

LICENSE AGREEMENT

AGREEMENT made and entered into this 28th day of February, 1959, by and between THE CANADA METALS COMPANY LTD. a corporation organized and existing under the laws of the Dominion of Canada, having a place of business at 721 Eastern Avenue, Toronto 8, Canada, (hereinafter called the "LICENSOR"), and THE CARTER WHITE LEAD COMPANY OF CANADA, LIMITED, a corporation organized and existing under the laws of Canada, having a place of business in the City of Montreal, Province of Quebec, Canada, (hereinafter called "CARTER"),

WITNESSETH:

WHEREAS, LICENSOR is the owner of application for Letters Patent of Canada, Serial Number 555,483, filed March 6, 1947, for "Modified Lead Sulfate Pigment and Process of Manufacture," and;

WHEREAS, CARTER is desirous of obtaining a license of the character hereinbelow set forth under said application for Letters Patent and all Letters Patent which may issue thereon and LICENSOR is willing to grant such license upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of these premises and of the payment by CARTER to LICENSOR of one dollar lawful money of the Dominion of Canada and of other good and valuable consideration, the receipt of which is hereby acknowledged by LICENSOR, the parties hereto have agreed as follows:

1. LICENSOR agrees to grant and hereby grants to CARTER, a non-exclusive, irrevocable, royalty-free license under application for Letters Patent of Canada, Serial Number 555,483, filed March 6, 1947, to make, use and sell modified lead sulfate pigments therein described and claimed and under all Letters Patent which may issue thereon for the full term of said Letters Patent.

2. CARTER agrees that should it develop any improvements patentable or unpatentable in respect of the modified lead sulfate pigments of said application for Letters Patent, No. 555,483, the same shall become the property of LICENSOR, but CARTER shall enjoy a royalty-free license with respect to such improvements. LICENSOR agrees to grant to CARTER a license of the same character and scope as herein granted CARTER under any improvements which it may develop in respect to modified lead sulfate pigments of said application for Letters Patent.

3. This agreement is binding upon and shall inure to the benefit of the parties hereto and the successors and assigns of the entire business of each of them but is otherwise not assignable.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed the day and year first above written.

THE CANADA METALS COMPANY LTD.

By *[Signature]*

ATTEST: *[Signature]*

THE CARTER WHITE LEAD COMPANY OF CANADA,
LIMITED

By *[Signature]*

ATTEST: *[Signature]*

MEMORANDUM OF AGREEMENT made in triplicate in
the City of Montreal, in the Province of Québec, Canada,
as of the 1st day of August, 1949,

BY AND BETWEEN: THE SHERWIN-WILLIAMS COMPANY OF
CANADA LIMITED, a body politic and
corporate, duly incorporated accord-
ing to the laws of Canada, having its
head office and principal place of
business in the City of Montreal in
the Province of Québec, Canada,
hereinafter referred to as "Sherwin-
Williams";

PARTY OF THE FIRST PART:

AND: CANADA METAL COMPANY LIMITED, a body
politic and corporate, duly incor-
porated according to the laws of
Canada, having its head office and
principal place of business in the
City of Toronto, in the Province of
Ontario, Canada, hereinafter referred
to as "Canada Metal";

PARTY OF THE SECOND PART:

AND: THE CARTER WHITE LEAD COMPANY OF
CANADA LIMITED, a body politic and
corporate, duly incorporated accord-
ing to the laws of Canada, having its
head office and principal place of
business in the City of Montreal, in
the Province of Québec, Canada, hereinafter referred to as "Carter";

PARTY OF THE THIRD PART.

WHEREAS by Memorandum of Agreement dated the
11th day of May, 1912, by and between The Sherwin-Williams
Company of Canada, Limited, as Party of the First Part, and
Edward J. Cornish and others therein named, as Parties of
the Second Part, it was provided among other things a
method of voting the shares of The Carter White Lead
Company of Canada, Limited, and the carrying on of the
operations of The Carter White Lead Company of Canada,
Limited, by the exercise of a preference afforded the shares
that were the subject of said Memorandum of Agreement

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dated May 11, 1912; and

WHEREAS Sherwin-Williams is the owner of a number of shares of Carter; and

WHEREAS Canada Metal, the owner of a number of shares of Carter, is a wholly-owned subsidiary of National Lead Company, a corporation of the State of New Jersey, in the United States of America; and

WHEREAS Canada Metal represents that it possesses and can make available to Carter the technical information, know-how and new developments of National Lead Company, and Sherwin-Williams possesses administrative and sales experience which it can make available to Carter; and

WHEREAS it appears desirable that the aforementioned Agreement of May 11, 1912, be terminated and that a new Agreement be entered into by and between the parties hereto.

