

# Charter Agreement

by and between

**Painting & Decorating Contractors of America, Inc.**

and

**Painting & Decorating Contractors of California, Inc.**

This Agreement is entered into as of this 22<sup>nd</sup> day of July, 2006, between the Painting & Decorating Contractors of America, Inc., an Illinois nonprofit corporation ("PDCA" or "National") and the Painting & Decorating Contractors of California, Inc., a California nonprofit corporation ("PDCC" or "Council" or "California Council") with respect to the following:

- A. PDCA is a national association of contractors engaged in the coating application industry, the purpose of which is to enhance the advancement of the coating application industry, to provide a conduit for communication between those involved in the coating application industry, to provide services to members that cannot be obtained in small groups or individually, to be the voice for the coating application industry and to promulgate an attitude of ethical responsibility in business.
- B. PDCC is an association of contractors engaged in the coating application industry within the State of California, the purpose of which is to assist contractors in becoming successful professionals in the paint industry by promoting high craftsmanship standards, sound business practices, and the free exchange of ideas.
- C. PDCA and PDCC wish for PDCC to serve as the California Council PDCA, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree:

**1. Charter.** PDCA grants to PDCC the exclusive charter to operate as the California Council PDCA in the geographical territory of the state of California.

The California Council shall have the right to establish Chapters within the State of California in accordance with any PDCA bylaws & policies for Chapters that may exist at that time.

This grant shall become effective as of the date of this Agreement and shall continue until suspended or terminated as provided below.

**2. Name.** PDCA licenses the use of its name to the California Council for the purpose of using the PDCA name in conformance with the terms and conditions of this Agreement, provided California Council shall adopt, continue to force and use as its own name the following: "California Council PDCA" and shall refer to itself as such in the conduct of its affairs. The California Council may refer to itself as "an affiliate of the Painting & Decorating Contractors of America, Inc." in its promotional materials without further consent of National. The license shall be effective as of the date of this Agreement and shall continue until it is suspended or terminated as provided below. In the event of suspension and/or termination of this Agreement, PDCC may continue the use of the PDCC name, but shall not claim affiliation of any kind with PDCA, and shall to the greatest extent possible avoid any inference or appearance of affiliation with National.

**3. Logo.** PDCA licenses the use of its logo to the California Council for the purpose of identifying itself in conformance with the terms and conditions of this Agreement. The license shall be effective as of the date of this Agreement and shall continue until it is suspended or terminated as provided below.

**4. PDCC Membership.** All active members of the California Council must be members in good standing of the National PDCA.

**5. Leadership.** Any and all California Council board or committee members must be PDCA members in good standing, except as provided.

**6. Standards.** The California Council shall conform its activities to the purposes of PDCA as expressed in the PDCA Bylaws, Policies, and Code of Ethics as amended from time to time, as established by the Board.

**7. Incorporation.** The Council shall be organized and operated as a separate, independent corporation with its own tax identification number. Neither party shall have the authority to direct or control the other except as specifically provided in this Agreement.

**8. Dues.** PDCA shall collect all dues for PDCA and the California Council, and disburse them in accordance with PDCA Bylaws, or as set fourth in an agreement with PDCA and Council. National dues shall be as determined by PDCA through its Board of Directors, with allocation of a uniform amount of dues to Council for National Members at Large. Council shall be solely responsible for establishing its own membership dues level.

**9. Insurance.** PDCA may, at its sole option, procure insurance in the following general coverage areas that will specifically name the Council as an insured: comprehensive general liability insurance or its equivalent and association professional liability insurance (directors and officers liability insurance) or its equivalent. The Council will be responsible for determining whether those policies, if any, are adequate for the Council's particular needs. Council may obtain other or additional insurance as it deems appropriate.

**10. Indemnification.** Each party shall defend, indemnify, and hold harmless the other party and its officers, directors, employees, or agents from any claims, losses, liabilities and costs including reasonable attorneys fees and cost of suit against any claim arising from breach of this agreement or from the negligence or willful misconduct of the indemnifying party, its agents and employees in the performance of its own activities. Other than as may be provided by law, neither party shall be accountable to the other for punitive or exemplary damages, or damages related to loss of goodwill, lost profits, emotional distress or the like.

**11. Programs, Activities and Materials.** The parties shall inform each other of significant programs and activities to be presented to members and others. Upon reasonable notice to and with consent of the Council, which shall not be unreasonably withheld, PDCA may present programs in the Council territory. PDCA and the Council shall exchange education and informational materials produced by each.

**12. Contracting.** Any legal agreements entered into on behalf of the Council should be approved by the Council Board and reflected in the Council minutes. Such agreements may in no way bind PDCA or any other PDCA Council. Contracts that involve the use of the PDCA name or logo must be submitted to PDCA for prior written approval which shall be granted or denied within seven (7) days of request.

**13. Tax Matters.** The Council is encouraged to adopt the same accounting year as that of PDCA. Council is solely responsible for preparation and filing of its own tax returns and other legal filings as required by law.

**14. General Provisions.** Neither party shall have the authority to bind the other except as specifically provided in this Agreement. No partnership, agency, or joint venture is created by this Agreement. Except as specifically provided for in this Agreement, neither party will be liable for the debts, obligations or liabilities of the other party and neither party shall have any rights in or to any property, assets or funds of the other.

**15. Suspension or Termination.** PDCA retains the right to suspend or terminate this Agreement and any of the benefits conferred under it to the Council based on a good faith determination by the PDCA Board of Directors that the Council has substantially breached any of the provisions of this Agreement or has or is taking actions prejudicial to the interests of PDCA. A Council may terminate this Agreement for any or no reason by a majority vote of its members voting in the election to terminate this Agreement.

**16. Review and Revisions.** This Agreement may be revised or amended only by a written document executed by both parties. This charter agreement will supersede any existing agreements, verbal, written or otherwise.

IN WITNESS WHEREOF, the parties have entered into this agreement as of the day and year first above written.

Painting & Decorating Contractors of America, Inc. (PDCA/National)

By: \_\_\_\_\_ Title: \_\_\_\_\_

Painting and Decorating Contractors of California, Inc., (PDCC/California Council)

By:  Title: Executive Director