



**EXHIBIT B**

**PPG PROTECTIVE & MARINE COATINGS  
CANADIAN TERMS AND CONDITIONS OF SALE  
(REV. 06/2014)**

1. **APPLICABILITY.** These Terms and Conditions of Sale (“*Terms and Conditions*”) apply to the sale of PPG Protective & Marine Coatings products (the “*Products*”) by PPG Architectural Finishes, Inc. (a U.S. entity) and/or PPG Architectural Coatings Canada, Inc. (“*Seller*”). For purposes of these Terms and Conditions, the purchaser of such Products shall be referred to as “*Buyer*.” If these Terms and Conditions or a document to which these Terms and Conditions are attached or with which these Terms and Conditions are submitted, is construed as an offer, this offer expressly limits acceptance to the terms of this offer and notice of objection to any different or additional terms in any response to this offer is hereby given. If these Terms and Conditions or a document to which these Terms and Conditions are attached or with which these Terms and Conditions are submitted, is construed as an acceptance of an offer, this acceptance is expressly conditioned upon the offeror’s assent to any different or additional terms contained in this document or any document referencing this document. If this document is construed as a confirmation of an existing contract, the Buyer and Seller agree that this confirmation states the exclusive terms of any contract between Buyer and Seller. Reference to the Products includes, without limitation, its packaging.

2. **GENERAL.** These Terms and Conditions supersede all prior representations or arrangements in connection with the Products. Seller’s acceptance of Buyer’s order and sale of the Products 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. No subsequent document, purchase order, or conduct including acts or verbal statements of Buyer shall purport to or modify these Terms and Conditions.

3. **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 by Seller and Buyer, delivery will be made EXW<sup>1</sup>, applicable Seller’s plant. The delivery schedule shall be by mutual agreement of Seller and Buyer. All risk of loss shall pass to Buyer upon delivery of the Products by Seller to Buyer’s carrier. Seller reserves the right 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. If, from time to time, Seller delivers Products (i) to a vessel within Canada or (ii) to an agent of Buyer within Canada, Buyer acknowledges and agrees that title to such Products shall transfer to Buyer at the time of such delivery, whether or not Buyer has actually been invoiced for such Products.
- (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 Section 8(a), 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.

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<sup>1</sup> Incoterms, 2010.

- (f) Buyer shall promptly supply all information and assistance required for Seller to execute Buyer's order.
- (g) If the Products are sold EXW<sup>2</sup> or FCA<sup>3</sup> 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 CPT<sup>4</sup> or CIP<sup>5</sup>, a receipt of bill of lading or waybill is conclusive evidence of delivery.
- (i) All sales are final and no refund or credit will be offered for returned Product(s) irrespective of whether the Product(s) are the subject of a complaint, unless Seller has agreed in writing prior to such return and the returns arrive promptly and in good condition in Seller's reasonable opinion.

4. **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. funds, free of exchange, collection or other charges. In cases where the price for Products includes delivery costs, any increase in such delivery costs shall be for Buyer's account and Buyer agrees to pay Seller the amount of any 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 productions, 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 the 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 8(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 (1½%) per month or the maximum percentage rate permitted by law, whichever is lower. Buyer shall reimburse Seller for all of Seller's costs and expenses, including reasonable attorneys' fees, incurred in connection with collecting overdue accounts.
- (e) Buyer is not entitled to suspend or withhold payment of any sums (or parts thereof) due to Seller by reason of set off, counter claim or any other reason whatsoever. All amounts owing to Seller shall be paid in full on or before the applicable due date.

5. **DEFAULT.** If either party is in default with respect to any of these Terms and Conditions, including, without limitation, Buyer's failure to pay any invoice in accordance herewith, the other party, at its option, may defer further performance until such default is remedied, and without prejudice to any other legal remedy, may terminate this contract if such default is not remedied within thirty (30) days after written notice, specifying the thing or matter in default, is provided to the defaulting party.

