

阿克苏诺贝尔一般条款和条件

- 定义。** 词语“阿克苏诺贝尔”、“附件”、“买方”、“交货方式”、“生效日”、“备货期”、“每月最大数量”、“包装”、“付款方式”、“价格”、“产品”、“数量”、“订货款”、“规格”、“期限”和“保证期”具有以上规定的含义；词语“协议”是指本协议，包括前面的页面和附件；“双方”是指阿克苏诺贝尔和买方；“一方”是指阿克苏诺贝尔或买方。
- 购买与销售。** 在期限内，阿克苏诺贝尔将按适用的价格向买方销售、且买方将按适用的价格向阿克苏诺贝尔购买一定数量的产品。
- 预测。** 在不迟于每季度首日的三十天之前，买方将向阿克苏诺贝尔提供未来十二（12）个月内每个月每种产品的采购需求的善意预测。此类预测对买方或阿克苏诺贝尔不具有约束力。
- 订单。** 在每项交易下买方均应按照适用的每月最大数量、备货期和订货款下达订单或要求出货。尽管本协议有任何相反的规定，阿克苏诺贝尔不应被要求接受或完成超过每月最大数量的、或要求短于备货期交货的、或要求产品数量与订货款不相等的或是订货量的倍数的任何订单或出货要求。备货期指订单下达至订单准备发货之间的时间。
- 数量的变化。** 若交付产品的数量并未超过订购或要求出货的产品数量的百分之十（10%），买方无权以数量不一致为由拒收任何产品的交付。买方将按交付的产品数量支付货款。如发生关于交付产品的数量的任何争议，买方必须在阿克苏诺贝尔的发票日期起两（2）个工作日内通知阿克苏诺贝尔，如无该通知，买方将被视为已放弃对发票上所反映的已交付产品的数量提出争议的权利。
- 灭失风险和所有权。** 产品的灭失风险将在交货时转移给买方。如适用的法律允许，阿克苏诺贝尔保留对已交付买方的所有产品的担保权益，以确保应向阿克苏诺贝尔支付的所有款项的全额支付，买方应根据阿克苏诺贝尔的要求，签署阿克苏诺贝尔认为完善或保持其在产品中的担保权益所必要的文件。在上述情况下，产品的所有权在灭失风险转移给买方的同时转移给买方（视阿克苏诺贝尔享有的担保权益而定）。在所有其他情况下，产品的所有权在买方付清全部货款及未付款项前仍归属阿克苏诺贝尔，买方将为阿克苏诺贝尔代为保管未使用的产品，阿克苏诺贝尔将有权进入买方场所，以取回其按本第 6 条拥有所有权的任何产品。在任一情况下，买方可在其正常业务过程中销售产品，但在全额支付货款之前不得质押、抵押或以其他方式在产品上设置权利障碍。
- 停止产品制造/供应。** 阿克苏诺贝尔可随时以向买方发出至少提前三（3）个月的事先书面通知停止任何产品的生产或供应，并且在该通知后，该产品将被视为从本协议中删除。如果所有产品都从本协议中删除，则本协议将自动解除，且任何一方无需对此承担进一步的责任。
- 价格和付款。** 阿克苏诺贝尔将就销售给买方的产品向买方开具发票。买方应按照付款方式支付阿克苏诺贝尔的发票。买方不得因任何抵销、反诉、减税或类似扣除而拒绝支付应向阿克苏诺贝尔支付的任何款项。如买方对阿克苏诺贝尔发票中的任何部分有争议，必须在付款日期前向阿克苏诺贝尔发出书面通知，说明有争议的金额和争议依据，并且必须按照付款方式支付所有无争议的金额。买方未按上句规定发出争议通知将被视为已接受所有发票金额的正确性，并已放弃对所有发票金额提出争议的任何及所有权利。阿克苏诺贝尔接受小于任何发票金额的任何款项不构成对其收取剩余款项之权利的放弃，也不会被视为其已对全部金额的收取表示满意。买方应在阿克苏诺贝尔提出要求后立即支付阿克苏诺贝尔为收回本协议下的任何到期款项而发生或支付的任何及所有费用（包括代收中介或律师的费用）。如买方未按时支付任何到期应付款项，或买方的支付能力或财务稳定性不能达到阿克苏诺贝尔要求的，阿克苏诺贝尔可自行决定向买方发出书面通知后立即解除本协议，或暂停交货，直到所有应付款项已支付，并且买方的支付能力或财务稳定性使阿克苏诺贝尔满意为止。买方应按每月百分之一点五（1.5%）或法律规定的最高利率中的较低利率支付所有逾期款项的累计利息。计息期将从付款到期日起直至阿克苏诺贝尔收到全额应付款项止，无论本协议是否被解除或交货是否被暂停。
- 税收。** 买方将负责收取、汇款或支付由政府或其他主管机关就产品的采购、出口、销售或其他分销活动而收取的任何或所有的税、费用、收费、征费、评估费用以及其他费用。
- 保证。** 阿克苏诺贝尔向买方保证，在在灭失风险转移至买方时，产品将符合规格所述的性能标准（“保证”）。**本保证是阿克苏诺贝尔作出的唯一保证。阿克苏诺贝尔对产品、产品的应用、使用或其他任何方面，包括产品的适销性或适合某特定用途或不侵权，不作任何保证，无论明示的或暗示的、口头的或书面的，且每项都明确否认。此外，在不限制前述规定的情况下，任何及所有关于产品质量或描述的保证、条件和其他条款（无论是明示的或暗示的，也无论是法定的或其他）均不予承认，并在法律允许的最大范围内从本协议排除。** 买方确认，其未依赖于未载于本协议的、由或代表阿克苏诺贝尔作出的任何声明、承诺或陈述。
- 不合格产品责任。** 当产品不符合第 10 条规定的保证时，阿克苏诺贝尔可以选择维修或更换该等产品，或将该等产品的价格退还买方。上述内容构成买方对不符合第 10 条规定的保证而得以行使的唯一和排他的救济方式，并且阿克苏诺贝尔对该等产品不存在进一步的义务或责任。
- 责任限制。** 阿克苏诺贝尔不对任何因买方未行使有效的质量控制或未按阿克苏诺贝尔建议的或提供的说明或行业标准存储、使用或以其他方式处理产品而造成的损失或损害承担责任。**阿克苏诺贝尔不向买方承担无论基于合同、**

