

DUNN-EDWARDS CONSUMER ONLINE TERMS OF SALE (COTOS)



1. COVERED SALES.

- 1.1 **Covered Sales.** These Consumer Online Terms of Sale ("Consumer Online Terms of Sale" or "COTOS") govern all sales by Dunn-Edwards Corporation ("Dunn-Edwards," "us," or "we") of Products that are ordered by customers through Dunn-Edwards' website using the "Consumers shopping experience." All other sales of Products by Dunn-Edwards, including, without limitation, sales of Products that are effected at or through Dunn-Edwards Stores and sales of Products that are ordered through Dunn-Edwards' website using the "Professionals shopping experience," are governed by the Dunn-Edwards Terms of Sale ("TOS"). For purposes of these COTOS, "Customer" or "you" means a customer that purchases Products from Dunn-Edwards through a transaction that is governed by these COTOS.
- 1.2 **Controlling Agreement.** These COTOS shall have control over any conflicting terms in any Purchase Order or any other document or communication from Customer. Neither Dunn-Edwards' acknowledgment of a Purchase Order or other document or communication from Customer nor Dunn-Edwards' failure to object to conflicting terms in a Purchase Order or other Customer document shall be deemed an acceptance of any conflicting terms or a waiver of the provisions of these COTOS.
- 1.3 **TOU and Privacy Policy.** Customer shall be bound by Dunn-Edwards' Terms of Use (the "TOU") (found at <https://www.dunnedwards.com/about/terms-of-use>) and Privacy Policy (the "Privacy Policy") (found at <https://www.dunnedwards.com/about/privacy-policy>), in connection with any Customer access to or use of Dunn-Edwards' website; any transactions that Customer may conduct thereon, or any other matters covered by the TOU or Privacy Policy.

2. DEFINITIONS.

For purposes of these COTOS, the following terms (when capitalized) shall have the meanings indicated:

- 2.1 **"Accepted Order"** shall mean a Purchase Order that has been accepted by Dunn-Edwards' (i) acceptance of payment for the Products, or (ii) delivery or shipment of the Products to Customer.
- 2.2 **"Custom-Tinted Products"** shall mean all Products that are custom-tinted paint or primer.
- 2.3 **"Distributed Products"** shall mean all Products that are distributed by Dunn-Edwards, but not manufactured by Dunn-Edwards.
- 2.4 **"Dunn-Edwards Store"** shall mean any brick-and-mortar retail store operated by Dunn-Edwards under the Dunn-Edwards name.
- 2.5 **"Manufactured Products"** shall mean all Products that are manufactured by Dunn-Edwards.
- 2.6 **"Order Acceptance"** shall mean Dunn-Edwards' acceptance of payment for a Purchase Order for Products.
- 2.7 **"Products"** shall mean all products that are sold by Dunn-Edwards through Dunn-Edwards' website using the "Consumers shopping experience," including both Manufactured Products and Distributed Products.
- 2.8 **"Purchase Order"** shall mean a Customer order for Products.

3. ORDERING PROCEDURE.

Customer submits a Purchase Order for Products to Dunn-Edwards by clicking "Submit Order" for the Products in question on Dunn-Edwards' website. Dunn-Edwards accepts such order when it accepts Customer's payment for same.

4. ORDER CANCELLATION/MODIFICATION.

- 4.1 **Cancellation by Customer.** Customer shall have the right to cancel or modify any Purchase Order by re-entering the Purchase Order and canceling or modifying same on Dunn-Edwards' website at any time within two hours after submitting the Purchase Order. After the expiration of such two-hour window, Purchase Orders may not be cancelled or modified.
- 4.2 **Cancellation by Dunn-Edwards.** Dunn-Edwards may cancel any Purchase Order at any time, even if it has been accepted by Dunn-Edwards, if Dunn-Edwards believes that the Purchase Order violates applicable law, including any law that requires proof of identity or age in order to purchase a particular Product.

