



**PPG AUTOMOTIVE OEM COATINGS
TERMS AND CONDITIONS OF SALE**

1. **APPLICABILITY.** These Terms and Conditions of Sale (“*Terms and Conditions*”) apply to the sale of products (the “*Products*”) by PPG Industries, Inc. or one of its affiliates (“*Seller*”). For purposes of these Terms and Conditions, the purchaser of such Products shall be referred to as “*Buyer*.” Upon placing an order by Buyer, but by no later than the receipt of the delivery of the ordered Products, Buyer recognizes the sole binding nature of these Terms and Conditions. Should Buyer use contradictory, deviating or supplementary terms and conditions, their application in relation to Seller is excluded even if Seller has not expressly objected to them. Buyer will be deemed to have accepted these Terms and Conditions and any applicable quotation issued by Seller for Product(s) (“*Quotation*”) by taking any of the following actions: (a) signing a Quotation that incorporates or references these Terms and Conditions, (b) accepting Products after receiving or being made aware of these Terms and Conditions, (c) submitting an order for Products after receipt of a Quotation for such Products, or (d) any other communication indicating acceptance of these Terms and Conditions or a Quotation. Quotations by Seller are non-binding and only to be understood as a request for the submission of an order. Buyer is bound by its offer placed by an order from the time of its receipt by Seller for a period of three (3) weeks. Seller is free to accept the offer or not. A contract only comes into force upon a written, oral, or implied confirmation of order issued by Seller; it shall be governed exclusively by the content of the confirmation of order and/or these Terms and Conditions.
2. **GENERAL.** These Terms and Conditions and any applicable Quotation will supersede all prior representations or arrangements in connection with the Products. These Terms and Conditions and any applicable Quotation may only be modified by a written agreement signed by an officer or director of Seller (“*Authorized Representative*”), which specifically references a “modification of” or “amendment to” these Terms and Conditions or the applicable Quotation. No other subsequent document, purchase order, or conduct including acts or verbal statements of Buyer or Seller shall purport to or modify these Terms and Conditions or any Quotation.
3. **DELIVERY.**
 - (a) If quantities or delivery schedules are not specified in a Quotation, they will be as reasonably determined by Buyer and Seller and stated in Buyer’s firm orders issued to Seller from time to time. Whether quantities or delivery schedules are “reasonably determined” shall take into account, without limitation: (i) any capacity limitations specified in the Quotation or otherwise agreed to by Buyer and Seller in a written instrument signed by an Authorized Representative; (ii) unusual volume or timing fluctuations that are inconsistent with customary lead time requirements, or (iii) any lead time requirements specified in the Quotation or otherwise agreed to by Buyer and Seller in a written instrument signed by an Authorized Representative.
 - (b) Seller will pack and ship Products as set forth in the Quotation or, if not set forth in the Quotation, in accordance with sound commercial practices. Any special packaging or shipping requirements of Buyer will incur a non-refundable additional charge.
4. **PRICE.**
 - (a) The prices agreed between the parties are fixed prices, provided the parties have not agreed otherwise. Any possible price adjustments are detailed in the Quotation.

All accounts are payable in the funds identified on the Quotation. In cases where the price for Products includes delivery costs, any increase in such delivery costs (including, without limitation, any increases due to air freight or expedited shipping) shall be for Buyer’s account and Buyer agrees to pay Seller the amount of any such increases.
 - (b) All applicable sales or use taxes, excises, or any other taxes or charges (except net income and equity franchise taxes) imposed now or in the future by any federal, state, foreign or local authority upon productions, sale or transportation of the Products shall be for the account of Buyer. Buyer shall reimburse Seller for any such taxes, excises or charges which Seller may be required to pay in addition to the price payable by Buyer for the Products. Buyer may, at its option and where legally permissible, elect to file a proper exemption certificate with Seller and Buyer shall be fully responsible for paying taxes direct to the taxing authority.
 - (c) Credit terms, if any, both as to the time and amount, may be amended by Seller at any time with reasonable prior notice and thereafter the price of all or any part of Products delivered or to be delivered shall be payable in accordance with such amended credit terms. If Seller becomes aware of the risk that

Buyer may possibly not be able to perform after the conclusion of contract, Seller is entitled to make any still outstanding deliveries only against advanced payment or provision of security. If the advanced payments or securities have not been provided even after the expiration of a reasonable grace period, Seller may cease making delivery until the advanced payments have been made or the securities have been provided or rescind all of the affected contracts in full or in part. Seller's assertion of further rights shall remain unaffected.

