



Workmanship Guarantee

By



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Master Painters Services Ltd
DX Number S11107
Wellington 6140



Phone: 0800 101 625



Email: info@mpservices.co.nz



The Master Painters Guarantee

Thank you for hiring a Registered Master Painter to carry out your painting work and choosing the Master Painters Guarantee. For more information on this Guarantee ask your Master Painter or go to mpservices.co.nz. Only Registered Master Painters are able to offer a Master Painters Guarantee to their clients.

Guarantee Summary

This summary of cover does not provide all of the detailed inclusions and exclusions of the Guarantee and further details of cover are provided within the Terms and Conditions.

All dollar values are inclusive of GST.

Guarantee Type	Standard
Interior and Exterior Product Eligible:	Resene, Dulux , Valspar Products (Approved Product Lines are available at mpservices.co.nz)
Indicative Fee:	\$225
Defects in Workmanship: <i>Upon Completion and Acceptance:</i>	5 Years
Defects in Materials: <i>Upon Completion and Acceptance:</i>	5 Years
Maximum Aggregate Cover:	The lesser of \$50,000 inclusive of GST or the Contract Price

About the Guarantee

The Master Painters Guarantee, in some circumstances may be an Extended Warranty Agreement under the Fair Trading Act and provides extra protection by providing cover where the Master Painter is no longer trading (due to insolvency or some other reason). This protection is not provided by the Consumer Guarantees Act.

The Homeowner or Builder may cancel their Master Painters Guarantee within 5 working days of receiving written confirmation of acceptance of the Guarantee, in which case, the purchase price of the Guarantee will be refunded by Master Painters Services, and any cancellation refund made by Master Painters Services will be made to the person that made payment of the Guarantee purchase price to Master Painters Services.

To cancel the Master Painters Guarantee, the Homeowner or Builder must send notice of cancellation to Master Painters Services. That notice should set out the Homeowner or Builder's name, the address of the residential property, the Guarantee application number and clearly state that the Homeowner or Builder wishes to thereby cancel the Guarantee.

The Guarantee is neither a contract of insurance or indemnity; nor is it a maintenance contract.

How to Apply

Prior to any work commencing, the Master Painter and the Homeowner or Builder must sign a Contract and a Guarantee Application and send to Master Painters Services:

- the Guarantee Application Form which has been completed and signed by the Master Painter and the Homeowner or Builder (as applicable); and
- a copy of the Contract between the Homeowner or Builder and the Master Painter identifying the parties, any special conditions, Scope of Works and the location of Works; and
- payment of the Guarantee fee (as disclosed on our website mpservices.co.nz).

Reading this Document - Definitions

For the purposes of this Guarantee, the following terms have the following meanings:

Application means the completed prescribed Guarantee Application Form contained in this Guarantee document or any online version thereof, any required further documents such as the Contract and Scope of Works and the Application fee (where applicable).

Associate has the meaning set out in Section 7 of the Construction Contracts Act 2002.

Approved Products means materials used in the Contract a list of currently Approved Products is available at mpservices.co.nz. Where the use of colours of these Approved Products **is in a situation where the light reflective value is not recommended**, then these Approved Products are excluded from the Guarantee.

Building Firm/Builder means the person or persons named in the Guarantee Application Form as the Building Firm who has entered into a Contract agreement with the Master Painter.

Client means the person or persons named in the Guarantee Application Form as the Building Firm (where present) or the Homeowner. Where a Building Firm is not listed in the Application Form the Homeowner is the Client. Where there is a build contract between a Homeowner and a Building Firm the Building Firm is the client until that contract is at an end due to successful completion of a building contract, at this stage the Homeowner becomes the Client.

Contract means the written and signed contract between the Client and the Master Painter for the Works on a Residential Property and includes specifications.

Contract Price means the price (including GST) stated in the Contract by the Master Painter. Where the Contract Price exceeds \$50,000, the maximum total claimable amount will remain at \$50,000.

Contract Variation means any change to the Works under the Contract. Contract Variations shall be in writing. Where the Contract Price and subsequent Contract Variations in total exceed \$50,000, the maximum total claimable amount will remain at \$50,000.

Consequential Damage means any damage to the Works as a consequence of a Defect, including by way of example only damage to the substrate or furnishings.

Consequential Loss means any loss to the Works as a consequence of a Defect including by way of example only, travel expenses, legal costs, rental or alternative accommodation costs.