5. SHIPPING AND DELIVERY TERMS.

- 5.1 **Shipping and Delivery Terms.** All Products covered by any Accepted Order shall be shipped by Dunn-Edwards to the "ship to" location specified in the Purchase Order via common carrier. Any freight charges to be borne by Customer shall be assessed to and paid by Customer upon acceptance of Customer's Purchase Order.

5.2 Time of Delivery. Delivery shall be deemed complete, and title and risk of loss shall be deemed to pass from Dunn-Edwards to Customer, when the Products are dropped off by the common carrier at the "ship to" location specified in the Purchase Order. Dunn-Edwards shall endeavor to effect delivery of the Products within the time period specified at the time the Purchase Order was submitted. However, in no event shall Dunn-Edwards be liable to Customer for any damages that Customer may suffer due to Dunn-Edwards' failure to deliver any Products on a timely basis.

6. RETURNS.

6.1 Damaged Products. Any Products purchased by Customer from Dunn-Edwards (including, without limitation, Custom-Tinted Products) that are damaged at the time of their delivery to Customer ("Damaged Products") may be returned to Dunn-Edwards provided that the return meets the terms and conditions set forth in this Section 6.1. Damaged Products may be returned by the original Customer only, and all returns must be made within 30 days after the delivery of the Damaged Products in question to Customer. Returns may either be delivered to any Dunn-Edwards Store (in which case the return shall be deemed effective upon the date of delivery), or Customer may request that Dunn-Edwards send Customer a call tag whereby the Damaged Products will be picked up by a common carrier and shipped back to Dunn-Edwards at no charge to Customer (in which case the return shall be deemed effective upon the date of Customer's request for a call tag). Click here for a submittal form to request a call tag. The original proof of purchase and Customer ID acceptable to Dunn-Edwards are required for all returns that are made to a Dunn-Edwards Store. The full purchase price of any Damaged Products that are returned to Dunn-Edwards in conformity with the return policy stated in this Section 6.1 will be credited to Customer's credit card or other payment account within ___ days after Dunn-Edwards' receipt of the returned Damaged Products, or, upon Customer's request, Dunn-Edwards will ship replacement Products to Customer.

6.2 Undamaged Products. Except to the extent otherwise provided in Section 6.1 above, Custom-Tinted Products may not be returned to Dunn-Edwards. Any Products purchased by Customer from Dunn-Edwards (other than Custom-Tinted Products) that are undamaged at the time of their delivery to Customer ("Undamaged Products") may be returned to Dunn-Edwards provided that the return meets the terms and conditions set forth in this Section 6.2. Undamaged Products may be returned by the original Customer only, and all returns must be made within 30 days after the delivery of the Products in question to Customer. Returns may either be delivered to any Dunn-Edwards Store (in which case the return shall be deemed effective upon the date of delivery), or Customer may request that Dunn-Edwards send Customer a call tag whereby the Products will be picked up by a common carrier and shipped back to Dunn-Edwards at no charge to Customer (in which case the return shall be deemed effective upon the date of Customer's request for a call tag). Click here for a submittal form to request a call tag. All returned Undamaged Products must be in new, undamaged, unopened condition, including the original packaging. The original proof of purchase and Customer ID acceptable to Dunn-Edwards are required for all returns that are made to a Dunn-Edwards Store. The full purchase price of any Undamaged Products that are returned to Dunn-Edwards in conformity with the return policy stated in this Section 6.2 will be credited to Customer's credit card or other payment account within ___ days after Dunn-Edwards' receipt of the returned Products.

7. FORCE MAJEURE.

For purposes of these COTOS, "Force Majeure Events" shall mean: (i) inclement weather, earthquakes, fire, strikes or actions by labor unions, accidents, delays by carriers, shortages of materials or labor, and other delays or causes beyond Dunn-Edwards' reasonable control; or (ii) acts or omissions of Customer. Dunn-Edwards shall not be liable for any failure or delay in filling any Accepted Order to the extent that the failure or delay is due to a Force Majeure Event, or due to incomplete or inaccurate information being supplied in the Purchase Order (such as, for example, partial or incorrect addresses or Product descriptions).

