

REMITTER AGREEMENT

IMPORTANT - READ CAREFULLY: THIS REMITTER AGREEMENT (“Agreement”) IS A LEGAL AGREEMENT WITH PAINTCARE INC. (“PaintCare”) AND IT GOVERNS PARTICIPATION IN AND REMITTANCES THROUGH THE PAINT STEWARDSHIP PROGRAM FOR WHICH PAINTCARE HAS AGREED TO SERVE AS A STEWARD IN VARIOUS U.S. STATES (with such program described further at www.paintcare.org and referenced generally herein as the “Program”). ENTITIES SUBJECT TO THIS AGREEMENT WITH PAINTCARE SHALL BE REFERENCED HEREIN AS A “Party(s)” (GENERALLY) OR AS A “Remitter(s)” OR “Participant” (AS APPLICABLE). PARTY ACKNOWLEDGES AND AGREES THAT THE GENERAL PURPOSE OF THIS AGREEMENT WITH PAINTCARE IS TO SET FORTH THE TERMS AND CONDITIONS UNDER WHICH A PARTY WILL FULFILL THE RESPECTIVE RESPONSIBILITIES OF A REMITTER OR PARTICIPANT, SUCH AS, WITHOUT LIMITATION, APPLICABLE REPORTING OR FEE OBLIGATIONS. PAINTCARE IS WILLING TO ALLOW A PARTY TO PARTICIPATE IN THE PROGRAM AND TO SUBMIT REMITTANCES (OR RELATED REPORTS) ONLY ON THE CONDITION THAT SUCH PARTY ACCEPT AND AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT. BY CLICKING THE “I ACCEPT” ICON BELOW, OR BY ACCESSING, DOWNLOADING, COPYING, OR OTHERWISE USING A PAINTCARE PORTAL OR WEBSITE (“Website”) IN ORDER TO PARTICIPATE IN THE PROGRAM OR INITIATE REMITTANCES OR SUBMIT RELATED REPORTS (OR INFORMATION), A PARTY AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

1. **Definitions.** For the purposes of this Agreement and in addition to the other defined terms set forth in this Agreement, the following terms shall have the meanings indicated below:
 - 1.1. **“Architectural Paint Stewardship Assessment”** means the amount added to the purchase price of architectural paint sold in the State necessary to cover the cost of collecting, transporting and processing the post-consumer architectural paint managed through a statewide architectural paint stewardship program.
 - 1.2. **“Assessment Fees”** means the amount added to the purchase price of Program Product sold in an applicable State in order to cover the cost of collecting, transporting and processing the post-consumer-use Program Product managed through an applicable Program Plan
 - 1.3. **“Data Period”** means each calendar month commencing from the Program Start Date and continuing until this Agreement is terminated.
 - 1.4. **“Participant”** means a person or entity that manufactures architectural paint that is sold or offered for sale in the applicable States.
 - 1.5. **“Parties(y)”** means, for the purposes of and with respect to identifying the parties to this Agreement, PaintCare and Party (whether Party is fulfilling the responsibilities of a Participant or a Remitter).
 - 1.6. **“Program Product”** means the architectural paint included in the Program, and which shall mean and include interior and exterior architectural coatings sold in containers of five gallons or less, but which shall exclude industrial, original equipment, or specialty coatings. Any further details shall be as set forth in the Program Plan.
 - 1.7. **“Program Plan”** means the plan filed by PaintCare with the applicable State authority as required under the applicable State law.
 - 1.8. **“Program Start Date”** means the date that is the number of days after Program Plan approval as specified by the applicable State authority or such other date as PaintCare shall determine.