Defect means an inadequacy or failure, relating to Defect in Materials or a Defect in Workmanship, each as defined in clauses **16.1** and **16.2** respectively.

Guarantee means the Master Painters Guarantee provided on these Terms and Conditions at the location nominated on the Guarantee Application Form.

Homeowner means the person or persons named in the Guarantee Application Form as the Homeowner and in the case where no Building Firm is named in the Guarantee Application Form, who has entered into a Contract agreement with the Master Painter; or the person or persons named as Transferee(s) in the Request for Transfer Form after approval of the transfer.

Late Application means an application received by MPS after Works have commenced and prior to the deemed Practical Completion Date.

Practical Completion means when the Works and any Contract Variations are completed, except for minor defects and omissions that can be remedied or carried out without causing unnecessary inconvenience to the Client.

MPS means Master Painters Services Limited, the Guarantee provider.

Master Painter means the Registered Master Painter named in this Guarantee Application.

Residential Property means the land and any building thereon, where the intended purpose is primarily for domestic use and where the Works are being carried out at the location nominated on the Guarantee Application Form.

Scope of Works means a description sufficiently detailing the Works to be carried out under the Contract.

Substrate means the surface of any material to which paint or wallcovering is to be applied.

Works means the work to be carried out as per the Contract.

GUARANTEE APPLICATION FORM				Guarantee No.	
PLEASE NOTE:					
This is an application only. MPS shall not be liable for any claim unless a notice of Acceptance has been sent to the Homeowner or Building Firm (as applicable).					
The Building Firm (if applicable), Homeowner and Master Painter should read all the Terms and Conditions (including Definitions) of the Guarantee prior to completing and signing this Guarantee Application.					
This Guarantee is only available when approved products are used by the Master Painter. A list of these approved products may be obtained from www.mpservices.co.nz					
MASTER PAINTERS MEMBER:					
Name:				Member ID No:	
CONTRACTED RESIDENTIAL PROPERTY WORKS DETAILS:					
Address of the Works:					
Contract Type:	Contract with the Homeowner <input type="checkbox"/> <i>(please fill in the Homeowners Details)</i>				
	Contract/Sub-Contract to a Building Firm <input type="checkbox"/> <i>(please fill in the Building Firm and Homeowners (if there is one) Details)</i>				
Type of Work <i>(please tick)</i>			Location of Work <i>(please tick)</i>		
New Work <input type="checkbox"/>	Re-Work <input type="checkbox"/>		Exterior <input type="checkbox"/>	Interior <input type="checkbox"/>	Both <input type="checkbox"/>
Contract Price: <i>(see definition)</i> \$		Estimated Start Date:		Estimated End Date:	
Scope of Works: Is attached <i>(i.e. specification or quote please tick)</i> <input type="checkbox"/> OR Provide details of work to be carried out <i>(in field below)</i> :					
HOMEOWNERS DETAILS:					
Name(s):					
Postal Address:					
Email:					
BUILDING FIRM DETAILS <i>(if applicable)</i>:					
Name:					
Email:					
ACKNOWLEDGEMENT AND REPRESENTATION					
This Application Form is part of the Guarantee. The Homeowner and/or Building Firm must not sign below unless they have received and read the Guarantee, including the Terms and Conditions of the Guarantee. By signing, the Homeowner and/or Building Firm acknowledges and represents that they have been given a copy of and have read the Guarantee and accepts the Terms and Conditions set out in the Guarantee.					
The Homeowner and/or Building Firm and the Master Painter acknowledge and represent that all details included in this Application Form are true and correct and that there are no pending claims or unresolved disputes between the Homeowner and/or Building Firm and the Master Painter.					
Signed by the Master Painter: <i>(or authorised signatory)</i>				Date:	
Signed by the Homeowner(s): <i>(each Owner or Trustee must sign)</i>				Date:	
Signed by the Building Firm: <i>(or authorised signatory)</i>				Date:	
CHECKLIST					
Contract Attached?	Yes <input type="checkbox"/>	Scope of Works Attached?	Yes <input type="checkbox"/>	Product List Attached?	Yes <input type="checkbox"/>
Total Fee Paid: \$					
MPS Bank Account No: 03 0502 0352049 00 <i>Please use your Member ID and the street address as a reference</i>					
Card no:		Expiry Date:		Name on Card:	
I authorise MPS to debit my card the total fee payable above.					
Signed:					
Date:					
Please email this application and supporting documents to info@mpservices.co.nz or post to : Master Painters Services DX Number: SX11107 Wellington 6140					

Product range options May 2016



Worth doing, worth Dulux.