8. PRICING.

The prices for all Products sold to Customer shall be the prices specified on the Consumers shopping experience portion of Dunn-Edwards' website at the time that Customer's Purchase Order is submitted. It is understood and agreed, in this connection, that Dunn-Edwards may change the prices specified on the Consumers shopping experience portion of Dunn-Edwards' website at any time and from time to time, without prior notice of any kind.

9. SALES TAX.

9.1 Sales Tax. Customer shall be charged sales tax on all Products purchased by Customer. Dunn-Edwards shall have the right to charge Customer for any sales tax owing with respect to any Products purchased by Customer that was not appropriately charged at the time of sale.

9.2 Net Prices. The Product prices listed on the Consumers shopping experience portion of Dunn-Edwards' website do not include sales tax; however, sales tax will be added before Customer's Purchase Order is submitted.

10. PAYMENT.

Dunn-Edwards accepts the credit cards and/or other forms of payment that are specified in the Consumers shopping experience portion of Dunn-Edwards' website.

11. DISPUTES.

Should Customer wish to dispute any Dunn-Edwards charge for any reason (such as incorrect pricing, incorrect Products, failure to deliver Products, etc.), Customer must notify Dunn-Edwards of the dispute in writing within 60 days of the date the Purchase Order is accepted. Customer's failure to notify Dunn-Edwards of the dispute in writing before the expiration of the 60-day period shall be deemed an acknowledgment by Customer that (i) the charge is correct, and (ii) Customer has received delivery of all Products that are covered by the charge.

12. STANDARD LIMITED WARRANTY AND EXCLUSIVE REMEDY.

12.1 Standard Limited Warranty. Standard Limited Warranty. Dunn-Edwards warrants that any Manufactured Products that are sold to Customer will, on the date of their delivery to Customer, (i) comply, within standard industry variances, with any printed specifications or descriptions that are set forth on the packaging materials or Product Information data that Dunn-Edwards provides for such Manufactured Products; (ii) be free of conditions that would cause the Manufactured Products (if they are paint products) to fail to form a solid, dry film that adheres soundly to a suitable, properly prepared substrate when applied as directed by Dunn-Edwards; and (iii) be merchantable and fit for the purposes for which they are intended. This warranty does not cover normal color fading, gloss loss, or chalking caused by exposure to sunlight, wind, or water; abrasion or burnishing due to scrubbing, traffic, or other wear and tear; cracking, chipping,

blistering, or peeling caused by structural expansion and contraction, settling, or other movement of building components, or by water intrusion; film degradation or discoloration due to mold or mildew; or damages resulting from improper substrate preparation or paint application, extraordinary or catastrophic events, or failure to perform recommended maintenance. Recommended maintenance of painted surfaces includes frequent periodic inspection (at least once every six months) and touch-up or repair as needed in order to maintain the integrity of painted surfaces over time. Specific recommended procedures include PDCA Industry Standards P8-04 ("Contracting Entity's Responsibility for Maintenance of Paints and Coatings," 2004 or most recent version), and any guidelines issued by the painting contractor on the project.