(d) Time of payment as set out in the Quotation is of the essence. If such period for payment expires without success, Buyer shall be in default. During such default of payment by Buyer, Seller shall be entitled to demand default interest in the statutory amount. The assertion of a claim for further damage caused by such default of payment shall remain unaffected. Buyer shall reimburse Seller for all of Seller's costs and expenses, including reasonable attorneys' fees, incurred in connection with collecting overdue accounts and under the conditions of this paragraph.

(e) Buyer is only entitled to set-off if his counterclaim is uncontested or has been finally adjudicated or to claim a right of retention to the extent his counter claim is based on the same contract and is uncontested or finally adjudicated. All amounts owing to Seller shall be paid in full on or before the applicable due date.

5. **DEFAULT.** If either party is in material default with respect to any of these Terms and Conditions, including, without limitation, Buyer's failure to pay any invoice in accordance herewith, the other party, at its option, may defer further performance until such default is remedied, and without prejudice to any other legal remedy, may terminate this contract if such default is not remedied within thirty (30) days after written notice, specifying the thing or matter in default, is provided to the defaulting party.

6. **SELLER'S WARRANTY; LIMITATION OF REMEDY.**

- (a) Seller warrants that (i) it has title to the Products, (ii) the Products will conform to the applicable specifications set forth in the Quotation or otherwise agreed in a written instrument signed by an Authorized Representative, and (iii) the Products will be delivered free of the rightful claim of any third person for infringement of any U.S. patent covering the Products (collectively, "*Seller's Warranty*"). SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS AND HEREBY DISCLAIMS ANY OTHER WARRANTIES OR REPRESENTATIONS EXPRESSED OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Certification of Seller by separate writing as to compliance with specifications, part numbers, quantity, test or otherwise will not create any other warranty by or other obligation of Seller.
- (b) IN CASE OF THE DELIVERY OF A DEFECTIVE PRODUCT ACCORDING TO SECTION 6(a) BUYER'S PRIMARY REMEDY WITH RESPECT THERETO, SHALL BE THE REPLACEMENT OR PROVISION BY SELLER OF ANY NONCONFORMING OR NOT PROVIDED PRODUCT ("SUPPLEMENTARY PERFORMANCE") FOR WHICH A CLAIM IS MADE BY BUYER IN ACCORDANCE WITH SECTION 6(d) BELOW (IF APPLICABLE). SELLER SHALL BEAR THE COSTS OF TRANSPORT, TRAVEL, LABOR AND MATERIALS WHICH ACCRUE FOR THE PURPOSE OF SUPPLEMENTARY PERFORMANCE. IF THE NOTICE OF DEFECT PROVES TO BE UNJUSTIFIED DUE TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE AND IF BUYER WAS AWARE OF THIS FACT PRIOR TO NOTIFYING THE DEFECT, BUYER SHALL BE LIABLE TO SELLER FOR THE REIMBURSEMENT OF ALL THE EXPENSES (E.G. TRAVEL AND SHIPPING COSTS) AND DAMAGES INCURRED IN THIS CONTEXT.
- (c) SHOULD THE SUPPLEMENTARY PERFORMANCE FAIL, SHOULD SUCH REMEDY BE UNREASONABLE FOR BUYER OR SHOULD SELLER HAVE REFUSED SUPPLEMENTARY PERFORMANCE PURSUANT TO THE STATUTORY PROVISIONS ON THE BASIS OF UNREASONABLE COSTS, THE BUYER MAY, IN ACCORDANCE WITH THE STATUTORY PROVISIONS, REDUCE THE PURCHASE PRICE.
- (d) Buyer must inspect the Products upon delivery and notify Seller of any Product that does not conform to Seller's Warranty within a reasonable time after delivery of such Products, but in no event later than thirty (30) days following delivery of such Product. Obvious transport damages and incomplete or obviously false deliveries must be reported to Seller in each case without undue delay. Hidden defects must be reported to Seller without undue delay upon their discovery. Failure to notify Seller of such non-conformance shall constitute a waiver by Buyer of any claims with respect to such nonconforming Products.
- (e) Seller's Warranty with regard to any Products being defective shall be one year from delivery of the Product to Buyer.
- (f) FOR THE BREACH OF MATERIAL CONTRACTUAL DUTIES OR "CARDINAL DUTIES" CAUSED