W I T N E S S E T H:

THAT for the consideration and upon the terms hereinafter stated, the parties hereto, each for itself and not one for the other, mutually covenant and agree as follows:

1. The following expressions wherever used herein shall, unless the context otherwise requires, have the following meanings respectively, that is to say:-

- (a) "white lead" means high-tinting strength white lead;
- (b) "oxides" means litharge, red lead and orange mineral;
- (c) "45X" means the basic silicate white lead of the type produced by National Lead Company and marketed under the designation 45X;
- (d) "develop" or "development" means any improvement

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in the quality, modification or development of products above mentioned in (a), (b) and (c), including but without restricting the generality of the foregoing, any new formulae, mixtures, combinations or processes.

2. The Agreement dated May 11, 1912, by and between The Sherwin-Williams Company of Canada, Limited, and Edward J. Cornish and others, hereinbefore mentioned, is hereby terminated as of this date and the parties hereto undertake to cause a change to be made in By-law (a) of the By-laws of The Carter White Lead Company of Canada, Limited so as to eliminate the preference position of the shares of said Company owned by The Sherwin-Williams Company of Canada, Limited and by such action to afford each share of duly authorized and issued stock of Carter the same voting rights and privileges.

3. Canada Metal hereby gives and grants unto Carter a free right to manufacture under National Lead processes and to use and sell the products above mentioned in paragraph 1 and without limiting the generality of the foregoing:-

- (a) undertakes to furnish Carter with a free license to manufacture, use and sell under all Canadian patent applications and patents that may issue thereon together with all engineering data and information in connection therewith, respecting the manufacture of the products above mentioned in paragraph 1, including but without limiting the generality of the foregoing, engineering data and information respecting all machinery or equipment required for the purposes of such manufacture, which Canada Metal has acquired or may acquire from National Lead and which Carter may reasonably require, together with

all formulae and processes in Canada in respect to the aforementioned products;

- (b) undertakes, on being notified by Carter that it is in production of 45X in Canada, to assign or cause National Lead to assign unto Carter the 45X trademark in Canada, together with the business and goodwill thereof in Canada. At the termination of this Agreement, Carter agrees, upon demand from National Lead or Canada Metal, to reassign to National Lead or Canada Metal the 45X trademark in Canada, together with the business and goodwill thereof in Canada, subject to Carter's retaining a right to use said trademark in Canada.

4. Canada Metal undertakes and agrees to cooperate with Carter in the solution of such technical problems as may arise in connection with Carter's manufacture of the products mentioned in paragraph 1 hereof and to make available to Carter the services of such persons as Canada Metal may designate for the purposes of furnishing to Carter such engineering and technical data, information and services as Carter may reasonably request.

5. Carter, for and in consideration of the undertaking by Canada Metal hereinabove set forth in the immediately preceding paragraph 4, will issue and allot unto Canada Metal eight hundred and eighteen (818) shares of Carter, said allotment to be made after declaration of the dividend provided for in paragraph 7 hereof.

6. Canada Metal furthermore undertakes to disclose and furnish, or cause to be disclosed and furnished, to Carter all developments, modifications and new formulae of National Lead relating to the products mentioned in paragraph 1 hereof, which Carter may request.

7. The Directors of Carter shall, as of the 31st day of August, 1949, and prior to the issue of the aforementioned eight hundred and eighteen (818) shares of Carter to Canada Metal, declare a dividend to the full extent of the surplus of the Company available for the payment of dividends, provided, however, that, if and to the extent that the payment of such dividend involves a payment in cash, the shareholder or shareholders so receiving such cash dividend shall loan the amount so received back to Carter on open account with interest at the rate of three percent (3%) per annum to the extent that Carter may have, for the purposes of the payment of such dividend, borrowed money from any Bank or Banks.

8. Sherwin-Williams and Canada Metal shall undertake to exercise any and all voting rights pertaining to any of the shares of Carter for the election of four (4) Directors to be nominated by Sherwin-Williams and four (4) Directors to be nominated by Canada Metal, and Sherwin-Williams hereby undertakes, upon the request of Carter, to make available to Carter from Sherwin-Williams' personnel, as executive officers, such personnel as Carter and Sherwin-Williams may agree upon from time to time, subject, however, to the approval of the Board of Directors of Carter.

9. Neither Sherwin-Williams nor Canada Metal shall, during the term of this Agreement, or any renewal thereof, sell, transfer or otherwise dispose of any of the shares of Carter respectively registered in their names or held, owned or controlled by them (excepting for the purpose of qualifying Directors) without the consent of the other.

