



Terms & Conditions – Intelligent Coatings

These terms and conditions are strictly confidential and are not to be passed onto any third parties.

1 Quotes

- 1.1 We will endeavour to provide you with a Quote within 7 days of receiving your request. It is your responsibility to ensure you have provided us with the correct information to ensure we can return the quote in a timely fashion.
- 1.2 Our Quotes are valid for 90 days from date of receipt, unless we agree otherwise.
- 1.3 Intelligent Coatings quotes are non- negotiable unless we choose to offer a discount.
- 1.4 All Quotes provided must be accepted via email or through our Xero Quoting System prior to any work commencing.
- 1.5 All prices quoted are in Australian dollars and are exclusive of GST.

2 Acceptance

- 2.1 In accepting our Quote or otherwise instructing Intelligent Coatings Pty Ltd to commence work, you are taken to have accepted and are immediately bound, jointly and severally, by these terms and conditions.

3 Timings

- 3.1 We will always endeavour to follow timelines where possible.
- 3.2 If the Works are delayed for any reason, the Works are to be completed as soon as practicable as agreed by the Parties.
- 3.3 All contract timings are subject to weather conditions and/or any unforeseeable circumstances out of our control.
- 3.4 We accept no responsibility for any loss of time or otherwise due to timings on a contract.
- 3.5 Once we have offered a start date for a contract we require all deposits to be paid straight away.
- 3.6 We reserve the right to cancel potential contract start dates if the Quote has not been returned and signed and the deposit has not been paid.

4 Your Obligations

- 4.1 Before work begins you must inform Intelligent Coatings of any know site hazards that may include

hazardous chemicals on site or electrical and plumbing service problems.

- 4.2 You must obtain (at your expense) all necessary approvals that may be required for the Work.
- 4.3 You must also notify other parties that may be affected by the work carried out on your property including tenants or neighbours.
- 4.4 Cars, motorbikes, or any other vehicles are to be removed from the access points to your property to allow access for the tradesmen to carry out work to your property. These will also safe guard your property from damages which may incur from the high-pressure cleaning and/or spray machines.
- 4.5 Any personal property inside your property is to be removed or properly covered to allow access for the tradesmen to carry out work to your property. This will also safe guard your personal property from damage or spillage which may occur as a result of internal painting.
- 4.6 You must give Intelligent Coatings access to the Property as necessary to enable performance of the Works until Practical Completion and shall promptly make good loss or damage to the Works, or the Customer's Property, caused by any act, neglect or default of Intelligent Coatings or Our employees, agents or sub-contractors.
- 4.7 The Customer for any Domestic Project shall effect and maintain during this Agreement, House and Contents Insurance (including appropriate Public Liability cover) for the existing structure and its contents with a reputable and financially sound insurer and upon usual and reasonable terms. Evidence of such insurance shall be provided if requested by Us.

5 Intelligent Coatings Obligations

- 5.1 During the Term, Intelligent Coatings will:
- provide adequate personnel to enable the Works to be completed in accordance with the Extent of Work;
 - provide supervision for personnel who carry out the Works; and
 - take all reasonable steps to ensure that its employees, subcontractors and agents comply with all Laws in connection with the carrying out of the Works.

5.2 Intelligent Coatings may vary its usual or specified hours of work with the prior consent of the Customer, which consent will not be unreasonably withheld.

5.3 Intelligent Coatings shall comply with all applicable requirements of the *Work Health and Safety Act 2011*.

6 Works

6.1 Intelligent Coatings and the Customer will agree on the times when the Works will be carried out before Intelligent Coatings commences any work.

6.2 The Customer may, at any time before or during the Term, increase or reduce the Works by adding or removing certain areas of the Property, in which case the Extent of Work and Payments will be varied in accordance with Clause 10.

6.3 If any change to the Property or Laws; access to the Property; or delay caused by the Customer results in an increase in the costs incurred or to be incurred by Intelligent Coatings in carrying out the Works, then the Extent of Work and Payments will be varied in accordance with Clause 7.

