

**FIREFREE COATINGS, INC.**  
**TERMS & CONDITIONS (“T&Cs”)**

**CUSTOMER:**

**Date:** - \_\_\_/\_\_\_/\_\_\_

FireFree Coatings, Inc. ("Firefree") is the developer/supplier of FireFree 88 ("Product"). Below are the terms and conditions for the sale and use of Product. The price for Product sold to Customer shall be US\$--per gallon, plus applicable sales tax (shipping not included).

If the Product is to be used in an exterior application, the Product must be top coated with the Firefree Exterior topcoat ("FfE"), per Firefree's specifications. For any such exterior applications please contact Firefree for purchase of FfE. There should be no substitution of either the Product or FfE as they have been designed as a system (both weather and fire). Any substitution would void any warranty, express or implied.

**1) Orders:** Customer shall send a Purchase Order ("PO") for each order of Product. All POs must state the quantity of Product to be purchased. The quantity of Product purchased is solely Customer's decision. All POs must be in a form acceptable to Firefree and must not contain any terms inconsistent with, contrary to, or in addition to the terms set forth herein. Firefree may accept or reject any PO. If Firefree accepts a PO, Firefree will issue an invoice and a Purchase Agreement to Customer ("PA"), and Customer will provide payment for such order (see payments options below).

**2) Payments: All sales are final, no returns or refunds.**

**All sales are prepaid.** To begin Production, the full purchase price plus sales tax the quantity of Product being purchased, and other applicable charges set forth in the invoice, will have to be received by Firefree.

Method of payments: payment by wire transfer. Firefree also accepts payment by credit card (Visa, MasterCard, Discover, American Express) or by check (for check amount up to \$15,000). For payments by credit card, Firefree will provide an authorization form to be signed by Customer. For payment by check, payment will not be deemed received until the check clears the receiving bank. Customer will not setoff or offset against Firefree's invoices amounts that Customer claims are due to it. Customer will bring any claims or causes of action it may have in a separate action and waives any right it may have to offset, setoff or withhold payment for Company Products delivered by Firefree.

In the event of any legal proceeding brought by Firefree to recover the purchase price, interests or related amounts, or to enforce its invoice or these T&Cs, Firefree shall be entitled to recover from Customer all costs, including attorneys' fees and expenses relating to such proceedings. As a provider of constructions materials Firefree may enforce mechanic's lien/materialman's lien rights. These terms and conditions shall be governed by the laws of California, without giving effect to conflict of laws, and the parties shall be subject to the jurisdiction of the State of California or the US District court for Northern California.

**3) Delivery/Shipping: All sales are final, no returns or refunds.** Product will be delivered, Ex Works (EXW) Firefree's designated warehouse. Product is considered delivered by Firefree when it is available for pick up by Customer or carrier. Unless otherwise agreed upon, the Product will be provided in Firefree's standard five-gallon pails.

At Customer's request, Firefree may agree to assist in providing shipping arrangements. In such a case, Firefree will be only acting as an agent for the Customer, and shipping fees will be at Customer's expense and will be indicated separately on Firefree's invoice. Shipping fees are due and payable in full before shipment of the Product, by methods set forth in 2 above. **Regardless of whether Customer arranges for shipment or whether Firefree arranges for shipment per Customer's request (per above), Firefree's responsibility for the Product will cease when the Product is picked up by the Customer or the carrier, and at such time of the Product will be deemed delivered to Customer by Firefree.** Regardless of whether Firefree's assists or not in shipping, and of the shipment method, the shipment will be solely Customer's responsibility, expense, and risk, and Customer will be solely responsible for any losses, damages, or failures connected directly or indirectly with the shipment. Without limiting the generality of the foregoing, Firefree is not responsible for any delays or failures to deliver on the part of the freight carrier or any other delays, including but not limited to, delays due to weather, labor disputes or mechanical malfunction.

The Product will be released for delivery as soon as reasonably practical after receipt of Customer's full payment. In such case where an order size exceeds inventory levels, Firefree will promptly notify Customer of the updated available date for the Product. Firefree can advise inventory levels at the time Customer's Purchase Order is received. Failure by customer (or its carrier) to pick up Product within five (5) days of availability, or refusal by Customer to accept delivery of the Product upon shipment, will result in Firefree charging Customer \$2 per day per pail for storage until Customer takes delivery of the Product. If Customer or its freight carrier does not take possession of Product within 30 days after availability, full ownership of the Product will revert to Firefree, without any refund of the purchase price to Customer.