- 1.9. “Remitter”** means either a Participant or another entity or person that agrees take on the obligation to remit the applicable Assessment Fee(s) for and on behalf of the Participant.
- 1.10. “Remitter Fees”** means all fees payable by a Remitter to PaintCare pursuant to this Agreement at the then-current applicable Architectural Paint Stewardship Assessment rates. Please visit www.paintcarereporting.org for current rates, which are subject to change by PaintCare upon at least ninety (90) days’ prior written notice.
- 1.11. “Remitter Report”** means a report prepared by a Remitter containing the required sales quantity information requested by PaintCare and/or required by applicable State law and which such report is to be based, in part, upon information provided to Remitter by a Participant and further filed with PaintCare. Please visit www.paintcarereporting.org for current reporting requirements, which are subject to change by PaintCare upon at least ninety (90) days’ prior written notice. Each Remitter Report shall be with respect to the Program Products which were manufactured by the applicable Participant and that were then sold by the Remitter in the applicable State during the Data Period.
- 1.12. “State(s)”** means Oregon, California, Connecticut, Vermont, Rhode Island, Minnesota, Colorado, Maine and the District of Columbia, and such other States that may implement, from time to time during the term of this Agreement, the Program and for which PaintCare is an approved stewardship organization from the Program.
- 1.13. “Supplied”** means sold, leased, transferred the possession or title of, or otherwise distributed for sale in the applicable State.

2. General Party Obligations. This Agreement applies to the named entity on the account associated with access, participation, or remittances by Party. Party covenants that the person agreeing to this Agreement on behalf of such Party, is at least eighteen (18) years of age (or the legal age of majority (whichever is greater)) and will, at all times, provide true, accurate, current, and complete information when submitting information or materials on the Website, as a part of the Program, or to PaintCare. Party agrees that it shall be responsible and liable for its own reports, payment obligations, data, business rules, and requirements as well as any acts or omissions of its designated employee(s) (with Party and its designated employee(s) referenced herein as the “Authorized User(s)”). Party also acknowledges that PaintCare has the authority to establish policies, procedures, and rules for the administration and enforcement of the Program, and Party agrees to be bound by all such policies, procedures, and rules. In addition, participation in the Program requires that when Party is fulfilling the responsibilities of a Participant, such Party hereby agrees and consents to the filing of associated Remitter Reports and the payment of Remitter Fees on behalf of and for the account of such Participant. A Party fulfilling the responsibilities of a Remitter acknowledges and agrees that the Participant shall be relieved of reporting Program Products to PaintCare and paying Assessment Fees to PaintCare on Program Products only as long as a Remitter carries out its obligations under this Agreement.

3. Fee Obligations for Party as a Participant or Remitter.

3.1. Participants. A Party fulfilling the responsibilities of a Participant agrees to pay all Assessment Fees in a timely manner. A Party fulfilling the responsibilities of a Participant acknowledges and agrees that the Assessment Fees may be changed from time to time in the absolute discretion of PaintCare, provided that the Participant shall receive ninety (90) days’ notice before such change takes effect. The Assessment Fees are payable to PaintCare on any sale of Program Products to any person in any State(s) in which Participant has elected to register for participation in the Program unless agreed that such Assessment Fees are to be paid instead by a Party fulfilling the responsibilities of a Remitter. If Remitter fails to pay Assessment Fees by the dates such payments are due, Participant shall pay such undisputed Participant Fees within thirty (30) days from written demand by PaintCare.

3.2. Remitters. A Party fulfilling the responsibilities of a Remitter agrees to pay all Remitter Fees in a timely manner. If Remitter fails to pay Remitter Fees by the dates such payments are due, Remitter shall pay such undisputed Remitter Fees within thirty (30) days from written demand by PaintCare. If the amounts reported in a Remitter Report are inaccurate, any deficiency resulting from such inaccuracies shall be due and payable within thirty (30) days from the date on which the filing of the original Remitter Report was due.