BY SLIGHT NEGLIGENCE, THE AMOUNT OF SELLER'S LIABILITY SHALL BE LIMITED TO THE TYPICALLY FORESEEABLE DAMAGE AT THE TIME OF ENTERING INTO THE CONTRACT. MATERIAL CONTRACTUAL DUTIES (OR CARDINAL DUTIES) ARE THOSE DUTIES WHICH CREATE THE LEGAL POSITION FOR BUYER THAT THE CONTENT AND PURPOSE OF THE CONTRACT WAS SPECIFICALLY SUPPOSED TO GRANT TO HIM, AS WELL AS THOSE DUTIES WHOSE PERFORMANCE MAKE THE ORDERLY FULFILLMENT OF THE CONTRACT POSSIBLE IN THE FIRST PLACE AND UPON THE PERFORMANCE OF WHICH BUYER REGULARLY RELIES AND MAY REGULARLY RELY. SELLER SHALL NOT BE LIABLE FOR THE SLIGHT NEGLIGENT BREACH OF CONTRACTUAL DUTIES OTHER THAN THOSE STATED IN SECTION 6(f) SENTENCE 1. IN ALL OTHER RESPECTS, BUYER'S STATUTORY CLAIMS TO DAMAGES SHALL REMAIN UNAFFECTED; IN PARTICULAR, SELLER SHALL BE FULLY LIABLE IN THE EVENT OF WILLFUL MISCONDUCT AND GROSS NEGLIGENCE. THE ABOVE MENTIONED LIMITATIONS OF LIABILITY IN SECTION 6(f) SENTENCE 1 AND 3 DO NOT APPLY IN CASE OF MANDATORY STATUTORY LIABILITY (INCLUDING, BUT NOT LIMITED TO, THE PRODUCT LIABILITY ACT), CULPABLE PERSONAL INJURY OR DEATH CAUSED BY SELLER, GUARANTEES GIVEN BY SELLER OR FRAUDULENT UNDISCLOSED DEFECTS.

7. TECHNICAL ADVICE AND ASSISTANCE.

- a. Buyer acknowledges that in any contract for the sale and purchase of the Product(s) which calls for the attendance at the place of application or any other location by Seller's employees or representatives, such attendance is solely for the purpose of observing and/or consulting on application of the Product(s) and to provide on-site technical advice. Buyer shall be solely responsible for applying the Product(s), executing any other work related to the Product(s) and for quality assurance with respect to application of the Product(s). Seller gives no warranty or undertaking and accepts no liability with respect to any such technical advice or assistance unless Seller has expressly agreed to the contrary in a written instrument signed by an Authorized Representative.
- b. Recommendations and advice by Seller for the use of Products are furnished gratuitously and are based upon information believed to be reliable. SELLER'S SOLE LIABILITY WITH RESPECT TO THE SALE OF THE PRODUCTS TO BUYER AND USE OF THE PRODUCTS BY BUYER IS SET FORTH IN SECTION 6 OF THESE TERMS AND CONDITIONS. Any agreement between Buyer and Seller concerning advice or assistance given to Buyer by Seller for a separate fee shall be contained only in a separate written agreement between Buyer and Seller that has been signed by an Authorized Representative.

