

**1. Sale and Purchase of Products.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Product(s) identified on the face of this Agreement in accordance with the terms and conditions set forth therein and herein. Acceptance of this Agreement by Buyer is expressly limited to the terms and conditions set forth herein. Any other terms and conditions set forth in Buyer's acceptance are hereby expressly rejected. If for any reason Buyer should fail to accept this Agreement in writing, any conduct by Buyer that recognizes the existence of a contract pertaining to the subject matter hereof shall be deemed to constitute acceptance by Buyer of this Agreement and all of its terms and conditions. As used herein, the word "Specifications" shall mean the specifications, drawings, plans, qualities, nature, type, properties, amounts, assortments, and other descriptions of and requirements for the Product(s) as stated on the front of this Agreement. Any other definitions used on the face of this Agreement shall also be applicable herein.

**2. Term and Termination.** The term of this Agreement shall be as specified on the face hereof (the "Term") unless earlier terminated in accordance with the provisions of this Agreement. This Agreement may be terminated: 1) By the non-breaching Party, upon the material breach of this Agreement by the other Party, which is not cured within thirty (30) days after notification in writing thereof; 2) By either Party, immediately by written notice, for just cause. For purposes of this Agreement, "just cause" shall mean: (a) the actual or threatened sale or other disposition of all or substantially all of the assets of the non-terminating Party; (b) the non-terminating Party ceases or threatens to cease to function as a going concern; (c) the filing by the non-terminating Party of a voluntary petition in bankruptcy or for reorganization or for the adoption of an arrangement under applicable bankruptcy or insolvency laws or an admission seeking the relief therein provided; (d) the non-terminating Party's making of a general assignment for the benefit of its creditors; (e) the appointment of a receiver, administrative receiver, administrator or manager for all or a substantial part of the non-terminating Party's property; (f) in the case of the filing of an involuntary petition in bankruptcy, an entry of an order for relief relating to a Party; (g) the entry of a court order appointing a receiver or trustee for all or a substantial part of the property of a Party without its consent; and (h) the non-terminating Party being, or being deemed to be, insolvent or unable to pay its debts as they fall due, or having any order or resolution made for its dissolution or liquidation, or taking or suffering any similar or analogous procedure, action or event in consequence of debt, in any jurisdiction; 3) By the Party that is not subject to the event of Force Majeure (as defined herein below), upon thirty (30) days written notice, in the event a Force Majeure occurrence, as defined in this Agreement, continues for a period exceeding nine (9) months; 4) By either Party upon the assignment by the non-terminating Party (or attempted assignment) of any rights under this Agreement in contravention of this Agreement; and 5) by Seller immediately on written notice if Buyer fails to pay any sums due under this Agreement within thirty (30) days of receipt of notice from Seller requiring the same.

**3. Price and Payment.** The price for the Product(s) shall be as specified on the face hereof. Unless otherwise specified on the face hereof, all payments due to Seller by Buyer under this Agreement shall be due and payable thirty (30) days from the date of Seller's invoice. Buyer shall be liable, and Buyer shall indemnify Seller, for all sales, use, excise or other taxes presently or hereafter payable in connection with the provision of Product(s) hereunder. Seller shall not be liable, and Buyer shall indemnify Seller, for any income, franchise, or similar taxes of Buyer or its customers, or any taxes incurred by or imposed on Buyer or its customers in connection with the purchase or use of the Product(s) or any tax, such as sales, use, value added or purchase tax, customarily passed on to the ultimate consumer. If Buyer is overdue with any payment hereunder, then without prejudice to Seller's other rights or remedies Seller shall have the right to receive interest on the overdue amount at the statutory rate, which interest shall accrue on a daily basis from the date payment becomes overdue until Seller has received full payment of the overdue amount together with all interest that has accrued, and shall be payable within thirty (30) days of receipt of Seller's invoice in respect of the same.