4. Record Requirements for Party.

4.1. General. Party shall submit to PaintCare the following information, which Party acknowledges and agrees may be separately shared by PaintCare with an applicable Participant(s) or Remitter(s) (as the case may be): (a) The legal name, as applicable, of the Participant and Remitter and such other contact information requested by PaintCare; and (b) when Party is fulfilling the responsibilities of a Participant, a list of all Program Products for which Remitter is reporting on behalf of the Participant.

4.2. Participants. A Party fulfilling the responsibilities of either a Participant or a Remitter shall maintain and keep accurate records of all Program Products Supplied by it during the term of this Agreement in such form and fashion as to allow for a confirmation of the monies paid or due and payable by the Participant or Remitter to PaintCare under this Agreement and the date when such payments were in fact due. Participant or Remitter shall allow PaintCare or its designee to access and inspect such records in order to confirm completeness or accuracy of the information submitted to PaintCare upon PaintCare's reasonable request. In addition, a Party fulfilling the responsibilities of a Participant or Remitter shall, upon the Effective Date and continuously throughout the term of this Agreement, provide to PaintCare in writing and within applicable time requirements, the identity of the then-current Program Products and, from time to time, any new Program Products. Unless otherwise expressly agreed upon by PaintCare, a Party fulfilling the responsibilities of a Participant or Remitter shall also in a timely manner as required by the applicable State law or this Agreement, identify the Program Products that a Participant has sold to Remitter, or which have been sold to a Remitter by a Participant, that are subject to the Act and this Agreement. In addition, PaintCare or Participant (or a Remitter) shall in a timely manner as required by applicable State law or this Agreement identify the architectural paint stewardship assessment amount so that the Remitter Fees can be accurately calculated. A Party fulfilling the responsibilities of Participant or Remitter acknowledges that the foregoing information may be separately shared by PaintCare with an applicable Participant or Remitter(s) (as the case may be) as necessary for the purposes of the Program.

4.3. Remitters.

4.3.1. A Party, when fulfilling the responsibilities of a Remitter, shall file applicable reports to the Program relating to paint sales and remittance fees for which the applicable Participant would otherwise report and remit.

4.3.2. Remitter shall file Remitter Reports with PaintCare online at www.paintcarereporting.org (or such other address designated by PaintCare). The initial Remitter Report shall include all Program Products sold by Remitter in the applicable State, including all Program Products Supplied to Remitter by Participant, during the first Data Period after the Effective Date of this Agreement. Thereafter, Remitter shall file a monthly Remitter Report for all such Program Products Supplied during each subsequent Data Period. Remitter Reports for each Data Period shall be filed by the end of the calendar month following the Data Period to which it refers.

4.3.3. Notwithstanding the foregoing, when subject to a separate and prior written agreement among the applicable Participant, Remitter, and PaintCare, a Remitter may file a Remitter Report for less than all of the Program Products Supplied by the Participant to Remitter in a Data Period, provided that such Participant files a Participant's Report for the remaining (and missing)

Program Products for such Data Period within one (1) calendar month following the Data Period to which it refers.

4.3.4.A Party fulfilling the responsibilities of a Remitter shall promptly provide to PaintCare all sales information reported in a Remitter Report with respect to the Program Products manufactured by the Participant, including calculation methodology and Program Products included in the aggregate quantities reported, used by Remitter in the preparation of the Remitter Report upon request from PaintCare or the Participant. Each Party fulfilling the responsibilities of Remitter acknowledges that the foregoing information may be separately shared by PaintCare with an applicable Participant(s) (as the case may be) as necessary for the purposes of the Program. Remitter shall retain or make available to PaintCare such information, data showing architectural coating skus and units sold in PaintCare states in the United States to substantiate and verify the amount set out in any Remitter Report for a period of not less than three (3) years from the date of the Remitter Report to which they relate. Remitter shall grant access to PaintCare upon its request to examine the relevant books and records to enable PaintCare or the applicable Participant, as the case may be, to audit and inspect such records respecting a Remitter Report up to five (5) years after the date of receipt of such Remitter Report by PaintCare.