- 12.2 DISCLAIMER OF ADDITIONAL WARRANTIES.** EXCEPT AS SET FORTH IN SECTION 12.1 ABOVE AND SECTION 13 BELOW, DUNN-EDWARDS MAKES NO WARRANTIES WITH RESPECT TO ANY MANUFACTURED PRODUCTS. ALSO, DUNN-EDWARDS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY DISTRIBUTED PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. However, nothing contained in these COTOS shall limit or affect any claims that Customer might otherwise have against the manufacturers of any Distributed Products, whether under any limited warranties offered by such manufacturers or otherwise.
- 12.3 EXCLUSIVE REMEDY.** IN THE EVENT OF ANY BREACH OF EXPRESS OR IMPLIED WARRANTY BY DUNN-EDWARDS RELATING TO ANY MANUFACTURED PRODUCTS (OTHER THAN THE HOMEOWNER LIFETIME LIMITED WARRANTY SET FORTH IN SECTION 13 BELOW), DUNN-EDWARDS WILL REPAIR OR REPLACE THE DEFECTIVE PRODUCTS OR, IF AGREEABLE TO BOTH PARTIES, REFUND THE PURCHASE PRICE THEREOF. HOWEVER, CUSTOMER IS RESPONSIBLE FOR CHECKING THE TINT OF ALL PAINTS BEFORE APPLICATION, AND FOR VERIFYING THE PATTERN AND COLOR OF ALL WALL COVERINGS BEFORE HANGING. IN NO EVENT SHALL DUNN-EDWARDS BE LIABLE FOR REPAIRING, REPLACING, OR REFUNDING THE PURCHASE PRICE OF ANY MIS-TINTED PAINT OR MIS-PATTERNED WALL COVERING THAT HAS ALREADY BEEN APPLIED OR HUNG. THIS SECTION 12.3 SETS FORTH THE EXCLUSIVE REMEDY FOR ANY BREACH OF EXPRESS OR IMPLIED WARRANTY BY DUNN-EDWARDS (OTHER THAN THE HOMEOWNER LIFETIME LIMITED WARRANTY SET FORTH IN SECTION 13 BELOW). IN NO EVENT SHALL DUNN-EDWARDS BE LIABLE FOR LABOR, OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.
- 12.4 TERM OF WARRANTY.** ALL WARRANTIES OF DUNN-EDWARDS, WHETHER EXPRESS OR IMPLIED (OTHER THAN THE HOMEOWNER LIFETIME LIMITED WARRANTY SET FORTH IN SECTION 13 BELOW), COMMENCE ON THE DATE OF DELIVERY OF THE PRODUCTS IN QUESTION TO CUSTOMER, AND EXPIRE ONE YEAR LATER. DUNN-EDWARDS SHALL HAVE NO LIABILITY FOR BREACH OF ANY WARRANTY, EXPRESS OR IMPLIED (OTHER THAN THE HOMEOWNER LIFETIME LIMITED WARRANTY SET FORTH IN SECTION 13 BELOW), UNLESS DUNN-EDWARDS IS PROVIDED WITH WRITTEN NOTICE OF THE BREACH DURING THE APPLICABLE WARRANTY PERIOD. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.
- 12.5 How to Make a Warranty Claim.** To make a warranty claim under this Section 12, contact your Dunn-Edwards sales representative, or contact Sales Administration at Dunn-Edwards' corporate headquarters in Los Angeles, California at 1-888-337-2468.
- 12.6 Rights Under State Law.** The warranty under this Section 12 gives you specific legal rights, and you may also have other rights which vary from state to state.
- 12.7 Returns.** Nothing contained in this Section 12 shall limit or affect Customer's rights to return Products to Dunn-Edwards pursuant to the terms of Section 6 above.

13. HOMEOWNER LIFETIME LIMITED WARRANTY AND EXCLUSIVE REMEDY.

In addition to its standard warranty set forth in Section 12 above, Dunn-Edwards makes the special lifetime limited warranty that is set forth in this Section 13 available to eligible homeowner Customers.