**4. Delivery.** Risk of loss of the Product(s) shall pass to Buyer in accordance with the provisions of Incoterms 2010 as published by the International Chamber of Commerce applicable to the corresponding delivery term specified on the face hereof. If there is no delivery term specified on the face hereof, then Product(s) shall be shipped EXW Koppers' loading dock or facility where Product(s) are to be provided or

delivered. Title to the Product(s) shall pass to Buyer at the same time as risk of loss passes to Buyer. Unless otherwise specified on the face hereof, Product deliveries will be spread relatively evenly over the year, with a specific delivery program to be mutually agreed upon by the Parties at least sixty (60) days prior to the start of each calendar quarter, and Buyer shall at all times place its orders for Product in such manner as to provide Seller with sufficient lead-time to produce and deliver the Product to Buyer. Each of Buyer's orders for Product shall contain an order number, shall be dated, and shall state the amount of Product ordered and desired delivery date(s). No delivery date shall be binding on Seller and time shall not be of the essence in respect of Seller's obligations hereunder. Seller will give Buyer written notice of each delivery at least twenty-four (24) hours before the date of such delivery. Such notices shall include the volume of Product and date delivered and Buyer's order number. Transportation equipment shall be loaded in accordance with standard Seller practices.

**5. Warranties and Remedies.** Unless otherwise specified on the face hereof, Seller warrants to Buyer that the Product will, at the time of delivery, conform to the quality parameters or Specifications identified on the face hereof; that it will convey good title to Product delivered hereunder; and that Product shall be delivered free from any lawful security interest, lien or encumbrance (the "Warranty"). Seller makes no other representation or warranty of any kind with respect to the Product, whether used alone or in combination with other materials. ANY OTHER WARRANTY, CONDITION, REPRESENTATION OR TERM WHICH MIGHT OTHERWISE BE IMPLIED INTO OR INCORPORATED IN THIS AGREEMENT OR ANY COLLATERAL CONTRACT, WHETHER BY STATUTE, OR OTHERWISE, IS HEREBY EXPRESSLY EXCLUDED to the full extent permitted by law. **In the event of a breach of the Warranty by Seller, Buyer's sole remedies shall be, at Buyer's option, either: (i) a refund to Buyer of the purchase price paid by Buyer for non-conforming Product and the transportation costs incurred by Buyer in transporting the Product to Buyer's facility or, at Buyer's request, credit to Buyer's account of the amount of said price or (ii) replacement of the non-conforming Product with conforming Product.** Alternatively, Buyer and Seller may, on a case by case basis, mutually agree in writing to waive the requirement for the Product to conform to the Warranty in exchange for a price adjustment. If Buyer elects to replace the non-conforming Product, then Seller shall be liable for the reasonable costs involved in obtaining and shipping the replacement Product; provided, however, that Seller shall have the right to make the arrangements on behalf of Buyer for replacement of non-conforming Product. Upon Seller's request, Buyer shall return the non-conforming Product to Seller or otherwise dispose of the non-conforming Product, which is the subject of the refund, credit or replacement, with any reasonable costs incurred by Buyer in connection with such return or disposition to be for Seller's account. Buyer must notify Seller in writing of any claim for an alleged breach of Warranty within ninety (90) days of Buyer's receipt of Product. After expiration of such ninety (90) day period, Buyer will not be entitled to any of the remedies provided herein if Seller has not been notified in writing of an alleged breach of Warranty.

**6. Limitations of Remedies.** Subject to the further provisions of this Section 6, Seller's maximum aggregate liability in any year to Buyer under or in connection with this Agreement or any collateral contract, whether arising in or caused by breach of contract, tort (including negligence), breach of statutory duty or otherwise, shall not exceed one hundred fifty percent (150%) of the total purchase price payable by Buyer for Product(s) in that calendar year. Seller shall not be liable to Buyer under or in connection with this Agreement, or any collateral contract, for any: (i) loss of income; (ii) loss of actual or anticipated profits; (iii) loss of business; (iv) loss of contracts; (v) loss of goodwill or reputation; or (vi) indirect, incidental, special, punitive or consequential loss or damage of any kind; in each case howsoever arising, and notwithstanding that such loss or damage was foreseeable or in the contemplation of the Parties; provided, however, that nothing in this Section 6 or otherwise in this Agreement shall exclude or in any way limit Seller's liability to the Buyer for willful misconduct and/or gross negligence (in Dutch: "*opzet en/of bewuste roekeloosheid*"). No claim of any type or nature may be made or brought by Buyer unless made or brought within one year of delivery of the Product at issue or within one year of the date the claim arose, whichever comes first.

