

January 2009

PPG INDUSTRIES (UK) LIMITED (the "Seller") - CONDITIONS OF SALE

1. FORMATION OF CONTRACT

- 1.1 All quotations, offers and tenders are made and all orders are accepted subject to the following conditions. Except as otherwise provided in these conditions, all other terms, conditions or warranties are excluded from any contract between the Seller and its customer (the "Buyer") unless expressly accepted in writing by the Seller. Nothing in these conditions shall affect the statutory rights of any consumer.
- 1.2 If there is a conflict between these conditions and any other terms of the Seller's quotation, offer, tender or acknowledgement of order, these conditions shall prevail. Quotations may be withdrawn by the Seller by written or oral notice to the Buyer at any time prior to the Seller's acceptance without the Seller incurring any liability.
- 1.3 If any statement or representation has been made to the Buyer by the Seller or its officers, employees or agents (other than in the document(s) enclosed with the Seller's quotation or acknowledgement of order), upon which the Buyer wishes to rely it shall only be entitled to do so if the statement or representation is attached to or endorsed on the Buyer's order and then only if the Seller subsequently confirms in writing to the Buyer that the Buyer is entitled to rely on the statement or representation.

2. PRICES AND PAYMENT

- 2.1 Unless otherwise agreed in writing, prices for delivery on the United Kingdom mainland are quoted delivered on the United Kingdom mainland exclusive of VAT and all other duties, fees, or taxes and prices for delivery outside the United Kingdom mainland are quoted net ex-works exclusive of VAT and all other duties, fees, or taxes. Quoted prices may fluctuate and the price charged will be the Seller's price ruling on the date of despatch. The Buyer shall be solely responsible for obtaining all necessary licences, permits, and consents (including export or import licences).
- 2.2 Unless otherwise agreed in writing, carriage will be paid by the Seller on all orders for despatch to points within the British mainland by the Seller's usual means of carriage except that on orders for despatch to locations outside the British mainland carriage will be paid by the Seller only to the nearest British mainland port.
- 2.3 Unless otherwise agreed by the Seller in writing, payment shall be due and payable 30 days after the end of the month of invoice. The time for payment shall be of the essence of the contract.
- 2.4 The Seller shall be entitled to submit its invoice with its delivery advice note or at any time afterwards except that where delivery has been postponed at the request of, or by the default of, the Buyer, the Seller may submit its invoice at any time after the goods are ready for delivery or would have been ready in the ordinary course but for the Buyer's request or default. Where goods are delivered by instalments the Seller may invoice each instalment separately and the Buyer shall pay such invoices in accordance with these conditions.
- 2.5 The Seller may at its discretion amend its ordering and delivery processes from time to time to include without limitation minimum order values or a set delivery schedule. The Seller will advise the Buyer in advance of such changes and any charges which may apply.

3. DELIVERY, RISK AND TITLE

- 3.1 Delivery of the goods shall be given and taken at the Seller's premises unless the Seller has specifically agreed in writing to arrange transport for the goods in which case delivery shall occur when the goods arrive at the designated place of delivery. Time for delivery is given as accurately as possible but is not of the essence of the contract.
- 3.2 Risk shall pass to the Buyer (so that the Buyer is then responsible for all loss or deterioration of the goods or for any damage occurring):-
 - 3.2.1 if the Seller is responsible for delivering or arranging for delivery of the goods, at the time when the goods arrive at the place for delivery; or
 - 3.2.2 in all other circumstances, at the time when the goods leave the premises of the Seller or in accordance with the applicable INCOTERM specified in the contract.
- 3.3 Title to the goods shall only pass to the Buyer upon the happening of any one of the following events:-
 - 3.3.1 the Buyer having paid to the Seller all sums (including any default interest) due from it to the Seller (a) under this contract and under all other contracts between the Seller and the Buyer including any sums due under contracts made after this contract whether or not the same are immediately payable and (b) under all contracts between the Seller and any associate or subsidiary company of the Buyer or any company under the ultimate control of the same parent company as has ultimate control of the Buyer; or
 - 3.3.2 the Seller serving on the Buyer notice in writing specifying that title in the goods has passed.
- 3.4 The Seller may recover goods in respect of which title has not passed to the Buyer at any time and the Buyer irrevocably licences the Seller, its officers, employees and agents to enter upon any premises of the Buyer, with or without vehicles, for the purpose either of satisfying itself that Condition 3.5 below is being complied with by the Buyer or of recovering any goods in respect of which title has not passed to the Buyer.
- 3.5 Until title to the goods has passed to the Buyer under these conditions it shall possess the goods as fiduciary agent and bailee of the Seller. The Buyer shall store the goods separately from other goods and shall ensure that they are clearly identifiable as belonging to the Seller. During such time as the Buyer possesses the goods with the Seller's consent, the Buyer may in the normal course of its business sell or hire the goods as principal but without committing the Seller to any liability to the person dealing with the Buyer. If the goods are processed or mixed by the Buyer with other goods so that it loses its identity then the title in such goods shall thereupon pass to the Buyer and provided further that if the Buyer sells the goods or part of it to a third party the proceeds of such sale shall be held by the Buyer for the Seller's account until the Seller has been paid in full.
- 3.6 The Buyer shall only be entitled to claim for shortages or defects in the goods delivered which are apparent on visual inspection if the Buyer notifies the Seller of such shortage or defect in writing within 5 working days following delivery and demonstrates to the satisfaction of the Seller that such shortage or damage occurred prior to delivery..