6. **SELLER'S WARRANTY.**

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<sup>2</sup> *Supra*, note 1.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

- (a) In addition to any warranty provided on the Product label, Seller warrants that (i) it has title to the Products, (ii) the Products conform to Seller's published specifications with respect to the Products in effect at time of manufacture and (iii) the Products will be delivered free of the rightful claim of any third person for infringement of any U.S. patent covering the Products ("**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, COURSE OF DEALING OR USAGE OF TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Certification of 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 U.S. Magnuson-Moss Warranty Act or any equivalent legislation in Canada. If 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, THE REPLACEMENT BY SELLER OF ANY NONCONFORMING PRODUCT FOR WHICH A CLAIM IS MADE BY BUYER IN ACCORDANCE WITH SECTION 6(d) BELOW, OR 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 AND 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 delivery of such Product. 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 incorporated 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 contained in these Terms and Conditions. Furthermore, with respect to any separate and distinct product produced by Buyer into which a Product is incorporated (a "**Buyer Product**"), PPG hereby disclaims any and all liability and makes no warranty of any kind with respect to any such Buyer Product. Buyer hereby agrees to indemnify, defend and hold PPG harmless with respect to any and all third-party suits, claims, counterclaims, demands, judgments or other actions relating to any Buyer Product.
- (f) Seller's Warranty does not apply to any Products identified by Seller as obsolete or substandard, which are sold "as is, where is".
- (g) 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 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.

- (h) Seller does not warrant against patent infringement by, and assumes no responsibility by reason of, the use of the Products in any Buyer Product or any use of the Products in combination with other materials or apparatus or in the operation of any process or apparatus. Seller disclaims any warranty against patent infringement to the extent that the Products are supplied according to Buyer's design or specifications. Purchase of the Products does not grant immunity to Buyer under any of Seller's patents relating to the use of the Products Buyer Products or in combination with other materials or apparatus or in the operation of any process or apparatus.
- (i) If a suit or proceeding is brought against Buyer for patent infringement covered by Seller's Warranty, Buyer shall notify Seller promptly, in writing, of the commencement of such suit or proceeding. Seller, at its option, may defend such suit or proceeding in Buyer's name and Buyer agrees to provide Seller with all reasonable assistance for the defense or settlement of the suit or proceeding. Buyer shall not settle or compromise any such suit or proceeding without the prior written consent of Seller.

7. **TECHNICAL ADVICE AND ASSISTANCE.**

- (a) Buyer acknowledges that in any contract for the sale and purchase of the Product(s) which calls for the attendance at the place of application or any other location by Seller's technical service representative, such attendance is solely for the purpose of observing and/or consulting on application of the Product(s) and to provide on-site technical advice. Buyer shall be solely responsible for applying the Product(s), executing any other work related to the Product(s) and for quality assurance with respect to application of the Product(s). Seller gives no warranty or undertaking and accepts no liability with respect to any such technical advice or assistance unless Seller has expressly agreed in writing to the contrary. Buyer shall at all times compensate, hold harmless and indemnify Seller and its affiliated companies against any and all claims resulting from the provision of such technical advice or assistance.
- (b) 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 6 OF THESE TERMS AND CONDITIONS. Any agreement between Buyer and Seller concerning advice or assistance given to Buyer by Seller for a separate fee shall be contained only in a separate written agreement between Buyer and Seller.
- (c) The characteristics or attributes of any Products are contained only within the current version of the written information relating to each particular Product. Any verbal advice rendered to the contrary shall not be binding on Seller.

8. **FORCE MAJEURE.** Seller's failure or inability to make, or Buyer's failure or inability to take, any delivery or deliveries when due, or the failure or inability of either party to timely perform of any other obligation required of it under these Terms and Conditions, other than the payment of money, if caused by "Force Majeure", as defined below, shall not constitute a default under these Terms and Conditions or subject the party affected by Force Majeure to any liability to the other; provided that the party so affected promptly notifies the other of the existence of the Force Majeure, its expected duration and the anticipated effect of the Force Majeure on its ability to perform its obligations under this Agreement. The party affected by the Force Majeure shall promptly notify the other party when the Force Majeure circumstance no longer affects its ability to perform its obligations under these Terms and Conditions. The quantity of Product to be delivered shall be reduced by that quantity not delivered as a result of the Force Majeure circumstance unless Buyer and Seller agree that the total quantity to be delivered under this Agreement should remain unchanged. For so long as Seller's ability to perform is affected by the Force Majeure circumstances: (a) Seller may, at its option, elect to allocate its total production of such Products among its various requirements for the Products (e.g., manufacturing and sales) in a manner that Seller considers practicable and which, in Seller's opinion, is fair and reasonable; and, (b) Buyer may obtain the quantities of Product which Seller is unable to deliver from another source without any obligation to Seller. During the time that Seller is unable to make deliveries or otherwise perform, it shall not be obligated to procure, or to use its best efforts to procure, any quantity of Products sold to Buyer under this Agreement from any alternate producer or supplier. As used in herein "**Force Majeure**" means any act of God, nature or the public enemy, accident, explosion, flood, drought,