- 13.1 Homeowner Lifetime Limited Warranty.** Dunn-Edwards warrants that its deluxe and ultra-premium primer and paint finish systems, when used in accordance with the label instructions, will not (i) crack, chip, blister, or peel from properly prepared surfaces, or (ii) wear down or weather to expose the underlying surface. This warranty is made to homeowner Customers only, and shall be effective for as long as you own your home. This warranty is not transferable. This warranty does not cover (a) normal color fading, gloss loss, or chalking caused by exposure to sunlight, wind, or water; (b) abrasion or burnishing due to scrubbing, traffic, or other wear and tear; (c) cracking, chipping, blistering, or peeling caused by structural expansion and contraction, settling, or other movement of building components, by excessive heat exposure, or by water intrusion; (d) film degradation or discoloration due to mold or mildew; or (e) damages resulting from improper surface preparation or coating application, extraordinary or catastrophic events, or failure to perform recommended maintenance. Recommended maintenance of painted surfaces includes frequent periodic inspection (at least once every six months), cleaning to remove dirt on exterior surfaces, and touch-up or repair as needed in order to maintain the integrity of painted surfaces over time. Specific recommended procedures are included in Dunn-Edwards' How to Paint Interior and Exterior Projects Brochures.
- 13.2 Deluxe and Ultra-premium Primer and Paint Finish Systems.** This warranty shall cover only "ultra-premium primer and paint finish systems," which in each case means an appropriate EXQUISITE[®], EVEREST[®], SUPREMA[®], EVERSHIELD[®], ARISTOSHIELD[®], or DECOGLO[®] paint applied over an appropriate Dunn-Edwards DURA[™] Interior/Exterior, Dunn-Edwards DURA+[™] Wood Primer, VINYLASTIC[®] Premium, EZ-PRIME[®] Premium, DECOPRIME[®] Wood Primer, EFF-STOP[®] Premium, SUPER-LOC[®] Premium, BLOC-FIL[™] Premium, INTER-KOTE[®] Premium, ULTRA-GRIP[®] Premium, BLOC-RUST[®] Premium, BLOCK-IT[®] Premium, or ULTRASHIELD[®] Galvanized Metal primer. EXQUISITE[®] and EVEREST[®] paint are self-priming on most surfaces, and shall also be deemed an "ultra-premium primer and paint finish system" when applied without a primer in accordance with label instructions.
- 13.3 Homeowner Customers.** This warranty is available to "homeowner Customers" only. For purposes of this warranty, "homeowner Customers" shall mean and include only (i) homeowner Customers who purchase deluxe and ultra-premium primer and paint finish systems from Dunn-Edwards and apply (or have a painting contractor apply) such systems to their homes, or (ii) homeowner Customers who retain a painting contractor to purchase deluxe and ultra-premium primer and paint finish systems from Dunn-Edwards and apply them to their homes, provided the painting contractor provides the homeowner Customer with appropriate proof of purchase.
- 13.4 EXCLUSIVE REMEDY.** IF ANY DELUXE AND ULTRA-PREMIUM PRIMER AND PAINT FINISH SYSTEMS FAILS TO PERFORM AS WARRANTED IN SECTION 13.1 ABOVE, THE HOMEOWNER CUSTOMER SHOULD RETURN ANY UNUSED PORTIONS OR ORIGINAL PACKAGING OF THE PRIMER AND PAINT TO A DUNN-EDWARDS STORE WITH PROOF OF PURCHASE AND YOU WILL RECEIVE, AS YOUR SOLE REMEDY UNDER THIS WARRANTY, YOUR CHOICE OF ADDITIONAL PRIMER AND/OR PAINT OF EQUAL OR LESSER VALUE OR A FULL REFUND. THIS WARRANTY EXCLUDES LABOR OR THE COST OF LABOR FOR THE APPLICATION OF ANY PRIMERS OR PAINTS AND EXCLUDES ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

13.5 How to Make a Warranty Claim. To make a warranty claim under this Section 13, contact a Customer Service representative at Dunn-Edwards' corporate headquarters in Los Angeles, California at 1-888-337-2468.

13.6 Rights Under State Law. The warranty under this Section 13 gives you specific legal rights, and you may also have other rights which vary from state to state.

