

- 2.2.5 Dulux reserves the right, at all times, to verify the product identity and the supplier of the coating products used in the allegedly defective areas, by the use of IR spectroscopy or any other empirical, forensic or other means, prior to acknowledging a claim under the Warranty. This is to specifically ensure that Dulux products have been used exclusively on these areas

2.3 Liability of Dulux

- 2.3.1 If during the Warranty Period, Dulux determines that any Dulux product is in breach of the Warranty and the defect in that product has been notified to Dulux in accordance with Section 2.2, Dulux's maximum liability (in relation to the supply of Dulux product and the provision of any advice) shall be to supply for the affected area of the project, materials selected by Dulux to enable, at Dulux's option, the replacement, refinishing or repair of the allegedly defective coating, including the direct cost of labour associated with such replacement in accordance with Section 5, (Warranty Annexure). Dulux's maximum liability will reduce over the course of the Warranty Period to the percentages described in Section 5.0 (Schedule of Liability) of the materials and direct labour cost.

The materials selected must be of a sufficient quality and quantity to meet the terms of the Warranty and may not necessarily be the originally specified product. Dulux will warrant such materials in accordance with Section 2.0 as if the materials were the originally-applied products for the remainder of the Warranty Period.

- 2.3.2 If pursuant to a claim by a person other than the claimants, Dulux has already supplied material to replace, refinish or repair the coating claimed to be defective by the claimants, Dulux will be deemed to have fulfilled its obligations herein.
- 2.3.3 Dulux acknowledges that additional rights and remedies may be conferred on persons by Federal or State legislation which cannot be excluded by agreement. To the extent such legislation is applicable, the Warranty shall be read subject to such legislation, provided that Dulux expressly limits its liability under any such legislation to the maximum extent permitted.
- 2.3.4 Dulux shall not be liable to remedy any defect in any Dulux product if the defect has been caused or contributed to by:
- a) The failure to comply with any of the instructions and procedures for Dulux products set out in the Specification, the Coating Schedules, relevant product data sheet or elsewhere in Dulux's written literature.
 - b) The performance, workmanship or quality control procedures of the Applicator or anyone else (other than Dulux) associated with the Project;
 - c) Incorrect or inadequate identification of the substrate or other surfaces to which the product was applied;
 - d) The failure to check and confirm that the coating colour or colours supplied by Dulux are correct for respective surfaces. In the event of the coating supplied by Dulux being the incorrect colour, Dulux's total liability will be to replace the coating product only.
 - e) Any other circumstance beyond the reasonable control of Dulux including, but not limited to:
 - i. Mechanical damage to the product caused by construction, handling, transport, or external sources;
 - ii. Damage to the product caused by cleaning or over coating by materials other than those specified or approved by Dulux;
 - iii. Damage or failure caused by acts of God, falling objects, external forces, explosions, fire, riots, civil commotion's, acts of war, abnormal atmospheric and/or environmental conditions (such as for example hail storms, bushfires, freezing conditions, sandstorms, cyclones, floods) or other similar occurrences;
 - iv. Damage or failure caused by cathodic protection potentials of greater than 0.9 volts direct current; or the indiscriminate placement of sacrificial anodes or the placement of improper sacrificial anodes, dissimilar metals in electrical or physical contact;
 - v. Damage caused by bolted connections and fasteners, normal wear and tear, abrasion, erosion;
 - vi. Weld damage including burning and areas suffering from electrical discharge, stray electrical current or incompatible welding electrodes, incomplete or failed welds;
 - vii. Corrosion to steel edges, steel joints, steel substrate imperfections, weld spatter, bolt holes, bolt threads or heads, or some other defect coming into existence, including surfaces which because of their physical shape, characteristics or configuration present special difficulties in effecting the specified surface preparation and/or satisfactory coating application. Such as, but not limited to, ladders, ladder platforms, handrails, pipe fittings, pipe flanges, attachments, cleats, small surface area equipment and the like;
 - viii. On-site repairs to the product carried out after the date of practical completion of the Project unless with the knowledge and written agreement of Dulux;
 - ix. Damage caused by abnormal movement of the substrate which may permanently deform the Project or the product;
 - x. Substitution of any coating or coating component with respect to those set out in the specification, except as expressly approved by Dulux in writing prior to the commencement of works.
 - xi. Exposure to chemicals and/or localised environmental conditions excepting those expressly acknowledged in the project specification.