4.3.5.A Party fulfilling the responsibilities of a Remitter will pay all Remitter Fees in arrears to PaintCare at the time of filing its Remitter Report so that such Remitter Fees for the amount of Program Product included in such Remitter Report are received by PaintCare before the end of the Data Period. For greater clarity, Remitter and Participant shall jointly elect, and give notice thereof to PaintCare, that Remitter will pay Remitter Fees and file its Remitter Report based on the time the Program Products have been Supplied to a third party.

5. **Confidentiality.** As used herein, the term “**Confidential Information**” means non-public, confidential, or proprietary information about a party’s business, assets or operations deemed by such party to be of commercial or competitive value and not commonly known to others within such party’s industry and specifically includes, without limitation, the terms and conditions of this Agreement. Examples of Confidential Information include, without limitation, any information regarding a party’s marketing techniques, pricing, sales, product purchases, product evaluations, business prospects, customers, employees and relationships with vendors and suppliers. Confidential Information shall not include information which the receiving party demonstrates by documentary evidence: (i) was known to the public at the time of its disclosure, or becomes known to the public after the disclosure through no fault of the receiving party; (ii) as evidenced by prior written documentation, was rightfully in its possession prior to the time of the disclosure; (iii) as evidenced by prior written documentation, was developed by the receiving party independent of the disclosure by the disclosing party; or (iv) is required by law to be disclosed; provided that the receiving party gives the disclosing party prior written notice thereof and ensures that such information is disclosed only under conditions in which its confidentiality is maintained and so as to provide the disclosing party the opportunity to obtain such protective orders or other relief as may be available in the circumstances. PaintCare or Party may obtain or have access to Confidential Information of the other party. With respect to the Confidential Information of the other party, PaintCare and Party shall, and shall cause each of their respective employees, contractors, and agents to: (a) keep in confidence all such Confidential Information and limit the disclosure of such Confidential Information only to those individuals or entities who “need to know” such information for purposes of the performance of this Agreement or for participation in or operation of the Program; (b) not use any such Confidential Information for any purpose other than the performance of this Agreement; (c) not disclose any such Confidential Information to any third party unless such disclosure is necessary for performance of this Agreement or for participation in or operation of the Program and further, only when such disclosure is subject to an obligation of confidentiality meeting the requirements of this Agreement; and (d) return all such Confidential Information, including all tangible, electronic copies and analyses thereof, to the other party promptly upon termination of this Agreement or upon written request of the other party. The protection afforded by this Agreement to Confidential Information is not intended to limit, and does not limit, in any way any of the

protection provided to such Confidential Information under any applicable law. Subject to the foregoing, Party acknowledges and agrees that certain disclosures by PaintCare of information of Party to another Party (as a Remitter or Participant), which may constitute the Confidential Information of Party, will be a necessary part of participation in the Program and Party hereby acknowledges and agrees to such disclosures or information sharing. Party further acknowledges and agrees that the obligations of confidentiality as provided herein are in addition to and not in lieu of any existing confidentiality obligations contained in separate agreements between a Party fulfilling the responsibility of a Remitter or a Participant.