10. This Agreement shall continue in full force and effect for a period of twenty (20) years commencing with

the 1st day of September, 1949, and ending with the 31st day of August, 1969, and thereafter shall be renewed for successive periods of ten (10) years, unless Sherwin-Williams or Canada Metal or either of them shall have given to the other one (1) year's notice in writing prior to the 31st day of August, 1969, or the end of any renewal period thereafter, of its desire to terminate this Agreement, whereupon this said Agreement shall terminate on the said 31st day of August, 1969, or at the end of the renewal period, as the case may be, specified in the said notice.

11. Any and all requests, consents, approvals, nominations or notices to be given by any of the parties hereunder shall be deemed to have been properly given if reduced to writing, signed by the party so giving the same, enclosed in a sealed envelope and mailed by registered mail, postage prepaid, addressed to the party for whom the same is intended at the respective address of such party hereinafter indicated:-

The Sherwin-Williams Company of Canada Limited,
2575 Centre Street,
Montreal, Quebec.

Canada Metal Company Limited,
721 Eastern Avenue,
Toronto, Ontario.

The Carter White Lead Company of Canada Limited,
1295 Deloriaier Avenue,
Montreal, Quebec.

Any and all such requests, consents, approvals, nominations or notices so given shall be deemed to have been received by the addressee on the second day following the day on which it is so mailed.

12. This Agreement shall be interpreted in accordance with and governed by the laws of the Province.

of Quebec.

IN WITNESS WHEREOF the parties hereto have
executed and delivered these presents as of the time and
place and in the manner hereinbefore set forth in the
preamble hereof.

EXECUTED AND DELIVERED
in the presence of:

THE SHERWIN-WILLIAMS COMPANY
OF CANADA LIMITED

Witness.

By

Whittaker
President

CANADA METAL COMPANY LIMITED

Witness.

By

J A TAYLOR
President

THE CARTER WHITE LEAD COMPANY
OF CANADA LIMITED

Witness.

By

M. J. G. J. G.
Vice-President

C A N A D A
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

AFFIDAVIT OF EXECUTION

I, _____, residing and domiciled
at _____ in the City of Montreal, Province of
Quebec, being duly sworn do depose and say:-

1. THAT I was personally present and did
see Whittaker, the President of THE
SHERWIN-WILLIAMS COMPANY OF CANADA LIMITED
sign and execute the annexed Memorandum of
Agreement.
2. THAT I know the said party and he is
in fact the President of the said Company.
3. THAT the signature of
is the true signature of the said party.
4. THAT the signature "
attesting the signature hereinbefore mentioned
is the true signature of me, this deponent.

AND I HAVE SIGNED:

SWORN TO BEFORE ME at the
City of Montreal, Province
of Quebec, this _____ day
of September, 1949.

Commissioner of the Superior
Court for the District of
Montreal.

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C A N A D A

PROVINCE OF QUEBEC

DISTRICT OF MONTREAL

AFFIDAVIT OF EXECUTION

I, _____, residing and domiciled
at _____ in the City of Montreal, Province of
Quebec, being duly sworn do depose and say:-

1. THAT I was personally present and
did see *Jasayb* the President of
CANADA METAL COMPANY LIMITED sign and
execute the annexed Memorandum of Agreement.
2. THAT I know the said party and he is
in fact the President of the said Company.
3. THAT the signature of ""
is the true signature of the said party.
4. THAT the signature ""
attesting the signature hereinbefore men-
tioned is the true signature of, *sc.*, this
deponent.

AND I HAVE SIGNED:

SWORN TO BEFORE ME at the
City of Montreal, Province
of Quebec, this _____ day
of September, 1949.

Commissioner of the Superior
Court for the District of
Montreal.

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CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

AFFIDAVIT OF EXECUTION

I, *Richard J. Gauthier* residing and domiciled
at *77, Rue Saint-Jacques* in the City of Montreal, Province of
Quebec, being duly sworn do depose and say:-

1. THAT I was personally present and
did see *J. V. Gauthier*, the Vice-
President of THE CARTER WHITE LEAD
COMPANY OF CANADA LIMITED sign and execute
the annexed Memorandum of Agreement.
2. THAT I know the said party and he
is in fact the Vice-President of the
said Company.
3. THAT the signature of *J. V. Gauthier*
is the true signature of the said party.
4. THAT the signature *Richard J. Gauthier*
attesting the signature hereinbefore mentioned
is the true signature of me, this deponent.

AND I HAVE SIGNED:

Richard J. Gauthier
SWORN TO BEFORE ME at the
City of Montreal, Province
of Quebec, this day
of September, 1949.

Commissioner of the Superior
Court for the District of
Montreal.

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