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**TERMS AND CONDITIONS OF SALE**

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**7. Force Majeure.** A Party subject to an event of Force Majeure (as defined herein below) shall not be liable to the other Party for any loss or damage due to an event of Force Majeure, and such Party shall be excused from performance hereunder during the period such Force Majeure remains in effect, without being held liable to the other Party for damages that may result therefrom, but only to the extent made necessary by such Force Majeure; provided that such Party has made and is making all reasonable efforts to minimize its inability to perform and any consequent loss or damage. The occurrence of Force Majeure shall not relieve Buyer from the obligation of paying for Product that has been delivered to Buyer or is delivered to Buyer during the occurrence of such Force Majeure. It is agreed that the Party whose performance is affected by the event of Force Majeure shall use due diligence, good faith, and all reasonable efforts to remove such Force Majeure conditions, but that no Party shall have to settle a labor dispute contrary to its best interests. "Force Majeure" as used herein shall mean a condition or cause beyond the reasonable control of a Party (or its contractor(s), transportation provider(s) or supplier(s)) which prevents the affected Party from performing its obligations under the Agreement, including but not limited to: (a) acts of God, including floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions; (b) acts of public enemy, war, blockade, terrorism, insurrection, civil commotion, embargo or riot; (c) fire, wreck, washout, equipment failure or explosion; (d) strike, lockout, or other combination of workmen or labor dispute; (e) epidemic or quarantine; (f) accidents; (g) plant shutdown; (h) shortage of energy; (i) shortage of raw materials or inability to obtain suitable raw materials from usual sources of supply; and (j) any law, ordinance, regulation, directive, order, interpretation or enforcement policy presently existing or hereinafter promulgated by any governmental authority, or any agency or division thereof (relating by way of example, but not of limitation, to the environment or protection of environmental or ecological conditions, including environmental requirements, regulations or laws), (hereinafter collectively the foregoing referred to as "law"), including further, without limitation, any law affecting the operation of Seller's producing facility or its other facilities or its ability to produce and sell Product or any law affecting the use of Product; it being understood that Buyer's loss of a customer or customers for Product or for products utilizing Product shall not constitute an event of Force Majeure. The Party invoking Force Majeure shall give notice to the other as soon as is reasonably practicable under the circumstances, stating, insofar as known, the probable extent to which it will be unable to perform or be delayed in performing its obligations hereunder. The Party giving the notice pursuant to the preceding sentence shall notify the other when the Force Majeure event is removed.

**8. Confidentiality.** The terms and conditions of this Agreement must be kept confidential and must not be disclosed by the Parties to any third party, except with the prior written consent of the other Party or as required by law.

**9. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon Buyer and Seller and their respective successors and permitted assigns, subject, however, to the limitations contained herein.

**10. Waiver.** To the extent permitted by law, no delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be expedient. Any such waiver shall be in writing and signed by the Party against whom it is to operate.

**11. Severability.** If any term or provision of this Agreement or the application thereof to any Party or circumstance be judged invalid or unenforceable to any extent, the remainder of this Agreement and the application of such terms and provisions to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, except as it might be necessary to effectuate the intent of the Parties, and each provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

**12. Entire Agreement.** This Agreement sets forth the entire understanding of the Parties with respect to matters set forth herein and supersedes any prior agreement, understanding or arrangement between the Parties, whether oral or in writing. Any printed term contained in any purchase order or other form or document used by Buyer to order the Product or in any

acknowledgment or other form or other document used by Buyer or Seller shall be null and void and of no force and effect, and this Agreement will take precedence over and supersede any such terms, unless such terms have been agreed to in writing by both Buyer and Seller. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the Parties prior to this Agreement except as expressly stated in this Agreement. Any Schedule or Exhibit referenced herein is attached hereto and incorporated herein by such reference. This Agreement is not intended to confer upon any person other than the Parties hereto any rights or remedies hereunder.

**13. Amendments.** This Agreement may not be amended or altered except by the written agreement of Buyer and Seller. Unless otherwise explicitly provided therein, no such amendment shall be deemed to extend to any prior or subsequent matter, whether or not similar to the subject matter of such amendment. The Parties understand that either Party's standard form purchase orders and acknowledgements and other forms or documents are simply administrative tools conveying shipping, invoicing and scheduling instructions and details, and shall not be construed as altering the terms, conditions and provisions of this Agreement.

