



Existing Acct Number

Rev. Oct 2015

**PPG ARCHITECTURAL FINISHES, INC. (SELLER)**  
**TERMS AND CONDITIONS OF SALE (REV. 11/2011)**

1. GENERAL.

- a. These Terms and Conditions of Sale ("Terms and Conditions") supersede all prior representations or arrangements in connection with the products sold by Seller (the "Products"). Seller's acceptance of Buyer's order and sale of the Products to Buyer are deemed conditioned upon Buyer's assent to the Terms and Conditions and all other terms and conditions, expressed or implied, are excluded. Any conduct by Buyer which recognizes the existence of a product sale from Seller to Buyer, including, without limitation acceptance of delivery of or payment for the Products, shall be conclusive evidence of Buyer's assent to these Terms and Conditions. None of Seller's employees or agents has authority to modify or supplement the Terms and Conditions or to accept any order, except on Seller's official sales forms.
- b. References to the Products include, without limitation, its packaging.
- c. No subsequent document, purchase order, or conduct including acts or verbal statements of any Buyer shall purport to or modify these Terms and Conditions.

2. DELIVERY.

- a. Shipping and delivery dates are approximate and are given by Seller in good faith, but are not guaranteed unless otherwise specifically agreed in writing. Buyer shall be responsible for all storage and other costs relating to Buyer's failure to accept delivery pursuant hereto.
- b. Unless otherwise expressly agreed in writing, delivery will be made F.O.B. point of shipping. All risk of loss shall pass to Buyer upon delivery of the Products by Seller to a carrier. Seller reserves the rights to ship collect, unless otherwise agreed to in writing, and will select the method and agency of transportation. Seller's receipt from the carrier shall be conclusive evidence of delivery.
- c. Packaging is included in the price and is not returnable, unless otherwise specifically agreed to in writing. Returnable packaging will be charged to Buyer, but if returned empty, clean, securely closed and in good condition within thirty (30) days after receipt by Buyer, Seller will credit Buyer with the amount charged. Any special packaging requirements will incur a non-refundable additional charge.
- d. The weight or quantity stated on Seller's carrier's receipt shall be conclusive evidence of the amount delivered, except in cases of manifest error.
- e. Except for purposes of Sections 3(b), 6(a) and 7, each delivery shall be treated as a separate contract, and partial deliveries are permitted, unless otherwise specifically agreed to in writing. Failure to make any particular delivery, or any breach of contract by Seller relating thereto, shall not affect any remaining deliveries.
- f. Buyer shall promptly supply all information and assistance required for Seller to execute Buyer's order.
- g. If the Products are sold F.A.S. or F.O.B. vessel, an on-board bill of lading, a mate's receipt or other document indicating delivery alongside the vessel or tender to the vessel is conclusive evidence of delivery irrespective of whether the person giving the receipt or the documentation has authority from Buyer to do so.
- h. If the Products are sold C.I.F. or C. and F., a receipt of bill of lading or waybill is conclusive evidence of delivery.

3. PRICE,

- a. Except where it is specified that a price stated is "firm", all prices are subject to change and orders will be invoiced at Seller's prices prevailing at the time of shipment. All accounts are payable in U.S. Dollars, free of exchange, collection or other charges. In cases where price for Products includes delivery costs, any increase in such delivery costs shall be for Buyer's account and Buyer agrees to pay Seller such increases.
- b. All applicable sales or use taxes, excises, or any other taxes or charges (except net income and equity franchise taxes) imposed now or in the future by any federal, state, foreign or local authority upon the production, sale, or transportation of the Products shall be for the account of Buyer. Buyer shall reimburse Seller for any such taxes, excises or charges which Seller may be required to pay in addition to the price payable by Buyer for the Products. Buyer may, at its option and where legally permissible, elect to file a proper exemption certificate with Seller and Buyer shall be fully responsible for paying taxes direct to the taxing authority.
- c. Credit terms, if any, both as to time and amount, may be limited or revoked by Seller at any time without prior notice and thereafter the price of all or any part of Products delivered or to be delivered shall be payable in accordance with such limited credit terms, or, at Seller's option, in cash before shipment or on or after acceptance of delivery. In circumstances described in Section 6(a), all unpaid balances owing to Seller from Buyer shall become immediately due and payable, irrespective of whether title to the Products has passed to Buyer.
- d. Time of payment is of the essence. Any amounts not paid in accordance with invoiced terms shall bear interest at a rate of one and one half percent (1 1/2%) per month or such lesser rate permissible by applicable law.