7 Additional Work

7.1 If, in Intelligent Coatings' opinion, Additional Works need to be carried out due to Discrepancies or before the Works can be carried out, Intelligent Coatings will provide details of the Discrepancies and/or provide the Customer with an additional quote for the cost of carrying out the Additional Work.

7.2 Any Additional Work not stated in your Quote will be charged at our normal hourly rate.

7.3 It is your responsibility to carefully read and understand the Quote issued and inform our office prior to work commencing if there are any issues that are not made clear.

8 Weather Conditions

8.1 We reserve the right to postpone any contract due to adverse weather conditions.

8.2 Weather conditions are conditions that are not suitable for the application and or preparation of painted surfaces.

8.3 Intelligent Coatings will not be liable for any delay or failure to perform its obligations under this Agreement if that failure or delay is due to any cause or condition beyond the reasonable control of Intelligent Coatings including, but not limited to, fire, flood, adverse weather conditions, act of God, industrial disturbance or dispute, failure of electrical or telecommunications networks, acts of vandalism, sabotage, civil services dispute, war, changes in legislation or regulations of any government, transportation delays, inclement weather or delays caused by the Customer or due to other repairs or maintenance having to be carried out.

9 Material and Equipment

9.1 Unless specifically excluded in the Quote, Intelligent Coatings will provide, at its expense, all Materials and Equipment necessary for the due performance of the Works.

9.2 Intelligent Coatings reserve the right to alter/change products used on any project without prior notice.

9.3 All paint and materials remain the property of Intelligent Coatings until all balances are paid in full.

9.4 Intelligent Coatings reserve the right to remove any unused paint and materials from a project site before, during or after completion of a project.

9.5 Intelligent Coatings accept no responsibility for choice of colours on any project.

9.6 If for any the reason the Customer changes their mind after choosing a colour, any associated costs with this change of mind will be incurred by the Customer in full, and this includes any labour & material costs during the process.

9.7 Intelligent Coatings do not accept responsibility for yellowing of any gloss enamel products.

9.8 Intelligent Coatings reserve the right to pass on any price increases from our suppliers during a project to the property owner. We do not know when these may happen so we cannot offer any notice.

9.9 The Customer will provide Intelligent Coatings with adequate site amenities for its personnel and subcontractors and provide facilities to enable the safe storage of Materials and Equipment on the Property during the Term.

9.10 Intelligent Coatings will keep and store the Materials in the facilities provided by the Customer in a clean and tidy condition.

10 Payments

10.1 We require a:

- (a) 10% deposit on acceptance of the Quote, if the Quote is under \$20,000; or
- (b) 5% deposit on acceptance of the Quote, if the Quote is over \$20,000.

10.2 All deposits are non-refundable under any circumstances.

10.3 We may offer a smaller deposit amount at our discretion.

10.4 All invoices must be paid within 7 days of the rendering of the invoice unless an extension beyond this limit is agreed to by Intelligent Coatings prior to work commencing

10.5 Intelligent Coatings reserve the right to request and receive a progress payment during any project, particularly any Commercial Project.