- Exterior and Interior Premium Lines
- Professional Exterior and Interior Lines
 - Acratex Elastomeric*
 - *not for weather tightness.
- A full list is available within the MPA Members Website.



the paint the professionals use

- Premium Range Exterior and Interior
- Decorator Range Exterior and Interior
 - X-200*
 - *not for weather tightness.
- A full list is available within the MPA Members Website.



- Premium Ranges Exterior and Interior
 - Tradex Exterior and Interior
 - Interior Design Range
 - *not for weather tightness.
- A full list is available within the MPA Members Website.

Guarantee Terms and Conditions

Approval of Application and Acceptance of Guarantee

1. MPS will consider any Application and, in its discretion, may approve (Approval) or decline the Application, including a Late Application. Approval of Application does not constitute Acceptance of Guarantee.
 - 1.1. Upon Approval a notice of Approval of the Application and a notice of Practical Completion will be sent to the Client and Master Painter, for submission at Practical Completion.
2. **No Guarantee will be Approved or Accepted where the Application is received by MPS after the completion of the Works.**
3. Receipt or banking of the Application fee will not constitute Approval by MPS of the Guarantee.
4. MPS will consider any notice of Practical Completion received and, in its discretion, may accept (Acceptance) or reject (Rejection) the Approved Application
 - 4.1. The date the Guarantee comes into force (the date of Acceptance) will be the Practical Completion Date as defined in clauses 5 to 9.
 - 4.2. Upon Acceptance of the Guarantee a notice of Acceptance of the Guarantee will be sent to the Client and the Master Painter.

Practical Completion

5. Guarantees are issued by MPS on the condition that there will be a Practical Completion Date within 1 year of the date of Approval of the Application.
6. The Master Painter **OR** the Client will send MPS notice that Practical Completion has occurred and specifying the date that it occurred.
7. If the notice of Practical Completion has not been received by MPS within the lesser of either 1 year from the date of Approval or 3 months from the estimated end date in the Application, then the Approved Application will be rejected.
8. If MPS has received a notice of Practical Completion under clause 6, but does not accept that the Practical Completion date specified therein is correct, then MPS may (at its discretion) adopt an alternative deemed Practical Completion Date being the date MPS considers the Works achieved Practical Completion.
9. Such a deemed Practical Completion Date may (at MPS's discretion) be altered if a notice of Practical Completion is subsequently received by MPS from the Master Painter or from the Client.

Cancellation of Application or Guarantee

10. Approved Applications will be cancelled by MPS when;
 - 10.1. the Client or the Master Painter validly terminates the Contract; or
 - 10.2. the Client has provided any false or misleading information, in the Guarantee Application; or
 - 10.3. the Client has not made payment to the Master Painter in accordance with the Contract;
11. Accepted Guarantees will be cancelled by MPS when;
 - 11.1. the Client undertakes any remedial work including the repair of any Defect, or engages another painter or contractor to undertake any remedial work without the prior written consent of MPS; or
 - 11.2. the Client has not made payment to the Master Painter in accordance with the Contract; or
 - 11.3. the Client has provided any false or misleading information, in either the Guarantee Application Form or the Request for Transfer; or
 - 11.4. the Client has made a false or misleading claim or notification under the Guarantee.

Limitation of Liability

12. The **maximum aggregate cover** (the total of all claims under one guarantee) by MPS in respect to all claims under the Guarantee is limited to **\$50,000.00 (including GST), or the Contract Price, whichever is the lesser.**
13. It is common for the subject of the Contract to be for works being carried out at more than one dwelling or over multiple units. However, this Guarantee will apply to works being carried out **at one dwelling or unit only.**
14. The Guarantee applies to the contract as provided with this application. Further works at the same dwelling, under a separate contract will require a separate Guarantee.
15. Except as otherwise stated in these Terms and Conditions, the Guarantee shall terminate and be of no further effect at the date of the expiry of five years from the date of Acceptance (Termination Date).
 - 15.1. Remedial work will not extend this Termination Date.
 - 15.2. Any transfer of the Guarantee will not extend this Termination Date.