4. SELLER'S WARRANTY.

- a. Seller warrants that, at the time of delivery, the Products shall conform to (i) the warranty statement, if any, on the Products' labeling or (ii) in the absence of any such warranty statement, Seller's published specifications covering such Products in effect at time of manufacture ("Seller's Warranty"). SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS AND HEREBY DISCLAIMS ANY SUCH WARRANTIES OR REPRESENTATIONS, EXPRESSED OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, Certification by Seller by separate writing as to compliance with specifications, blue prints, part numbers, quantity, test or otherwise will not create any other warranty by or other obligation of Seller.
- b. Seller's Warranty shall not be construed as a "warranty" for purposes of the Magnuson-Moss Warranty Act. In the event Seller's Warranty should be construed as a limited warranty for purposes of the Magnuson-Moss Warranty Act, then any implied warranty which might exist by operation of law shall be limited to thirty (30) days from the date of original consumer purchase and such limited warranty shall run only to the original consumer purchaser.
- c. SELLER'S LIABILITY WITH RESPECT TO THE PRODUCTS, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, AND BUYER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT THERETO, SHALL BE LIMITED TO. AT SELLER'S SOLE OPTION, (i) THE REPLACEMENT BY SELLER OF ANY NONCONFORMING PRODUCT FOR WHICH CLAIM IS MADE BY BUYER IN ACCORDANCE WITH SECTION 4(d) BELOW, OR (ii) THE REFUND OF THE PORTION OF THE PURCHASE PRICE PAID BY BUYER ATTRIBUTABLE TO SUCH NONCONFORMING PRODUCT. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY OTHER DAMAGES, WHETHER DIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHERWISE. IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE PURCHASE PRICE FOR ANY NONCONFORMING PRODUCTS.
- d. Buyer shall notify Seller of any Product that does not conform to Seller's Warranty within a reasonable time after delivery of such Products, but in no event later than thirty (30) days following such delivery. Failure to notify Seller of such non conformance shall constitute a waiver by Buyer of any claims with respect to such nonconforming Products.
- e. If Products are purchased for resale by Buyer, including application to a third party's property or incorporation into a separate and distinct product which is resold, Buyer shall not make any representations or warranties with respect to the Products inconsistent with these Terms and Conditions and shall include in the terms and conditions of such resale disclaimers of warranties and limitations of liabilities at least as restrictive as those contained in these Terms and Conditions.
- f. Seller's Warranty does not apply to any Products identified as obsolete or substandard, which are sold "as is, where is".
- g. Seller's Warranty does not apply to any Products manufactured by anyone other than by Seller. SELLER DOES NOT MAKE ANY WARRANTY, EXPRESSED OR IMPLIED WITH RESPECT TO PRODUCTS MANUFACTURED BY ANYONE OTHER THAN BY SELLER. ALL SUCH PRODUCTS ARE SOLD BY SELLER "AS IS, WHERE IS". To the extent Products manufactured by someone other than by Seller are purchased and a warranty has been extended by that manufacturer with respect to the Products. Seller does not make or extend such warranty and Buyer's sole recourse is to the manufacturer of such Products. Buyer should contact the manufacturer for the specifics of such warranty, if any, and any other limitations on Buyer's rights with respect to any such warranty.