perils of the sea, strikes, lockouts, labor disputes, riots, sabotage, embargo, war (whether or not declared and whether or not the United States or Canada is a participant), federal, provincial, state or municipal legal restriction or limitation or compliance with such restriction/limitation, failure or delay of transportation, shortage of, or inability to obtain, raw materials, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance of a similar or different nature which is beyond the reasonable control of the party claiming Force Majeure. A party is not required to resolve labor disputes or disputes with suppliers of raw materials, supplies, equipment, fuel or power, or seek alternate sources thereof except to the extent that the party considers this to be in its best interest. If a Force Majeure circumstance affects either party's performance for at least ninety (90) consecutive days, the party who is able to perform may terminate the agreement to which these Terms and Conditions apply upon written notice to the affected party.

9. **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 of these Terms and Conditions;
  - (ii) Buyer exceeds its credit limit with Seller or any of its associated companies;
  - (iii) Buyer is overdue by more than thirty (30) days with any payments due and owing to Seller under this or any other contract;
  - (iv) Buyer suspends payments to its creditors or in respect of its commercial obligations;
  - (v) Buyer makes an assignment for the benefit of its creditors, becomes bankrupt or insolvent or if a receiver takes possession of any material part of Buyer's assets, or Buyer suffers any foreign equivalent of the foregoing;
  - (vi) Buyer ceases to do business and/or discontinues the business lines in which the Product(s) are utilized; or
  - (iii) Reasonable grounds for insecurity arise with respect to the performance by Buyer of its obligations to Seller hereunder, and Seller so notifies Buyer.
- (b) If Buyer provides Seller with security for the Product price, reasonably acceptable to Seller, within three (3) working days after a notice has been given to Seller under Section 9(a)(iii) above, Seller shall withdraw the notice.

10. **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.

11. **INDEMNIFICATION.** Buyer will indemnify, defend and hold harmless Seller, its officers, directors, employees, agents and representatives from and against all losses, damages, liabilities, costs, and expenses including, but not limited to, property damage, loss of profits or revenue, loss of use of any property, cost of capital, cost of purchased or replacement power or temporary equipment, personal or bodily injury, or death (collectively, "**Losses**"), that may arise pursuant to or in connection with the Products, regardless of whether such Losses are suffered directly by Buyer or arise pursuant to or in connection with a third-party suit, claim, counterclaim, demand, judgment or other action (each a "**Claim**"), except and only to the extent caused by the negligence or intentional misconduct of Seller as determined by a court of competent jurisdiction after exhaustion of all applicable appeals. Without limitation, this indemnification obligation requires Buyer to pay any judgments against Seller or any other indemnified party resulting from any Claim, any court costs of Seller or any other indemnified party in connection with any Claim, and any reasonable attorneys' fees and disbursements incurred by Seller or any other indemnified party in Seller's defense of any Claim. Seller will have the sole and exclusive right to conduct the defense of any Claim at Buyer's sole and exclusive cost and expense. Buyer's indemnification obligation does not depend on the truth of any allegations made against Seller, Buyer or any third party.

