

# FIRED EARTH™

THE FUTURE OF PAINT TODAY

## 10 YEAR PAINT PERFORMANCE GUARANTEE

The Consumer (End User) has purchased the Products from a Retailer and Promac Paints (Pty) Ltd, as the manufacturer, wishes to extend a guarantee in the Territory subject to the following terms and conditions:

### 1 DEFINITIONS

- 1.1 Guarantee: Means this agreement, together with any annexures.
- 1.2 Commencement Date: Means the date on which the Products were purchased.
- 1.3 CPA: Means the Consumer Protection Act 68 of 2008.
- 1.4 Parties: means Promac and the Consumer or End User.
- 1.5 Products: Means products authorised by Promac in relation to this Guarantee, which currently includes FIRED EARTH All in One Primer, Plaster Primer (Solvent based), Nano Tech Bonding Liquid, Four Seasons, Break Through, Ultimate coat, Extreme roof, Storm Coat, Multi Prime, Metal Direct, Damp X range - Fibre Force, Damp Stop, Rubber Coat, Hydro Force, Rubberised Bitumen, Granular Coat, Tuscan Coat.
- 1.6 Product Failure: Means,
  - 1.6.1 De-lamination of one coat of paint from another;
  - 1.6.2 De-lamination of paint from its substrate; or
  - 1.6.3 Common paint failures including chipping flaking or peeling.
- 1.7 Replacement Cost: shall mean cost of the paint/product only at the time of the claim. Labour costs may be paid at the sole discretion of Promac Paints provided a credible/registered or reputable contractor carried out the application which meets with Promac's recommendations or specifications. The Consumer shall be liable for the balance of the replacement costs, which are not covered by Promac.
- 1.8 Retailer: means Massmart Holdings (Pty) Ltd retailers: Builders Warehouse, Builders Express and Super Stores authorised to sell the Products.
- 1.9 Territory: Shall mean the Republic of South Africa.

### 2 GUARANTEE APPLICATION

- 2.1 This Guarantee will apply under the following conditions:
  - 2.1.1 If the total purchase price of the Product/s does not exceed R25 000.00 (twenty five thousand rand) inclusive of VAT; If the total purchase price exceeds R25 000.00 (twenty five thousand rand) but is less than R100 000.00 (one hundred thousand rand) inclusive of VAT, with the understanding that Promac may elect to inspect the proposed site in its own discretion and, prior to the guarantee applying, the Consumer must contact Promac at 012 804 7305 to make the necessary arrangements.
  - 2.1.2 Where the total purchase price exceeds R100 000.00 (one hundred thousand rand), this Guarantee will not apply, although alternative guarantees may be available. This Guarantee does not cover any indirect or consequential damages.
  - 2.1.3 The application and work has been done in accordance with the instructions provided for the Product concerned with regard to preparation and application;
  - 2.1.4 The Consumer has followed the recommended surface preparation and used the recommended products for the surface preparation prior to the painting of the surface;
  - 2.1.5 This Guarantee only applies to Promac products purchased and in South Africa;
  - 2.1.6 The Consumer has used the entire paint system recommended by Promac, including the primer, undercoat and top coat; and
  - 2.1.7 Any specifications provided by Promac upon the inspection of the proposed site have been followed correctly.

### 3 COMMENCEMENT AND DURATION

- 3.1 The guarantee in terms of this Guarantee shall commence on the Commencement Date subject to the condition that the Consumer must lodge the guarantee with Promac by registering on this website: [www.fired-earth.co.za](http://www.fired-earth.co.za) or by calling the Promac Paints Guarantee and Advisory Service Line on 012 804 7305. In order for the guarantee to be valid, this must be done within 30 (thirty) days of the purchase date of the Product/s.