5. FORCE MAJEURE.

Seller shall not be liable for any failure to ship Products or to otherwise comply with the contract related thereto (the "Contract") as a result of any circumstances whatsoever (whether or not involving Seller's negligence) which are beyond Seller's reasonable control and which prevent or restrict Seller from complying with

such Contract. Without limiting the generality of the foregoing, Seller may without liability suspend or terminate (in whole or in part) its obligations under the Contract if Seller's ability to manufacture, supply, deliver or acquire materials for the production of the Products by Seller's normal means is materially unpaired.

6. TERMINATION AND SUSPENSION

- a. Seller may (without prejudice to its other rights or remedies) refuse to sell to Buyer under any condition while investigating any claim relating to prior shipments of Products or in the event of any of the following circumstances:
  - (i) Buyer fails to take delivery of or to pay for the Products as required by Seller, or breaches any other term of sale, including, without limitation, any provision of these Terms and Conditions;
  - (ii) Buyer becomes bankrupt or insolvent, or a receiver takes possession of any material part of Buyer's assets, or Buyer suffers any foreign equivalent of the foregoing; or
  - (iii) Reasonable grounds for insecurity arise with respect to the performance by Buyer of its obligation to Seller, and Seller so notifies Buyer.
- b. If Buyer, within three (3) working days after a notice has been given under Section 6(a)(iii), above, provides Seller with security for its performance hereunder in a form that is reasonably acceptable to Seller, Seller shall withdraw the notice.

7. INTELLECTUAL PROPERTY.

Buyer shall not use in any manner any trade names or trademarks applied to or used by Seller with respect to the Products, unless otherwise permitted by Seller in writing in advance.

8. ADVICE OR ASSISTANCE.

- a. Recommendations and advice by Seller for the use of Products are furnished gratuitously and are based upon information believed to be reliable. Buyer's use of or reliance upon the same shall be at Buyer's risk. SELLER'S SOLE LIABILITY WITH RESPECT TO THE SALE OF THE PRODUCTS TO BUYER AND USE OF THE PRODUCTS BY BUYER IS SET FORTH IN SECTION 4 OF THESE TERMS AND CONDITIONS.
- b. Any agreement between Buyer and Seller concerning advice or assistance given to Buyer by Seller for a separate fee would be contained only in a separate written agreement signed by Seller.
- c. The characteristics or attributes of any Products are contained only within the current version of written information relating to each particular Product. Any verbal advice rendered to the contrary shall not be binding on Seller.

9. HEALTH AND SAFETY AT WORK.

- a. Buyer shall ensure that all Products are safely and lawfully received, stored, maintained, used or applied by Buyer, and that Buyer obtains relevant information in Seller's possession relating thereto. Seller maintains and makes freely available to Buyer product safety data information. If Buyer has not previously received such information, Buyer should request it.
- b. Buyer shall insure that all appropriate safety information (whether supplied by Seller, Buyer or others) is distributed and drawn to the attention of customers and all others (including Buyer's employees) who require it for the safe handling or use of the Products.

10. COMPLIANCE WITH LAW.

- a. Products manufactured by Seller are produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended. Seller has complied with the conditions required by all Executive Orders concerning "Non-Discrimination in Employment" and equal employment opportunity obligations. Buyer shall use, transport and store the Products in compliance with applicable laws and regulations. Buyer acknowledges that the Products may not comply with the volatile organic compounds (the "VOC") limitations of VOC regulated districts/areas and may not be suitable for sale/use in a VOC regulated district/area except in certain exempt activities or settings. Buyer hereby represents to PPG that it is aware of and understands the applicable VOC regulations and that the Products are being purchased for a final destination, which is not in a VOC regulated district/area and/or for a use or setting that is exempt under applicable regulations. Buyer shall indemnify, hold harmless and defend Seller from and against any claim, liability, penalty, cost, damage or cause of action whatsoever, including reasonable attorney's fees, arising from or relating to Seller's shipment of non-compliant VOC Products in a VOC regulated district/area or any sale, reshipment or use made of the Products other than as represented by Buyer as stated above.