What is covered by the Guarantee

16. **Defect in Materials and Defect in Workmanship cover**, that applies from the date of Acceptance up to and including the fifth anniversary of that date.
 - 16.1. **Defect in Materials** means a substantial failure of any materials prematurely, having regard to recognised trade practice. Where there is a manufacturer or supplier warranty or guarantee on materials, the Client must make a claim on such warranty or guarantee first.
 - 16.2. **Defect in Workmanship** means a Defect from any failure by the Master Painter to comply with:
 - 16.2.1. the Contract; or
 - 16.2.2. regard to relevant trade practices and standards; or
 - 16.2.3. any relevant instruction or recommendation given by the manufacturer or supplier.

The Guarantee Does NOT Cover

17. The Guarantee does not cover and MPS shall not be liable for any:
 - 17.1. **matters or claims where the Client is either the Master Painter or is an Associate** of the Master Painter.
 - 17.2. **matters or claims covered by insurance** (including home and contents insurance and/or professional indemnity insurance).
 - 17.3. **Consequential Damage or Consequential Loss.**
 - 17.4. **any damage or Defect arising from a problem with the condition of the substrate** which was notified by the Master Painter in writing to the client and which the client elected not to alter.
 - 17.5. **damage or Defect that should have been avoided or resultant from normal wear and tear** (including damage or deterioration that could reasonably have been minimised or avoided by the Client by reasonable, regular and thorough inspections and maintenance by the Client).
 - 17.6. **damage or Defect beyond the reasonable control of the Master Painter** (including condensation, shrinkage, contraction or expansion of any material, and act of God.)
 - 17.7. **matters or claims that are not the Master Painter's responsibility** (including work or materials outside the Contract OR arranged by and/or paid for directly by the Client).
 - 17.8. **any damage or Defect of product that not an Approved Product.**
 - 17.9. **unavoidable aesthetic variance** (including aesthetic variance due to it being not reasonably practicable to match materials).
 - 17.10. **agreed deviations** (where any Client and Master Painter agree to deviate from the Contract, and/or agree to deviate with regard to relevant trade practices and standards for the Works).
 - 17.11. **colour consistency of coatings especially roof coatings** as these are subject to significant environmental impacts. The consistency of the overall coating is covered only.
 - 17.12. **waterproofing or weathertight coatings and membranes** are not covered for other than their decorative aspects.

Client to Lodge a Claim

18. MPS is not required to take any steps in relation to any notification or communication from the Client until the Client has, in the reasonable opinion of MPS, taken all reasonable steps to induce the Master Painter to make good the Defect.
19. Notwithstanding any agreement between the Master Painter and Client to rectify the Defect, unless the Master Painter has completed all the remedial work, **the Client must notify MPS no later than 30 days** after the date on which the Client became aware or should have become aware of this matter; and **lodge a claim with MPS on the prescribed MPS claim application form** signed by the Client, no later than 14 days after the date on which the Client first notified MPS.
20. Where MPS has been notified but the Client does not lodge a claim within 14 days of notification, MPS shall not be liable for any existing or future claims in regard to the matters notified.

Claim Under Defect in Materials, Defect in Workmanship

21. MPS shall assess and/or investigate the lodged claim and where the lodged claim appears valid shall instruct the Master Painter (if applicable) to make good the Defect within a timeframe or any extension as set by MPS.
22. Where the Master Painter is unwilling or unable to comply with the instruction, MPS may accept the claim.
23. MPS's assessment and/or investigation of a lodged claim is for MPS's benefit only and is solely for the purpose of determining whether the lodged claim appears to be valid. MPS shall not be liable, whether in contract, tort or otherwise, for any matter relating to or arising out of its investigation, save for its liability under the Guarantee.
24. A lodged claim shall be taken as having been accepted or declined when the acceptance or declination has been communicated in writing to the Client.
25. As a condition of MPS accepting a claim, the Client shall upon request assign to MPS all of their rights and remedies against any party or person connected with the Works, whether or not a party to the Contract. MPS may take any steps to enforce such rights and remedies. Further, **the Client shall give MPS all assistance that it might reasonably require.**
26. MPS may (at its discretion) decide whether to repair or replace a Defect. Where the cost to remedy any Defect is, in the opinion of MPS, out of all proportion to the loss or damage to the Client, then MPS may, in its discretion, pay the reasonable value of the repair or replacement to the Client in lieu of MPS remedying the Defect or assisting the Client to select a replacement Master Painter.
27. The method and manner of any remedial work undertaken under this Guarantee shall be at the discretion of MPS.