- 10.6 Outstanding balances after 7 days will incur a 5% interest charge and will continue to incur this interest charge every 5 days after the date of invoice issue until all balances have been paid in full.
- 10.7 We do not accept payment by cheque on completion of projects unless the cheque is handed in person to an Intelligent Coatings representative.
- 11 Warranties & Guarantees**
- Customer Warranties**
- 11.1 The Customer acknowledges that in the event asbestos is discovered at the worksite that it is the Customer's responsibility to ensure the safe removal of the same. The Customer agrees to indemnify Intelligent Coatings against any costs incurred by Intelligent Coatings as a consequence of such discovery.
- 11.2 The Customer shall accept full responsibility for the resolution of any problems and for delays and additional costs which may result from the presence of asbestos or a Latent Condition in or about the Property.
- 11.3 The Customer warrants that they have had the opportunity to obtain independent legal advice in relation to these terms and conditions and they have read and understood these terms and conditions.
- 11.4 If the Customer does not own the Property, the Customer warrants and represents that it has full authority to enter into this Agreement and Intelligent Coatings is entitled to rely on that representation
- Intelligent Coatings Warranties**
- 11.5 To the extent required by Schedule 1B of the *QBCC Act*, Intelligent Coatings warrant that:
- (a) The Works will be carried out in an appropriate and skillful way and with reasonable care and skill and reasonable diligence;
- (b) all materials supplied will be of good quality and suitable for the purpose for which they are used having regard to the Relevant Criteria and that all materials will be new unless the Agreement expressly provides otherwise;
- (c) the Works will be carried out in accordance with all relevant laws and legal requirements;
- 11.6 Intelligent Coatings reserves the right to refuse to enter a Property in the event that we believe the workplace to be unsafe.
- 11.7 Intelligent Coatings shall not be liable for any delays caused, loss, damages, or costs however resulting from the unsafe Property.
- 11.8 Intelligent Coatings offer a minimum 1-year warranty on our workmanship in line with the Queensland Building and Constructions Commission standards. The benefits provided by this warranty are in addition to other rights and remedies which the Customer may have under the ACL in relation to the Works to which this warranty related.
- 11.9 If for any reason a warranty issue arises during or after a project and the Queensland Building and Construction Commission are informed, Intelligent Coatings reserve the right to follow through with all or any of the contents of these terms and conditions, in particular please note the terms contained in Clause 10.
- 11.10 If a warranty issues does arise we will follow any recommendations provided by the Queensland Building and Construction Commission, however if the issue is deemed to be out of our control we reserve the right to pass on any losses, labour costs and any other costs associated with the enquiry to you.
- 11.11 Intelligent Coatings shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Customer.
- 11.12 All warranties are subject to the property owner carrying out general maintenance on their property to ensure all work carried out by Us is kept to reasonable standard.
- 11.13 Intelligent Coatings does not undertake to bring any dwelling or building or unit up to current Australian Standards. Our works attach to the existing substructure in its existing size, shape, form, and span. It is the responsibility of the customer to ensure Australian Standards are able to be met if and when applicable.
- 11.14 Any warranty claims must be lodged with our office in writing along with a copy of your Dulux Coating Material Warranty document and Proof of Payment.
- 11.15 We do not accept responsibility or liability for any roof leaks, Defects or any damage caused because of those Defects or leaks, unless caused by our failure to exercise due care and skill.
- 11.16 We accept no responsibility for any work carried out by us that is altered, touched up, tampered with by the property owner or any third party. All warranties are void in this case.
- 11.17 Intelligent Coatings do not warrant the following issues: cracking, settlement cracking, water stains, rust, peeling ceilings and previously painted surfaces that have not been sealed.
- 11.18 If the Materials are not manufactured by Intelligent Coatings but are manufactured by a third party, to the maximum extent permitted by Law, the Customer agrees that Intelligent Coatings does not provide any warranty or guarantee in addition to that of the manufacturer as to the performance or quality of the Materials. Any guarantees or warranties in Materials will be in accordance with manufacturer's guarantees or warranties to the extent that

Intelligent Coatings is able to pass them on to the Customer.

Dulux - Material Warranties

- 11.19 A Dulux Coating Material Warranty will be provided to Intelligent Coatings (the applicator) on completion of works.
- 11.20 Product failures such as blistering, peeling or cracking are covered under the Dulux Coating Material Warranty.
- 11.21 This Dulux Coating Material Warranty will not cover paint failure caused by breakdown of previously applied coatings, substrate failure, water ingress or colour fade.
- 11.22 The Dulux Roof Membrane coating systems are not designed to remove the need to engage a qualified professional if it is or becomes necessary to carry out repairs on issues with your roof that were identified or required prior, during or after the instillation of the Dulux Roof Membrane.
- 11.23 If, for whatever reason, a claim arises due to product failure issues in accordance / subject to the Dulux Coating Material Warranty on approval / authorisation from Dulux we will rectify the issues and seek reimbursement from Dulux for the Materials & Labour costs.
- 11.24 If, for whatever reason, a claim arises due to a workmanship issues in accordance / subject to our 1-year Workmanship Warranty we will rectify the issues and pay for the Materials & Labour costs required.
- 11.25 Please refer to the Dulux Care and Maintenance Guide for more information on how to maintain your roof coating to keep it looking and performing at its best, this requirement forms part of the Dulux Coating Material Warranty conditions.
- 11.26 Please refer to the Dulux Care and Maintenance Guide for more detailed information on colour durability, mould, algae & the use of chemicals on your roof.