14. GOVERNING LAW.

The laws of the State of California (U.S.A.), without regard to principles of conflicts of laws, shall govern these COTOS and any dispute that might arise between Customer and Dunn-Edwards.

15. DISPUTES; ARBITRATION.

15.1 Arbitration. Any controversy or claim arising out of or relating to these COTOS, or the breach thereof, or to any sale of Products by Dunn-Edwards to Customer, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules in the closest city with a population of over 100,000 to the location where the Products in question were delivered to Customer, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

15.2 NO CLASS ACTIONS. CUSTOMER MAY ONLY RESOLVE DISPUTES WITH DUNN-EDWARDS ON AN INDIVIDUAL BASIS, AND MAY NOT BRING A CLAIM AS A PLAINTIFF, CLASS REPRESENTATIVE, OR CLASS MEMBER IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. CUSTOMER ACKNOWLEDGES AND AGREES THAT CLASS ARBITRATIONS, CLASS ACTIONS, PRIVATE ATTORNEY GENERAL ACTIONS, AND CONSOLIDATION WITH OTHER ARBITRATIONS OR ACTIONS ARE NOT PERMITTED.

15.3 NO JURY TRIAL. BOTH DUNN-EDWARDS AND CUSTOMER WAIVE ANY RIGHTS THEY MIGHT OTHERWISE HAVE TO A JURY TRIAL.

15.4 Time for Bringing Claims. Any claim or cause of action by Customer that arises out of Customer's purchase or use of the Products, these COTOS, or the breach thereof, must be filed within one year after the date that such claim or cause of action arose, or else that claim or cause of action will be permanently barred.

16. REFERRALS; ADVICE FROM TECHNICAL SERVICE PERSONNEL.

From time to time, Dunn-Edwards, or one of Dunn-Edwards' customer service specialists online or in a Dunn-Edwards Store, may make a recommendation of, or a referral to, a painting applicator trained or experienced in applying the Products. In addition, Dunn-Edwards may make available technical service personnel (either online or in a Dunn-Edwards Store) to provide consultations and advice to Customer regarding the application and use of the Products. **CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY TECHNICAL OR OTHER ADVICE FURNISHED, OR RECOMMENDATIONS OR REFERRALS MADE, BY DUNN-EDWARDS OR ITS REPRESENTATIVES ARE PROVIDED WITHOUT CHARGE AND ON AN "AS IS" BASIS. DUNN-EDWARDS MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING ANY SUCH RECOMMENDATIONS, REFERRALS, CONSULTATIONS, OR ADVICE, AND ACCEPTS NO LIABILITY ARISING THEREFROM, NOTWITHSTANDING ANY REPRESENTATIONS MADE BY DUNN-EDWARDS OR ITS REPRESENTATIVES TO THE CONTRARY.**

17. PRODUCT MODIFICATIONS.

Except to the extent expressly stated in a written agreement entered into between Dunn-Edwards and Customer, all Products that are sold to Customer are sold for end-use by Customer and may not be resold, relabeled, or repackaged. Dunn-Edwards reserves the right to change the formulation or method of manufacture of the Products from time to time in its sole discretion, and will have no obligation to notify Customer before or after any such change in the Products.

18. COMMUNICATIONS AND NOTICES.

18.1 Phone Communications. Customer's telephone communications with Dunn-Edwards, including calls with Dunn-Edwards' customer service providers or independent contractors, are routinely monitored and/or recorded. Customer expressly consents, on behalf of Customer itself and other users of Customer's phone number, to being monitored or recorded. By providing Dunn-Edwards with a mobile or other phone number as part of Customer's online or in-person ordering or registration or during a service call, Customer expressly authorizes Dunn-Edwards to contact Customer regarding Customer's Purchase Order or account, for transactional/ non-telemarketing communications, via text message or telephone, including the use of prerecorded or auto-dialed calls, using that number.