6. **Indemnification.** PaintCare and Party each hereby agree to defend, indemnify, and hold harmless the other party, and such other party's respective employees, agents, directors, officers, shareholders, attorneys, successors, and assigns, from and against all third-party claims and the associated losses, costs (including reasonable attorney's fees), damages, or demands (such claims and losses, costs, damages, or demands, collectively, "Claims") arising out of a breach by the other party of an express term or condition of this Agreement. Party shall further indemnify PaintCare from any Claims arising out of a failure by a Party to pay required fees or provide required reports pursuant to this Agreement and applicable State law in a timely manner. With respect to any Claim, PaintCare and Party shall use reasonable efforts to cooperate with the other party in defense of any Claim. Party further acknowledges and agrees that PaintCare reserves the exclusive right, in its sole discretion, to participate in any Claim for which indemnification is owed by Party and assumes for such Claims, at Party's sole expense or such other cost sharing arrangement agreeable to PaintCare, the control, defense, and/or settlement of any matter otherwise subject to such Claim or this indemnification obligation.
7. **Other Terms and Conditions.** Additional notices, terms, and conditions may apply to use of the Website or participation in the Program. Party agrees to abide by such other notices, terms, and conditions, as applicable. If there is a conflict between this Agreement and other notices, terms, and conditions posted to the Website, PaintCare shall resolve any conflict in good faith in its sole discretion but the latter terms shall generally control with respect to use of the Website or participation in the Program.
8. **Governing Law.** This Agreement has been made in and will be construed and enforced in accordance with the laws of the District of Columbia as applied to agreements entered into and completely performed in the District of Columbia. Party agrees to the personal jurisdiction by and venue in courts in the District of Columbia and waives any objection to such jurisdiction or venue.
9. **Dispute Resolution.** In the event a dispute arises out of or relating to this Agreement, Party and PaintCare agree to first make a good-faith effort to resolve such dispute themselves through designated representatives within thirty (30) days after written notice of the dispute was first given, or as otherwise agreed upon. Upon failing, Party and PaintCare further agree to engage in non-binding mediation with a mediator to be mutually agreed on by Party and PaintCare. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, which Party and PaintCare cannot settle informally or through mediation, shall be settled by arbitration in the District of Columbia, and administered by the American Arbitration Association in accordance with its then-existing Commercial Arbitration Rules (or the rules of another mutually acceptable impartial organization). The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The Parties consent to, and waive any right to object to, jurisdiction with respect to the resolution of disputes hereunder in the District of Columbia.
10. **Warranty and Representations.** Party represents and warrants that (a) it is authorized to enter into the Agreement and perform its obligations; (b) the signatory for Party is authorized to execute the Agreement on behalf of Party; (c) Party has all required permits, licenses, and other governmental authorizations and approvals to participate in the Program; and (c) the reports and data provided by Party to PaintCare in connection with the Agreement are accurate, to Party's knowledge, and provided to PaintCare with any necessary consent, right, permission, license, clearance, or authority (including any further reasonable proof thereof (if requested by PaintCare)) to permit PaintCare to use such reports and data in connection with the Agreement and the Program. PaintCare represents to Party that PaintCare has the full authority and right to enter into the Agreement.