- f) Unsound, contaminated or loosely adhering substrate or surfaces, structural or fabrication defects, poor engineering design and/or detailing, areas of "ponding" for atmospheric coating systems, inadequate ventilation, exposure to unsuitable chemicals or mixtures (including liquids or gases); or
 - g) Failure by any parties involved in the project to notify Dulux of any coatings performance or application issue that may affect or compromise the expected coating system performance (such as, for example application at night or other unfavourable environmental conditions, not confirming coating system recoat times, failure to read and follow coating product data and technical note instructions and recommendations).
- 2.3.5 Except as expressly provided to the contrary in this Warranty, Dulux will not be under any liability to the Applicator, Builder, Owner or any other person in respect of any loss, cost, expense or damage (including incidental, special or consequential loss or damage including, but not limited to loss of income, loss of profits or loss of goodwill or reputation) howsoever caused and whether arising directly or indirectly out of negligence or otherwise in relation to the Project.
- 2.3.6 Dulux will not be under any liability to the Applicator, Builder, Owner or any other person in respect of any costs associated with site establishment, access and administrative costs associated with the rectification works.
- 2.3.7 Where steel has been hot-dip galvanised, electroplated, zinc-coated and/or primed or coated with a product other than that manufactured or specified by Dulux, this Warranty will not apply.

3.0 DISPUTES

3.1 Resolution of Disputes

All disputes or difference arising out of or in connection with this Warranty must be determined as follows:

- 3.1.1 The dissatisfied party must notify the other party in writing that a dispute under this clause has arisen and must, within fourteen (14) days of such notification, submit the matter at issue in writing with detailed particulars to the other party for determination by one representative of each of the parties, at a meeting to be called within fourteen (14) days of receipt of the detailed particulars. Unless agreed by both parties, the parties shall not be legally represented at the said meeting.
- 3.1.2 If the representatives agree on the remedial action required both parties will diligently undertake such proposed remedial action.
- 3.1.3 If, as a consequence of the meetings of the representatives, the parties do not settle any dispute or cannot agree on the remedial action required or are unable to agree on nature of remedial work, the dissatisfied party may not later than twenty eight days after the meeting give notice in writing to the other party requiring that the matter at issue be referred to mediation and specifying with detailed particulars, the matter at issue and thereupon the matter at issue shall be settled by mediation.
- 3.1.4 Any mediator appointed for the purpose of this clause shall be appointed by agreement of the parties or failing such agreement, shall be referred to the Victorian Chapter of Lawyers Engaged in Alternative Dispute Resolution. The costs of the mediation shall be borne equally between the parties.

4.0 BUILDER AND APPLICATOR'S WARRANTIES

1.1 Builder and Applicator's Warranties

The Builder and the Applicator must not make any warranties, covenants or representations in relation to the Dulux products specified which are inconsistent with or outside the terms of this Warranty.

5.0 WARRANTY ANNEXURE

Date of the Warranty: _____

Project: _____

Builder: _____

Applicator: _____

Specification and Coating Schedules: _____

Date of Practical Completion: _____

Colour and Film Warranty Period: _____

Corrosion Warranty Period: _____

Schedule of Liability

Dulux’s maximum liability in the event of a product-related coating breakdown will be reduced over the Warranty Period to the percentage of materials and direct labour costs as detailed in the following table:

Years Post-Completion	Dulux’s Liability
0 – 2	100%
> 2 – 5	50%
> 5 – 10	25%
> 10 – 12	0%

Liability value capped at \$160,000.

1.2 Performance Measures

Warranted Item	Test Method	Acceptable Reference Score
Adhesion	AS 3894.9, Method A Intersecting Cut	Less than or equal to 2
Adhesion	AS 3894.9, Method B Cross Cut	Less than or equal to 3
Cracking	AS/NZS 1580.481.1.8	Less than or equal to 2
Flaking and Peeling	AS/NZS 1580.481.1.10	Less than or equal to 2
Degree of Corrosion	AS/NZS2312:2002	Less than or equal to 5%

Notes: The AS 3894.9, Method B Test for adhesion shall only be used for coating system with film builds between 50 and 125 microns.

The schematic showing Degree of Corrosion as percentages is contained in AS/NZS 2312:2003 as Figure 10.1 Schematic Diagrammatic Examples for Estimating Rust Percentages.

**Approved on behalf of
DuluxGroup Pty Ltd by:**

.....
(Print Name and Title)

.....
(signature)

...../...../.....

**Accepted on behalf of
Builder/Owner by:**

.....
(Print Name & Title)

.....
(signature)

...../...../.....