8. FORCE MAJEURE. Seller's failure or inability to make, or Buyer's failure or inability to take, any delivery or deliveries when due, or the failure or inability of either party to timely perform any other obligation required of it under these Terms and Conditions, other than the payment of money, if caused by "Force Majeure", as defined below, shall not constitute a default under these Terms and Conditions or subject the party affected by Force Majeure to any liability to the other; provided that the party so affected promptly notifies the other of the existence of the Force Majeure, its expected duration and the anticipated effect of the Force Majeure on its ability to perform its obligations under this Agreement. The party affected by the Force Majeure shall promptly notify the other party when the Force Majeure circumstance no longer affects its ability to perform its obligations under these Terms and Conditions. The quantity of Product to be delivered shall be reduced by that quantity not delivered as a result of the Force Majeure circumstance unless Buyer and Seller agree that the total quantity to be delivered under this Agreement should remain unchanged. For so long as Seller's ability to perform is affected by the Force Majeure circumstances: (a) Seller may, at its option, elect to allocate its total production of such Products among its various requirements for the Products (e.g., manufacturing and sales) in a manner that Seller considers practicable and which, in Seller's opinion, is fair and reasonable; and, (b) Buyer may obtain the quantities of Product which Seller is unable to deliver from another source without any obligation to Seller. During the time that Seller is unable to make deliveries or otherwise perform, it shall not be obligated to procure, or to use its best efforts to procure, any quantity of Products sold to Buyer under this Agreement from any alternate producer or supplier. As used in herein "**Force Majeure**" means any act of God, nature or the public enemy, accident, explosion, flood, drought, perils of the sea, strikes, lockouts, labor disputes, riots, sabotage, embargo, war (whether or not declared and whether or not the United States is a participant), federal, state or municipal legal restriction or limitation or compliance with such restriction/limitation, failure or delay of transportation, shortage of, or inability to obtain, raw materials, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance of a similar or different nature which is beyond the reasonable control of the party claiming Force Majeure. A party is not required to resolve labor disputes or

disputes with suppliers of raw materials, supplies, equipment, fuel or power, or seek alternate sources thereof except to the extent that the party considers this to be in its best interest. If a Force Majeure circumstance affects either party's performance for at least ninety (90) consecutive days, the party who is able to perform may terminate the agreement to which these Terms and Conditions apply upon written notice to the affected party.

9. TERMINATION AND SUSPENSION.

- a. Seller may (without prejudice to its other rights or remedies) refuse to sell to Buyer under any condition or terminate any contract to which these Terms and Conditions apply in the event of any of the following circumstances:
- i. Buyer fails to take delivery of the Products at the time agreed between the parties in writing and Buyer has failed to comply with a reasonable deadline to take the delivery of the Products;
 - ii. Buyer exceeds its credit limit with Seller and Buyer has failed to comply with a reasonable deadline to remedy the excess;
 - iii. Buyer is overdue by more than thirty (30) days with any payments due and owing to Seller under any contract;
 - iv. Buyer suspends payments to its creditors or in respect of its commercial obligations;
 - v. Buyer makes an assignment for the benefit of its creditors, becomes bankrupt or insolvent or if a receiver takes possession of any material part of Buyer's assets, or Buyer suffers any foreign equivalent of the foregoing;
 - vi. As set forth in Section 4(a) or Section 5.
- b. In circumstances described in Section 9(a):
- i. all unpaid balances owing to Seller from Buyer shall become immediately due and payable, irrespective of whether title to the Products has passed to Buyer and
 - ii. Buyer will be obligated to fulfil its contractual obligations and pay for (A) any inventory of Products maintained by Seller at the request of Buyer (including, without limitation, safety stock), (B) any Products manufactured for Buyer in accordance with firm orders, and (C) any raw materials procured by Seller based on Buyer's forecasts.