- 11. Disclaimer.** EXCEPT FOR THE FOREGOING, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PAINTCARE MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE PROGRAM, AND EXPRESSLY DISCLAIMS (TO THE FULLEST EXTENT OF THE LAW) ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. BECAUSE THE PROGRAM IS BASED IN LARGE PART ON PARTY'S REPORTS AND DATA, THE ENTIRE RISK AS TO THE QUALITY AND RESULTS OF PARTICIPATING IN THE PROGRAM IS WITH PARTY. IF THIS DISCLAIMER OF WARRANTY IS HELD TO BE UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION IN ANY MANNER, THEN ALL EXPRESS AND/OR IMPLIED WARRANTIES MANDATED BY SUCH COURT SHALL BE LIMITED IN DURATION AND SCOPE TO THE MAXIMUM EXTENT OF THE LAW.
- 12. Limitation of Liability.** EXCEPT FOR BREACH OF THE CONFIDENTIALITY OBLIGATIONS OR INDEMNIFICATION OBLIGATIONS HEREIN, IN NO EVENT WILL PAINTCARE OR PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROGRAM OR THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EVEN IF PAINTCARE OR PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MOREOVER, TOTAL LIABILITY OF PAINTCARE FOR ANY REASON WHATSOEVER RELATED TO THE AGREEMENT OR A PARTY'S PARTICIPATION IN THE PROGRAM SHALL NOT EXCEED FIVE THOUSAND DOLLARS (\$5,000) (US).
- 13. Injunctive Relief.** Party acknowledges that any breach, threatened or actual, of this Agreement will cause irreparable injury to PaintCare, such injury would not be quantifiable in monetary damages, and PaintCare would not have an adequate remedy at law. Each Party therefore agrees that PaintCare shall be entitled, in addition to other available remedies, to seek and be awarded an injunction or other appropriate equitable relief from a court of competent jurisdiction restraining any breach, threatened or actual, of Party's obligations under any provision of this Agreement. Accordingly, Party hereby waives any requirement that PaintCare post any bond or other security in the event any injunctive or equitable relief is sought by or awarded to PaintCare to enforce any provision of this Agreement.
- 14. Term & Termination.** This Agreement will take effect at the moment Party, or any person acting or purporting to act on its behalf, certifies or assents to agreement with the terms and conditions of this Agreement or Party (or such person) submits remittance or related information through the Website in connection with the Program, whichever is earliest (the date this Agreement takes effect shall be referenced herein as the "Effective Date"). PaintCare may terminate this Agreement at any time for breach by Party of a term or condition of this Agreement or violation of any requirements, guidelines, or rules for the Program, including, without limitation, non-filing of Remitter Reports or non-payment of Remitter Fees. Prior to such termination, PaintCare shall give Party notice of such breach, which if related to payment shall include the method of calculation of fees owed to provide a basis for the breach for nonpayment. Party shall have a period of thirty (30) days in which to effect a cure to such default. If such default is not cured, then this Agreement shall terminate immediately without further notice. PaintCare will notify the appropriate State agency of all cancelled registrations under the Program. In addition to the foregoing, either Party or PaintCare may terminate this Agreement by giving notice to the other prior to the expiration of a Data Period, and the termination shall be effective on the expiration of the then-current Data Period.
- 15. Effect of Termination.** If this Agreement is terminated for any reason, Party fulfilling the responsibilities of a Remitter shall send a final Remitter Report to PaintCare for that were the responsibility of Remitter prior to termination of this Agreement, which would have been required to be reported in a subsequent Remitter Report. Such final Remitter Report shall be filed by the end of the calendar month after the Data Period in which the Agreement is terminated, and Party fulfilling the responsibilities of Remitter shall pay the required Remitter Fees to PaintCare at the time the Remitter Report is filed. Further, Party shall remain obligated to pay all Remitter Fees payable pursuant to such Remitter Report otherwise due and owing while this Agreement was in effect, *i.e.*, due

and payable up to the effective date of termination. Remitter shall not be liable for payment of any fees where the Producer has failed to identify their product as an architectural coating subject to the PaintCare fee. In addition, upon termination, Party must destroy or return to PaintCare all Program materials or other Confidential Information of PaintCare in Party's possession or control. The provisions concerning confidentiality, warranty disclaimer, limitations of liability, waiver and severability, entire agreement, injunctive relief, dispute resolution, and governing law will survive the termination of this Agreement for any reason.

- 16. Waiver & Severability.** Failure to insist on strict performance of any of the terms and conditions of this Agreement will not operate as a waiver of any subsequent default or failure of performance. No waiver by PaintCare of any right under this Agreement will be deemed to be either a waiver of any other right or provision or a waiver of that same right or provision at any other time. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and the liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most clearly matches the intent of the original provision and the remainder of this Agreement shall continue in effect.
- 17. Entire Agreement.** No joint venture, partnership, employment, affiliate, or agency relationship exists between Party and PaintCare as a result of this Agreement or participation in the Program. This Agreement represents the entire agreement between Party and PaintCare with respect to the subject matter herein, and supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between Party and PaintCare with respect to the Website. The rights and obligations of a Party may not be assigned, transferred, or delegated without the prior written consent of PaintCare. Please note that PaintCare reserves the right to add, modify, or delete any aspect, feature, or requirement of the Program from time to time.