3.2 The Guarantee shall be valid for a period of 10 (ten) years calculated from the Commencement Date, subject to Promac reimbursing the Consumer according to the following scale:

First (1st) year	100% of Replacement Cost
Second (2nd) year	90% of Replacement Cost
Third (3rd) year	80% of Replacement Cost
Fourth (4th) year	70% of Replacement Cost
Fifth (5th) year	60% of Replacement Cost

Sixth ( 6th ) year	50% of Replacement Cost
Seventh ( 7th ) year	40% of Replacement Cost
Eighth (8th) year	30% of Replacement Cost
Ninth (9th ) year	20% of Replacement Cost
Tenth ( 10th ) year	10% of Replacement Cost

#### **4 OBLIGATIONS OF PROMAC**

4.1 Promac shall reimburse the Consumer with the Replacement Cost as set out in this Guarantee, subject to the following:

4.1.1 The Consumer shall notify Promac of a claim in writing providing full details thereof, and shall set out the basis on which it believes that Promac is liable in terms of this Agreement;

4.1.2 Promac shall be entitled to inspect the alleged Product Failure, and to perform any tests in respect thereof, and may do so either itself or by means of any person nominated by it. The Consumer will grant Promac reasonable access to the site for these purposes;

4.1.3 Prior to such inspection or testing, the Consumer shall not be entitled to perform any repairs to or remove or tamper with any part of the coating; and

4.1.4 The Consumer shall provide such further information as Promac may require, including but not limited to details of environmental factors and inspection and repair records.

4.2 PROMAC SHALL USE ITS BEST ENDEAVOURS TO ENSURE THAT PRODUCTS REQUIRED FOR REPAIRS ARE AVAILABLE AS SOON AS PRACTICAL AT THE SITE WHERE THE REPAIRS ARE TO BE CARRIED OUT, BUT DOES NOT ASSUME LIABILITY FOR DELAY IN THIS RESPECT.

4.3 Promac, in its sole discretion, shall be entitled to:

4.3.1 Control repair work which is to be carried out in accordance with all its specifications and instructions; and

4.3.2 Appoint a contractor and / or approve the contractor appointed by the Consumer.

4.4 This Guarantee is not transferable.

4.5 In the event of a Claim, subject to the CPA, this guarantee is not renewed on settlement of the claim.

#### **5 LIABILITY EXCLUSIONS**

Promac shall not be liable for:

5.1 Damage to the coating arising from abnormal or extreme weather conditions eg. Hail storms, excessive industrial pollutants, acid rain, extreme heat conditions;

5.2 Damage that arises from external causes outside of promac's control such as, but not limited to, major structural or building movements, fire, explosion or radiation, mechanical damage, hydrostatic pressure, electrical or electrolyte damage, incorrect use or cleaning of the coating, acts of god, vandalism or other types of malicious damage.

5.3 The failure of any coating on any areas which because of their shape, characteristics or configuration, present special difficulties in either preparation or coating e.g. Ladders and ladder platforms, handrails, rivets and contact surfaces of any kind;

5.4 The deterioration of any metal as a result of any form of electrochemical action;

5.5 Any indirect or consequential damages, losses and expenses such as, but not limited to, demurrage associated with coating repair work, loss of time, expenses due to the consumer's employees, agents, operators or sub-contractors, loss of profits and all claims by third parties against the consumer;

5.6 Damage to the coating arising from deterioration or movement of the substrate caused by any other substance or condition.

#### **6 PROCEDURE FOR CLAIMS**

6.1 In order for claim to be valid, and subject to the conditions set out in this Guarantee, a claim must be submitted in the prescribed form as set out on [www.fired-earth.co.za](http://www.fired-earth.co.za).

#### **7 GENERAL**

7.1 All the provisions of this Guarantee shall be severable and no provision shall be affected by the invalidity of any other provision of this Guarantee.

7.2 Whenever a personal pronoun is used in this Guarantee it is understood that such usage shall include both singular and plural, masculine, feminine and neuter and refer in appropriate cases to juristic persons as well as natural persons.

7.3 The headings of the clauses are intended for convenience only and shall not affect the interpretation of the Guarantee.

7.4 The content of this Guarantee shall not affect any rights which either party holds in terms of Statutory or Common Law, and including those granted in terms of the CPA.