10. INTELLECTUAL PROPERTY. Buyer does not transfer to Seller any patent, trade secret, trademark, service mark, copyright, mask work, or other intellectual property right ("*Intellectual Property Right*") of Buyer in information, documents, or property that Buyer makes available to Seller, other than the right to use Buyer's Intellectual Property Rights to supply Products to Buyer. Seller does not transfer to Buyer any Intellectual Property Right of Seller related to the Products, other than the right to incorporate Products purchased from Seller in vehicles and component parts and to sell those vehicles and component parts to the public.

11. CONFIDENTIAL INFORMATION. Trade secrets, specifications, drawings, notes, instructions, engineering data and analyses, compositions of matter, financial data, and other technical and business data which are supplied or disclosed by Buyer or Seller in connection with these Terms and Conditions, in each case that are marked or otherwise identified as confidential or where their confidential nature is apparent at the time of disclosure ("*Confidential Information*"), will be deemed confidential and proprietary to, and remain the sole property of, the disclosing party. The receiving party may not disclose Confidential Information or use Confidential Information for any purpose other than as contemplated under these Terms and Conditions or the contract(s) to which they relate without in each case the written consent of the disclosing party. Confidential Information will not include information that (a) is or becomes generally available to the public other than as a result of a violation of this Section 11 by the receiving party, (b) was obtained by the receiving party on a non-confidential basis from a third party who had the apparent right to disclose it, or (c) is legally required to be disclosed. Buyer and Seller will each use the same degree of care to safeguard Confidential Information that it uses to protect its own confidential information from unauthorized access or disclosure (but not less than a reasonable degree of care). Upon request by the disclosing party, the receiving party will promptly return or destroy the original and all copies of Confidential Information received.

12. INDEMNIFICATION. Buyer shall indemnify, defend and hold Seller harmless from and against any and all claims, demands, liabilities, suits, actions, proceedings, damages, costs and expenses (including, but not limited to, attorney's fees), incident to or arising out of or in connection with or relating to Buyer's culpable acts or Buyer's culpable breach of these Terms and Conditions. Seller may participate in any such defense to such extent as it, in its sole discretion, may determine.

13. EXPORT CONTROLS: Buyer and Seller acknowledge that they, as well as the Products, services, and technology (collectively, “*Items*”) sold or otherwise transferred under these Terms and Conditions, may be subject to U.S. and other export controls, embargoes, sanctions and similar laws, regulations and requirements (collectively, “*Export Controls*”), as well as Seller’s export policies, controls, and procedures as communicated to Buyer in writing by Seller (“*Seller’s Export Compliance Requirements*”). Buyer agrees to (a) comply with Export Controls; (b) comply with Buyer’s obligations under Seller’s Export Compliance Requirements; and (c) provide Seller with all information and documentation deemed necessary by Seller in order for Seller to comply with all Export Controls as they relate to transactions governed by these Terms and Conditions.

14. MISCELLANEOUS.

- a. If any of these Terms and Conditions or the application of them to any person or circumstance shall be held invalid or unenforceable, the remainder of these Terms and Conditions or the application of them to such person or circumstances shall not be affected thereby and shall be valid and be enforceable to the fullest extent permitted by law.
- b. These Terms and Conditions may be amended by Seller, at its option, which amendment shall become effective upon submission of a written copy of such amended Terms and Conditions to Buyer.
- c. These Terms and Conditions shall be governed by and construed in accordance with the substantive laws (other than the conflict of law provisions and principles) of the country of the billing entity. The United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980 and any successor thereto) is expressly excluded. Any litigation with respect to these Terms and Conditions shall be commenced only in the competent courts of Düsseldorf and each party hereby submits to the jurisdiction of such courts.
- d. The failure of a party in any one or more instances to insist on performance of any of the provisions hereof, or any part thereof, shall not be construed to be a waiver of such provision, or any part thereof in the future.
- e. This Agreement, its performance, any interest herein or in any monies due or to become due herein, may not be assigned or subcontracted by Buyer without the prior written consent of Seller.

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