18.2 Notices to Customer. Dunn-Edwards may provide notice to Customer under these COTOS by: (i) personal delivery, overnight courier, or first class, registered, or certified mail addressed to Customer at the address that appears on Customer's Purchase Order or is otherwise provided to Dunn-Edwards by Customer; or (ii) sending an email to Customer. Customer agrees that Dunn-Edwards may send emails to Customer using the e-mail address that Customer provided to Dunn-Edwards when placing Customer's Purchase Order for Products. Notices provided by personal delivery will be effective upon receipt by Customer. Notices provided by overnight courier will be effective one business day after they are sent. Notices provided by registered, certified, or first class mail will be effective three business days after they are sent. Notices sent by e-mail will be effective when Dunn-Edwards sends the e-mail. It is Customer's responsibility to keep Customer's e-mail address current. Dunn-Edwards assumes no responsibility for issues resulting from e-mail notification failures.

18.3 Notices to Dunn-Edwards. Customer may submit Purchase Orders to Dunn-Edwards in the manner provided in Section 3 of these COTOS. Customer may provide other notices to Dunn-Edwards under these COTOS by personal delivery, overnight courier, or registered or certified mail addressed to Dunn-Edwards Corporation, 6119 E. Washington Blvd. Commerce, CA, 90040, Attention: Marketing Department. Dunn-Edwards may update the address for notices to it by posting a notice on its website. Notices provided by personal delivery will be effective upon receipt by Dunn-Edwards. Notices provided by overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

19. INDEMNIFICATION.

After Customer receives delivery of a Product, Customer shall be solely responsible for the proper transportation, handling, exportation, storage, processing, alteration, use, application, and/or disposal of such Product. To the fullest extent permitted by applicable law, Customer agree to indemnify, defend, and hold Dunn-Edwards harmless from and against any and all actual, alleged, or threatened claims, liabilities, costs, and expenses (including attorneys' fees) arising out of or resulting from (i) any transportation, handling, exportation, storage, processing, alteration, use, application, and/or disposal of a Product by Customer and/or Customer's applicator; and (ii) any actual or alleged breach by Customer of, or any inaccuracy in, any representation, warranty, covenant, or undertaking made by Customer in these COTOS.

20. REGULATED PRODUCTS.

Customer acknowledge that (i) the Products are subject to various federal, state, territory, municipal, and local laws, rules, and regulations; and (ii) the Products are labeled for end-use within the jurisdiction where delivery is made. Customer may not export or otherwise ship the Products outside of such jurisdiction. The Products are intended for Customer's use only, and are not for resale.

21. COMPLIANCE WITH LAWS.

Customer agree to comply with all applicable laws, rules, and regulations, including, without limitation, all, laws, rules, and regulations in any way relating to Customer's purchase, ownership, transportation, receipt, handling, storage, processing, alteration, use, application, and disposal of the Products once the Products have been delivered to Customer.

22. REVISIONS TO CONSUMER ONLINE TERMS OF SALE.

Dunn-Edwards may at any time revise these COTOS by posting an updated version of these COTOS on Dunn-Edwards' website. The revised COTOS shall apply to all purchases of Products effected under Purchase Orders subject to these COTOS that are received by Dunn-Edwards after the date of the revisions. Customer should therefore check Dunn-Edwards' website periodically to ensure that Customer is aware of any changes in these COTOS.