12 New Construction Projects - for Commercial Projects only

- 12.1 We do not accept responsibility for any gapping over 3mm, all gapping of P50 or timber cornices by builder or plasterer.
- 12.2 We do not accept responsibility for any damage caused by any other tradespeople whilst painting new projects; any cost associated will be back charged accordingly to the Customer under instruction of the site foreman.
- 12.3 On completion of plastering works we seal coat the building & finish coat the ceilings, clean up and leave the project and return to coat walls once all trades have completed and left site.
- 12.4 Plasterers to return to site and complete pre-paint patching and foreman to sign off before we commence any finish coats.

13 Complaints and Dispute resolution

- 13.1 Any complaints are to be lodged with our office in writing within 7 days of any issue arising.
- 13.2 All complaints are to be kept confidential and if you post any complaints via social networking on the internet or any other media avenues, Intelligent Coatings reserve the right to take legal action against any party to reclaim any losses in revenue.
- 13.3 If a dispute under the Contract arises between the parties, either party may give the other party a written notice of dispute adequately identifying and providing details of the dispute.
- 13.4 If the dispute is not resolved within 10 business days of the receipt of the notice of dispute, either party may refer the matter to a dispute resolution process administered by the Queensland Building and Construction Commission.
- 13.5 A party will not commence any proceedings in respect of the dispute in any court or tribunal of competent jurisdiction until the dispute resolution process referred to in Clause 13.4 is at an end.
- 13.6 Where a dispute has arisen under or in connection with this Agreement, including Clause 10.4, Intelligent Coatings must proceed diligently with the Works notwithstanding the existence of the dispute.

14 Termination after notice of default

- 14.1 If either party is in Substantial Breach of this Agreement, the party not in breach may give the other party a written notice identifying and describing the breach and stating the intention to terminate the Agreement if the breach is not remedied within 10 business days from the giving of the notice.
- 14.2 If the Substantial Breach is not remedied within 10 business days of receipt of the written request to remedy the breach, the party not in breach may end this Agreement by giving written notice to that effect.
- 14.3 If the Agreement is terminated pursuant to this clause the Customer must pay to Intelligent Coatings the reasonable value of any work properly carried out by Intelligent Coatings prior to that termination and which has not been the subject of previous payment.

15 Termination for insolvency

- 15.1 Notwithstanding clause 14, should either party become Insolvent then the other party may, by giving a written notice, immediately terminate this Agreement

16 Severability

- 16.1 If any of the terms of this Agreement are not legally enforceable then that term or the relevant part of it will be ignored, but in all other respects this Agreement will have full effect.