11. MISCELLANEOUS.

- a. These Terms and Conditions and the relations of the parties hereunder shall be governed by the local laws of the Commonwealth of Pennsylvania (without giving effect to the conflict of law principles thereof) and in the previous regard Seller and Buyer mutually agree that the United Nations Conventions on Contracts for the International Sale of Goods does not apply to these Terms and Conditions or the sale by Seller to Buyer of the Products
- b. If any of the Terms and Conditions or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of such Terms and Conditions or the application of such provision to person or circumstances other than those to which it was held to be invalid or unenforceable shall not be affected thereby and shall be valid and be enforceable to the fullest extent permitted by law.
- c. Nothing in these Terms and Conditions shall obligate Seller to sell any products to Buyer on any terms whatsoever, including cash in advance.
- d. These Terms and Conditions may be amended by Seller, at its option, which amendment shall become effective upon submission of a written copy of such amended Terms and Conditions to Buyer.

12. EXPORT CONTROL.

- a. Each of Buyer and Seller acknowledge that they, as well as the Products, services, and technology ("items") sold or otherwise transferred under these Terms and Conditions, may be subject to U.S. and other export controls, embargoes, sanctions and similar laws, regulations and requirements ("Export Controls"), as well as Seller's export policies, controls, and procedures ("PPG's Export Compliance Requirements"). Buyer agrees to (1) comply with Export Controls; (2) comply with Buyer's obligations under PPG's Export Compliance Requirements as communicated to Buyer in writing by Seller during the course of the parties' business relationship; and (3) provide Seller with all information and documentation deemed necessary by Seller in order for Seller to comply with all Export Controls as they relate to the business transaction contemplated by these Terms and Conditions.
- b. Buyer is requested to report to Seller's Chief Compliance Officer ("CCO") any suspected or actual violations of any Export Controls that involve items or employees of Seller or its subsidiaries ("Reports"), to the extent such reporting is legally permitted in Buyer's country. Buyer may also report any suspected or actual violations of PPG's Export Compliance Requirements and Seller's Global Code of Ethics (the "Code"), especially the portion of the Code related to export compliance. With respect to any such Reports, Buyer may use one of the following three options to notify Seller of a suspected or actual violation: (1) Seller's confidential, anonymous "Hotline"; (2) Seller's online reporting system; or (3) direct email to Seller's CCO ([ChiefComplianceOfficer@ppg.com](mailto:ChiefComplianceOfficer@ppg.com)). Information on all three options is available at [www.ppg.com](http://www.ppg.com).
- c. Notwithstanding anything to the contrary set forth herein, should Buyer fail to comply with (1) Export Controls or (2) PPG's Export Compliance Requirements as communicated to Buyer in writing by Seller during the course of the parties' business relationship, Seller reserves the right to take appropriate action, including terminating any purchase orders under these Terms and Conditions and Seller's business relationship with Buyer.

### **CREDIT APPLICATION INSTRUCTIONS**

1. Set up a cash account in SAGE or at the POS.
2. Provide the customer with a credit application and copy of the terms.
  - a. Make sure the customer receives terms and conditions as of Oct 2015.
  - b. Be sure the application is legible and signed. Call credit if the customer will not sign.
  - c. Please write the account number in the "Existing Account Number" blank located in upper right hand corner.
  - d. If the customer is tax exempt, write the customer account number on the certificate and forward the information along with credit application.
  - e. Submit the completed and signed application and tax documents to [afcredit@ppg.com](mailto:afcredit@ppg.com) or fax to 866.736.0569.
3. Check the daily spreadsheet for status/updates.

### **PROSPECTIVE CUSTOMER INSTRUCTIONS**

Please return your completed Credit Application to the Store or Sales Representative below:

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

Contact Phone Number: \_\_\_\_\_

Contact e-mail /Fax: \_\_\_\_\_