**14. Interpretation.** If any provision on the face hereof or in any Schedule or Exhibit provided with the original executed copy of this Agreement or as amended and signed by both Parties, is inconsistent with these terms and conditions, the provision on the face hereof or in the Schedule or Exhibit shall be controlling. The headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

**15. Assignment.** Neither Buyer nor Seller shall assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that either Party may transfer or assign this Agreement to any company or entity controlling, controlled by, or under common control with, the assigning Party as of the date of this Agreement, upon notification to, but without prior written consent of, the other Party.

**16. Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

**17. Governing Law.** The Parties specifically agree that the U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. This Agreement, the validity, application, interpretation and implementation thereof, shall be exclusively governed, construed and interpreted in accordance with Dutch law and the same law shall exclusively govern the merits of any dispute.

**18. Dispute Resolution.** In the event a dispute, controversy or difference arises out of or relates to this Agreement ("Dispute") each of the Parties shall send out a written notice to the other Party identifying the Dispute and substantiating their position ("Notice"). Parties shall use their best efforts to settle such Dispute. To this end, they shall consult and negotiate with each other, in good faith, to reach a just and equitable solution satisfactory to both Parties. If they do not reach such a solution within a period of sixty (60) working days after the date on which the first Notice has been sent, either Party shall refer the matter to binding arbitration of the Netherlands Arbitration Institute (the "NAI"). All Disputes, including Disputes relating to the conclusion, binding effect, amendment, termination or breach hereof, which have not been settled amicably by the Parties, shall be finally settled under the Rules of Arbitration of the NAI by three arbitrators appointed in accordance with such rules. The place of the arbitration shall be Rotterdam, The Netherlands. **The language to be used in the arbitral proceedings shall be English.** Each Party agrees to bear its own expenses (including attorneys' fees) and shall bear equally the expenses of any arbitrators(s) and the fees of the NAI. The award shall be final and binding on the Parties and judgment upon the award may be entered in any court of competent jurisdiction or application may be made to any such court for a judicial acceptance of the award and an order of enforcement, as the case may be.

**19. Authorization and Representations.** Buyer and Seller represent to each other that each is duly organized, validly existing and in good



standing under the laws of their respective states of incorporation, and each has all requisite corporate power and authority to own its property and to carry out the transactions contemplated hereby, and each has or will take all necessary corporate action to duly authorize said transactions. Buyer and Seller each affirm that it is not a party to any agreement that does, or may, prevent it from performing under this Agreement.

**20. Intent of Agreement.** The Parties hereto intend that they shall mutually benefit from the terms, conditions and provisions of this Agreement and that neither Party shall be either unreasonably enriched or unreasonably harmed by any implementation and/or interpretation of said terms, conditions and provisions. This Agreement shall be administered and interpreted in order to fulfill the intent stated in this Section 20. Any arbitrators considering disputes shall attempt to render a decision which fulfills the intent stated in this Section 20.

**21. Intellectual Property.** By entering this Agreement, Buyer acknowledges that nothing shall be construed to give Buyer either during or after the duration of this Agreement any right, title or interest in the intellectual property rights with regard to or relating to the Product(s), including but not limited to copyrights, patent rights or the right to use trademarks. All copyrights and all other intellectual property rights in work or resulting from work done by or on behalf of Seller pursuant to this Agreement shall vest in Seller. Buyer agrees to render its full assistance and cooperation to Seller in obtaining and maintaining such rights.

**22. Compliance with Laws.** All Products are sold and transferred by Seller to Buyer hereunder on the condition that (i) Buyer currently complies, and will continue to comply, with all applicable governmental laws, rules, regulations and orders concerning activities contemplated by this Agreement (including, but not limited to, all applicable laws and regulations of the United States of America relating to export controls, sanctions, boycotts and corrupt practices) and (ii) Buyer will not sell or export, directly or indirectly, Product(s) or any product, information or technology made using (or in combination with) the Product(s), to any restricted or prohibited person or destination under applicable U.S. regulations. Buyer shall notify Seller immediately in the event that Seller fails to comply with either of these conditions. Seller reserves the right not to sell or transfer Product(s) to Buyer, without entitling Buyer to any form of compensation or incurring any liability to Buyer, if, in Seller's reasonable judgment, Buyer's sale or export would result in a violation of applicable law.