**4) Fire Safety:** For various reasons, including (i) the very different circumstances that may exist from one fire to another, (ii) the differences between conditions in an actual fire and laboratory conditions in which testing is conducted, and (iii) the inherent variability of fire tests, passing a laboratory test or certifying/labeling Product for use in specific assemblies/systems

does not mean that the same application of Product will necessarily provide an equivalent protection or the same result in an actual fire or in a new laboratory test. Furthermore, Product is to be used only as a component of complete fire retardation systems. It will only contribute to slowing fire spread for the area where it has been applied and will not, by itself, prevent a fire from starting or continuing. The amount by which Product retards a particular fire will depend, among other things, on (i) the amount of Product applied, (ii) the conditions of the other elements of the assembly incorporating Product, and (iii) the conditions of the actual fire itself. Product will not make a fire any less dangerous to persons or property. Firefree cannot guarantee that loss or injury will not be suffered by persons or property.

**5) Product Application.** It is the sole responsibility of the customer to choose an experienced, qualified applicator for the Product and ensure that such applicator applies the Product in strict compliance with the Application Instructions for the Product and that the recommended thickness is applied. It is the responsibility of the occupant to ensure the paint is not cracked, chipped or peeling. Customer hereby acknowledges receipt of the Applications Instructions for the Product.

**6) Indemnification:** Customer agrees to indemnify, defend and hold harmless Firefree from and against any and all claims, demands, lawsuits, and proceedings (“Claims”), and all judgments, losses, costs and expenses (including but not limited to attorneys fees) arising from or in connection with any Claims, with respect to damage or destruction of any property, or any death or injury of any person, alleging or based in whole or in part on any allegation of (a) the failure of Product to prevent, retard, minimize, or in any way limit any fire (including fire on any aircraft or affecting any aircraft part or component), or (b) the failure or malfunction of any airplane part or component). Customer will, at Customer’s expense, defend, with counsel acceptable to Firefree, any Claim asserted against Firefree. Customer will not settle any Claim (i) without first obtaining Firefree’s written consent if such settlement would render Firefree liable for the payment of any judgment, damages, compensation, or other amount, and (ii) without obtaining a general release of Firefree.

**7) Inspections:** Because this is a life safety issue Firefree requires that all surfaces to which Product was applied be inspected by a third party special inspection agency, or an ICC-ES certified professional, or Firefree Coatings QA/QC qualified inspector to verify that Product has been properly applied in the required uniform thickness.

The hiring of an independent inspector is the responsibility of the Customer. Inspection fees are not included in the Product’s price. Firefree will not participate in the final inspection and will not be responsible for related fees. To obtain a list of inspection agencies, go to [www.psiusa.com](http://www.psiusa.com), or [www.terracon.com](http://www.terracon.com) or email [info@firefree.com](mailto:info@firefree.com).

Firefree reserves the right to request a copy of the final inspection report. The Product Limited Warranty shall be void in the event that the Customer or contractor is unable to verify the dry film thickness certification inspection.

**8) Ten (10) Year Limited Warranty:** Firefree provides a ten (10) Year Limited Warranty from purchase of the Product. Please read the warranty below carefully as it contains important information from the manufacturer.

For a period of ten (10) years from purchase, Product will not crack, peel, or chip if properly applied to a properly prepared and approved surface and if properly maintained. If Product fails to meet the terms set forth above, Firefree will provide, at no charge, a quantity of Product sufficient to repaint the surface affected. **This is the exclusive remedy for all warranty claims. This warranty specifically excludes labor or costs of labor or incidental or consequential damages associated with the use of this product.**

In the event of a warranty claim, the claimant must notify Firefree in writing of the defect promptly following discovery (within 10 days) and must submit (i) proof of purchase, including the date of purchase, (ii) proof that the Product was applied in strict compliance with Firefree’s Applications Instructions for the Product, and that the recommended thickness was applied, and (iii) proof of the defect (including photos and sample of defective materials) and date of discovery. Firefree reserves the right to inspect any painted surface to which the warranty claim applies.

This warranty will be void if, post application, the Product is (a) treated by any abrasive process or material, (b) exposed to any biological solvent or caustic chemical or agent, (c) altered or repaired, or (d) exposed to exterior weathering unless, and only if, the Product is covered by the Ff Exterior Topcoat in strict compliance with Firefree’s specifications and with FfE’s Applications Instructions. The warranty will also be void if the Product is; (i) diluted or adulterated, (ii) mixed with any other product, (iii) not stored or applied in strict compliance per Firefree’s Applications Instructions for the Product, (iv) not applied in the required uniform thickness per Firefree’s specifications, (v) not inspected in accordance with Firefree’s instructions, or (vi) used after two (2) years from the date of purchase.

**THIS WARRANTY IS MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES. THE MANUFACTURER EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE.**

*Customer acknowledges receipt of the Technical Data Sheet and the Applications Instructions for the Product and understands the information therein. For questions, please contact our office at 888-990-FF88 (3388) or 415-459-6488 or email at [info@firefree.com](mailto:info@firefree.com).*

©2021 FireFree Coatings Inc

For further safety and handling information, please refer to our Safety Data Sheet (SDS). Firefree is a registered trademark of FireFree Coatings, Inc.

ACCEPTED AND AGREED

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Company: \_\_\_\_\_