Provision of All Relevant Information and Access

28. The Client must allow MPS, its inspectors and the Master Painter or any replacement Master Painter access to inspect the Works and to undertake any agreed remedial work at any reasonable times.
29. The Client and the Master Painter each are obliged to assist MPS by providing access to and/or copies of all relevant documentation that may be required by MPS to enable MPS to assess and/or meet its obligations under the Guarantee.
30. If any failure by the Client to comply with these Terms and Conditions prejudices the ability of MPS to deal efficiently or economically with a claim or the underlying Defect, then MPS may (at its discretion), decline the claim in whole or in part, even where the claim has previously been accepted.

Transfer of the Guarantee

31. The Guarantee is transferable upon the sale of the Residential Property where:
 - 31.1. the Guarantee has not been Cancelled or reached Termination Date; and
 - 31.2. the Client of the Guarantee is the seller of the Residential Property; and
 - 31.3. a Request for Transfer Form (available at mpservices.co.nz) has been received by MPS within 90 days after settlement of the sale of the Residential Property.
32. The Transferee shall be deemed to have made a full inspection of the Residential Property prior to purchase and acknowledges that MPS will not be liable for any Defects that in its opinion were reasonably discoverable.
33. A Request for Transfer Form must be accompanied by (at MPS's discretion):
 - 33.1. a copy of the relevant Sale and Purchase Agreement; and
 - 33.2. an administration fee as set at mpservices.co.nz.
34. Receipt or banking of the administration fee will not constitute approval by MPS of the Request for Transfer.
35. A Request for Transfer Form is subject to approval by MPS which may (at its discretion) approve or decline a transfer.
36. Where MPS declines a transfer, the administration fee will be refunded.

No Agency

37. The Master Painter is not an agent of MPS in relation to this Guarantee (including in relation to any investigation and/or any remedial work). Except as is expressly provided in this document, MPS shall not be bound by or liable for (whether in contract, tort or otherwise) any statement or act or omission by the Master Painter. No statement or claim or notice made by the Client to the Master Painter is to be construed as having been made to MPS.
38. From time to time MPS may appoint an inspector in relation to this Guarantee (including providing some particular assistance in relation to any investigation and/or any dispute and/or any remedial work). MPS shall not be bound by or liable (whether in contract, tort or otherwise) for any statement or recommendation or act or omission made by any such inspector in such context. No statement or claim or notice made by the Client to any such inspector is to be construed as having been made to MPS.

Disputes

39. Where there is a dispute between the Client and the Master Painter (or replacement Master Painter where applicable) in respect of their rights and obligations under the Contract, MPS is entitled to require that dispute be resolved prior to a claim being accepted or declined by MPS.
40. If the Client disputes a decision by MPS to decline a claim (in whole, or in part), then the Client must send notice of the dispute to MPS within 21 days of having been advised of MPS's decision.
41. If the Client duly notifies MPS of such a dispute, then the Client and MPS will, in good faith, communicate in an attempt to resolve the dispute.
42. If the dispute (as referred to above) is not resolved between the parties within 21 days of the Client's notice to MPS of the dispute, then either party may notify the other that they request that the dispute be referred to mediation. The other party will consider such request in good faith and will not arbitrarily refuse such a request.
43. If the dispute (as referred to above) is not resolved between the parties within 42 days of the Client's notice to MPS of the dispute (or, within 21 days of the conclusion of the mediation process, if the parties participate in a mediation), then either party may notify the other that they request that the dispute be referred to arbitration (under the Arbitration Act 1996). The other party will consider such request in good faith and will not arbitrarily refuse such a request.
44. If the parties cannot agree on the mediator or the arbitrator, then the mediator or arbitrator shall be appointed by the current President of the Arbitrators and Mediators Institute of New Zealand.
45. MPS shall have the right, in advance of any dispute resolution process, to re-inspect any Works which is the subject of the dispute.

Notices

46. Any notice by MPS to the Client or to the Master Painter shall be deemed to be sufficiently given if it is handed to the Client or the Master Painter or delivered to their postal addresses provided to MPS in the Guarantee Application Form or is sent to the email address provided to MPS in the Guarantee Application Form. Where no postal address is provided, the notice may be delivered to the last known place of residence or business or office. Any notice by the Client or the Master Painter to MPS shall be deemed to be sufficiently given if delivered to MPS, XX Level 6, 234 Wakefield Street, Wellington.

No Waiver

47. No failure or delay on the part of MPS in enforcing any of its rights or remedies under the Guarantee shall constitute a waiver of that right or remedy.

Guarantee Booklet

48. All the documents in this booklet form part of the Guarantee. In the event of any conflict between these documents, then the Terms and Conditions shall prevail.