12. **HEALTH AND SAFETY.** Seller is committed to the principles set forth in the Responsible Care® initiative developed by and for members of the American Chemistry Council of the U.S.A. The goal of the initiative is to minimize adverse effects from chemical products on human health and the environment through adherence to safe and environmentally sound management practices. Seller has developed corporate guidelines to address these issues. Seller and Buyer agree to work together towards the goal of safe storage, handling, distribution, use and disposal of the Product. Seller and Buyer agree that they and their employees, agents and contractors will handle the Product in a safe and appropriate manner. Seller and Buyer will adequately train all of their employees, agents and contractors with respect to the use and handling of the Product, and Buyer promptly will notify Seller in the event of any reportable spills or releases of the Product. 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. 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.
13. **COMPLIANCE WITH LAW.** Products manufactured by Seller are produced in compliance with the requirements of the U.S. Fair Labor Standards Act of 1938 and Canadian equivalents as amended. Seller has complied with the conditions required by all Executive Orders and laws concerning "Non-Discrimination in Employment" and equal employment opportunity obligations.
14. **EXPORT CONTROLS:** Buyer and Seller acknowledge that they, as well as the Products, services, and technology (collectively, "**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 (collectively, "**Export Controls**"), as well as Seller's export policies, controls, and procedures as communicated to Buyer in writing by Seller ("**Seller's Export Compliance Requirements**"). Buyer agrees to (a) comply with Export Controls; (b) comply with Buyer's obligations under Seller's Export Compliance Requirements; and (c) 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 transactions governed by these Terms and Conditions. Buyer shall 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**"). Buyer may also report to the COO any suspected or actual violations of Seller's Export Compliance Requirements and Seller's Global Code of Ethics ("**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). Information on all three options is available at www.ppg.com. Both the Hotline and online reporting system are reviewed by Seller's CCO. It is against Seller's policy to retaliate against anyone for making a good faith report of a violation of the law, Seller's export compliance policies, or Seller's Code. Seller shall maintain the confidentiality and anonymity of such reports to the extent allowed by law. If Buyer fails to comply with Export Controls or Seller's Export Compliance Requirements, Seller reserves the right to take appropriate action, including terminating any agreement to which these Terms and Conditions apply. In addition, and notwithstanding any other provision of these Terms and Conditions, Buyer agrees to indemnify, defend, and hold harmless Seller, its officers, employees, agents, and representatives, from and against any and all claims, demands, suits, causes of action, expenses (including reasonable attorneys' fees), damages, losses or liabilities of any nature whatsoever, arising from, or allegedly arising from or related to, Buyer's failure to adhere to Export Controls, Seller's Export Compliance Requirements or this Agreement. The provisions of this Section 14 are in addition to any other provisions of these terms and Conditions related to compliance with any laws or regulations. To the extent that this Section 14 is inconsistent with any other provision of these Terms and Conditions or any other agreement to which these Terms and Conditions apply, the provisions of this Section 14 shall supersede any such inconsistent provision.
15. **DISPUTE RESOLUTION.** Except to the extent of a claim to enforce intellectual property rights, confidentiality obligations or to collect on a delinquent account, and as a precondition to instituting any legal action, the parties must attempt in good faith to resolve the dispute by mediation according to the then current

rules of the ADR Institute of Canada, Inc. with respect to the mediation of commercial disputes, or such other similar procedures as agreed to by the parties.

16. **MISCELLANEOUS.**

- (a) If any of these 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.
- (b) Nothing in these Terms and Conditions shall obligate Seller to sell any products to Buyer on any terms whatsoever, including cash in advance.
- (c) 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 the Buyer.
- (d) These Terms and Conditions shall be governed by and construed in accordance with the substantive laws (other than the conflict of law provisions and principles) of the Province of Ontario and the applicable federal laws of Canada. The UN Convention on contracts for the international sale of goods (Vienna, 11 April 1980 and any successor thereto) is expressly excluded. Any litigation with respect to these Terms and Conditions shall be commenced only in a court located within the province of Ontario and each party hereby submits to the jurisdiction of the court in which such litigation is commenced.
- (e) The failure of Seller in any one or more instances to insist on performance of any of the provisions hereof, or any part thereof, shall not be construed to be a waiver of such provision, or any part thereof in the future.
- (f) This Agreement, its performance, any interest herein or in any monies due or to become due herein, may not be assigned or subcontracted by Buyer without the prior written consent of Seller

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