23. MISCELLANEOUS.

- 23.1 Paint Volumes.** For paint Products sold by Dunn-Edwards, the listed Product size is the size of the Product container. The actual volume of the Product purchased may be smaller than the listed Product size to leave room in the container to add tint.
- 23.2 Government Contracts.** If any Products purchased by Customer are to be used in the performance of a government contract or subcontract, no government requirements or regulations will be binding on Dunn-Edwards unless specifically agreed to by Dunn-Edwards' authorized representative in writing.
- 23.3 Section Headings.** Section headings in these COTOS are included for convenience only, and shall not affect the interpretation hereof.
- 23.4 Severability.** If any provision of these COTOS is found to be contrary to law or for any reason unenforceable, then such provision shall be deemed severable and shall not affect the validity and enforceability of the remaining provisions, which shall remain in full force and effect.
- 23.5 Waivers.** Any alleged waiver of any breach of these COTOS shall not be deemed to be a waiver of any future breach. All waivers must be in writing signed by the party to be charged.
- 23.6 Assignment.** Customer may not assign any rights or delegate any obligations under these COTOS without Dunn-Edwards' prior written consent. At Dunn-Edwards' option, any purported assignment or delegation by Customer shall be null and void. Dunn-Edwards may assign or delegate any of its rights or obligations hereunder.
- 23.7 No Third-Party Beneficiaries.** Except to the extent otherwise provided in Section 13 hereof, these COTOS do not and are not intended to confer any rights or remedies upon any person other than the parties hereto.
- 23.8 Electronic Copies.** A printed version of these COTOS and/or of any notice given by Dunn-Edwards in electronic form shall be admissible in judicial, administrative, or arbitration proceedings based upon or relating to these COTOS or any sale of Products to Customer to the same extent and subject to the same conditions as other business documents and records originally generated and maintained by Dunn-Edwards in printed form.

24. SAFETY AND ENVIRONMENTAL NOTICES.

Dunn-Edwards hereby advises Customer of the following:

- 24.1 Safety Notice.** Before beginning any project that involves paint or other Products, please review carefully any information relating to such Products that is provided by Dunn-Edwards and/or the manufacturer of the Products, including, without limitation, information on paint cans or other packaging materials, and information included in Dunn-Edwards' Product Data Sheets and/or Safety Data Sheets (collectively, "Safety Information"). (Many of these materials are available on Dunn-Edwards' website.) Always observe all of the health and safety precautions included in the Safety Information, and follow all accepted safety procedures. When using paints or solvents, always provide proper ventilation and observe all other warnings. If you have any doubts or questions regarding any of these matters, please contact Dunn-Edwards.
- 24.2 Mold Notice.** Exposure to mold can have serious health consequences. Dunn-Edwards' paints and coatings can neither cause nor prevent or cure the growth of mold, mildew, or other forms of fungus. Excessive moisture and inadequate ventilation are the main conditions that promote their growth. Correct any such conditions before painting.

- 24.3 Lead and Asbestos Warning.** CAUTION: Scraping or sanding surfaces of older buildings (especially pre-1978) may release dust containing lead or asbestos. EXPOSURE TO LEAD OR ASBESTOS CAN BE VERY HAZARDOUS TO YOUR HEALTH. Always wear appropriate personal protective equipment during surface preparation, and finish cleanup of any residues by water-washing all surfaces. For more information, see Dunn-Edwards' brochure on "Surface Preparation Safety," or call the U.S. EPA National Lead Information Hotline at 1-800-424-LEAD, or log on to www.epa.gov/lead or [/asbestos](http://www.epa.gov/asbestos), or contact your state or local Health Department.
- 24.4 Customer Compliance.** Customer agrees (i) to familiarize himself or herself with all of the Safety Information (including, without limitation, the Safety Information referenced above in this Section 24) relating to the Products that Customer purchases from Dunn-Edwards; (ii) adopt and follow safe handling, storage, transportation, use, and disposal practices with respect to such Products, including, without limitation, special care and practices relating to Customer's use of such Products; (iii) instruct Customer's employees, independent contractors, agents, and customers of the precautions and safe use practices required in connection with the handling, storage, transportation, use, and disposal of such Products; and (iv) comply with all applicable safety and environmental laws and take any action necessary to avoid spills or other dangers to persons, property, or the environment. In the event that Products purchased by Customer are intended for professional use only, Customer represents and warrants to Dunn-Edwards that Customer is a professional user experienced and knowledgeable regarding how to properly and safely handle, store, transport, use, and dispose of such Products.