17	Entire Agreement	prepared concrete or metal roofs in need of restoration.
17.1	This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all previous communications, representations, inducements, undertakings, agreements or arrangements between the parties or their respective officers, employees or agents.	18.12 Equipment means the equipment required by Intelligent Coatings to carry out the Works.
17.2	This Agreement applies to the exclusion of, and overrides, any other terms or purchase orders issued by the Customer.	18.13 Extent of Work means the inclusions, exclusions and timing of the Works.
18	Terminology	18.14 GST means Goods and Services Tax in accordance with the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
18.1	ACL means the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth) and as amended from time to time.	18.15 Insolvent means:
18.2	Additional Works means work and/or services that fall outside the Works, which Intelligent Coatings determines need to be carried out at the Property.	(a) becomes insolvent or unable to pay that party's debts; or
18.3	Agreement means the agreement between Intelligent Coatings and the Customer and comprises the Quote, these terms and conditions and any agreed special conditions attached to these terms and conditions (as varied in accordance with this Agreement). To the extent of any inconsistency or conflict between those documents unless otherwise stated, they take precedence in the reverse of the order listed.	(b) commits an act of bankruptcy; or
18.4	business day means a day that is not:	(c) is made bankrupt; or
(a)	a Saturday or Sunday; or	(d) assigns assets for the benefit of creditors generally; or
(b)	a public holiday, special holiday, or bank holiday in Queensland.	(e) makes a composition or other arrangement with creditors; or
18.5	Commercial Project means any project other than a Domestic Project.	(f) being a company, goes into liquidation or receivership.
18.6	Customer, or You means the party who has accepted the Proposal entering this agreement with Intelligent Coatings.	18.16 Intelligent Coatings, We, Our or Us refers to Intelligent Coatings Pty Ltd contractors of 15 Fearnley Street, Portsmith, CAIRNS QLD, 4870 which means the party specified in the Quote entering into this Agreement with the Customer.
18.7	Defects means any work not done in accordance with the Agreement and which is of poor workmanship.	18.17 Latent Condition means all conditions and characteristics of the site and its surrounds including below ground conditions, all natural and artificial things, asbestos, contamination, and other environmentally hazardous or toxic substances, concrete cracking and spalling, facilities, utilities and services on and within the surface and, if the Property includes a building on and within the building (including those things obscured behind walls, ceilings and beneath the floor).
18.8	Discrepancies means any work not included in the Extent of Work which in the opinion of Intelligent Coatings is required to be completed to enable Intelligent Coatings to carry out the Works in accordance with the standards outlined in the Specification.	18.18 Law(s) means all legislation, regulations, by-laws, codes of practice and other industry standards and Government agency requirements which relate to the carrying out of the Works or otherwise apply to this Agreement and includes the amended, extended, consolidated or replacement legislation, regulation, by law, code of practice or other requirement.
18.9	Domestic Project means any painting and associated works for a home.	18.19 Materials means the materials required by Intelligent Coatings to carry out the Works.
18.10	Dulux Coating Material Warranty means the warranty provided to the Customer by Intelligent Coatings on Payment for the Works.	18.20 Payment or Payments means the payment(s) to be made by the Customer to Intelligent Coatings in accordance with clause 10.
18.11	Dulux Roof Membrane means a high build, pigmented, water based, 100% acrylic coating designed to be applied by Airless Spray to suitably	18.21 Practical Completion means the date upon which the Works is completed in accordance with the requirements of this Agreement, including clause 14, apart from minor omissions or minor defects.

- 18.22 Property means the property at which the Works are to be carried out, including the buildings, structures and surrounding areas to which Intelligent Coatings requires access in order to carry out the Works.
- 18.23 Proof of Payment means a tax invoice or receipt, provided to the Customer by Intelligent Coating on Payment for the Work.
- 18.24 Quote means the proposal or offer by Intelligent Coatings to carry out the Works.
- 18.25 Substantial Breach by the Customer includes, but is not limited to:
- (a) failing to pay any money due and owing to Intelligent Coatings within 10 business days of the receipt of a valid progress claim; and
 - (b) substantially or persistently obstructing Intelligent Coatings in the performance of the Works.
- 18.26 Substantial Breach by Intelligent Coatings includes, but is not limited to:
- (a) failing to perform the Works competently;
 - (b) failing to provide materials which comply with this Agreement;
 - (c) unreasonably failing to replace or remedy defective work or materials; and
 - (d) unreasonably failing to perform the work diligently or unreasonably delaying, suspending or failing to maintain reasonable progress.
- 18.27 Term means the period starting on the acceptance of the Proposal by the Customer and ending on the completion of the Works.
- 18.28 Works means the work and/or services as set out in the Quote and includes all the work and supply of materials necessary for, and incidental to, the performance of the Agreement in accordance with its terms, including any plans and specifications, and, unless expressly excluded, includes:
- (a) work to make the Property accessible to Intelligent Coatings;
 - (b) provision of any special equipment (including scaffolding where its use could reasonably have been anticipated at the date of the Agreement);
 - (c) work to clear the Property for painting; and
 - (d) provision of clean up and disposal of waste material from the Property.