4. GUARANTEE AND EXCLUSION OF LIABILITY

- 4.1 It is for the Buyer to satisfy himself of the suitability of the goods for his own particular purpose. Accordingly the Seller gives no warranty as to the fitness of the goods for any particular purpose and any implied warranty or condition (statutory or otherwise) is excluded except in so far as such exclusion is prevented by law. Goods are warranted to accord with normal industrial quality. All other warranties or conditions as to quality or description (statutory or otherwise) are excluded except in so far as such exclusion is prevented by law.
- 4.2 In the case of goods not manufactured by the Seller:-
 - 4.2.1 The Seller gives no assurance or guarantee that the sale or use of the goods will not infringe the patent, copyright or other industrial property rights of any other person, firm or company; and
 - 4.2.2 The obligations of the Seller relating to defects in such goods are limited to the guarantee (if any) which the Seller receives from the manufacturer or supplier or such goods.
- 4.3 The Seller shall not be liable in respect of claims arising by reason of death or personal injury except in so far as the death or injury is attributable to a failure by the Seller to exercise reasonable care. Further, under no circumstances whatever shall the Seller be liable for consequential loss, losses special to the particular circumstances of the Buyer, indirect losses, work required in connection with the removal of defective goods and the installation of repaired or substituted goods, loss of profits, damage to property or wasted expenditure.
- 4.4 Without prejudice to Condition 4.3, where goods are supplied for the purpose of a business, the Seller's liability, whether in respect of one claim or the aggregate of various claims (other than claims for death or personal injury to the extent that the same is caused by a failure of the Seller to take reasonable care), shall not exceed the contract price of goods and the Buyer agrees to insure adequately to cover claims in excess of such amount.

5. **INSOLVENCY AND FORCE MAJEURE**

If the Buyer shall be deemed by the Seller to be unable to pay its debts as they fall due, the Seller shall be entitled to cancel the contract in whole or in part by giving written notice to the Buyer, without prejudice to any other right or remedy available to the Seller. All amounts invoiced by the Seller to the Buyer and not otherwise due for payment shall become immediately due. The Seller shall be under no liability for any failure to perform any of its obligations under the contract if and to the extent that the failure is caused by reason of any cause outside the control of the Seller.

6. **INTELLECTUAL PROPERTY**

6.1 All intellectual property rights in the goods are proprietary to and shall remain with the Seller and nothing in the contract shall operate to transfer any rights in such intellectual property to the Buyer or to any third party. The Buyer shall not act or omit to act in any manner which adversely affects the rights of the Seller in or to its intellectual property including without limitation using any trademarks in any manner not approved by the Seller. The Seller may immediately terminate any contract with Buyer if the Buyer is in breach of this provision and the Buyer shall fully indemnify the Seller against all costs, loss or expenses resulting from the Buyers breach of this clause.

7. **ASSIGNMENT AND THIRD PARTY RIGHTS**

The Buyer shall not be entitled to assign the benefit or burden of the Contract or of any interest in it without the prior written consent of the Seller. A person who is not a party to the Agreement shall have no rights to enforce any of these conditions.

8. **LAW**

The contract shall be subject to English law and the exclusive jurisdiction of the English courts.