侵权（包括过失）、违反法定职责或其他原因而造成的任何利润损失、业务损失、价值缩水或商誉损耗，或任何间接、偶然、特殊、惩戒性、惩罚性或后果性的损失或损害。阿克苏诺贝尔在本协议下向买方承担的由本协议引起的、或与本协议相关的、或以其他方式与产品供应相关的所有损失的责任在任何情况下均限于根据本协议采购的产品价格或 200,000 欧元，且以较低者为准。但本协议任何内容不会限制或排除阿克苏诺贝尔的以下责任：
(a) 因阿克苏诺贝尔的过失造成的死亡或人身伤害；(b) 欺诈或欺诈性失实陈述；或 (c) 根据法律规定阿克苏诺贝尔不能进行责任排除或限制的任何事项。

- 危害。** 买方确认其熟悉产品并了解与产品搬运、运输、使用、存储和处置相关的风险，包括但不限于阿克苏诺贝尔的材料安全数据表（即 Material Safety Data Sheet，以下缩写为“MSDS”）中所载的产品。买方将保持遵守所有适当的安全搬运和使用程序，以及有关产品的所有安全和健康相关的政府要求，并将采取合理可行的措施告知其雇员、代理商、承包商、客户及其他第三方与产品相关的正确使用和搬运要求，以及任何风险，包括搬运、运输、使用、存储和处置。
- 服务。** 如阿克苏诺贝尔向买方提供任何技术或其他信息、意见、建议、协助、工作、可交付物或任何形式的服务（“服务”），不论是否收取费用，阿克苏诺贝尔不对此类服务作出任何明示或暗示的、口头或书面的保证，包括适销性、适合某特定用途和不侵权，每项都明确否认；同时，对于产生于此类服务或与之相关的任何形式的责任，阿克苏诺贝尔将概不承担。本第 14 条或本协议其它条款下的任何规定均未要求阿克苏诺贝尔有义务提供服务。
- 借用设备。** 如阿克苏诺贝尔向买方提供任何应用、搅拌、调色、存储、配料或其他任何类型的设备（“借用设备”），不论是否收费，买方只能将借用设备用于与产品有关的用途，且不得用于其他目的。在借用期内的任何时候，买方应保持对借用设备的占有、保管和控制，并只能将借用设备交由已接受买方关于借用设备的安全正确使用的适当指导的买方雇员使用。借用设备在什么时候都将是阿克苏诺贝尔的财产，买方将签署阿克苏诺贝尔要求的任何及所有文件和表格，以保护阿克苏诺贝尔对借用设备享有的权益。当出现以下情况时，买方应立即将借用设备按交付时的状态（合理损耗除外）归还阿克苏诺贝尔：(i) 阿克苏诺贝尔可以在任何时候提出要求，或 (ii) 本协议解除或终止时。借用设备的装运、安装和拆卸的所有费用将由买方支付。买方将承担借用设备遗失的所有风险，并将承担因此产生的所有损害赔偿，但正常损耗除外。对于任何个人或法律实体主张的由借用设备造成的或与之相关的任何及所有损失、损害、伤害、死亡和责任，包括但不限于借用设备的操作、维护或所有权，买方同意并将作出赔偿、抗辩，保护阿克苏诺贝尔并使其免于承担任何法律责任。买方同意并将在能确保安全的条件下操作和维护借用设备，并应对其员工进行相应地指导。买方将自费购买阿克苏诺贝尔认可的保险公司提供的符合以下条件的保险：(i) 指定阿克苏诺贝尔为受益人，并且保险范围是借用设备在遭受火灾、盗窃、水灾、地震或其他损害后的全部重置价值，及(ii) 指定阿克苏诺贝尔为附加被保险人，保险范围为因借用设备的操作、维护或所有权所产生的责任，且其保险额和免赔额应得到阿克苏诺贝尔的同意。**阿克苏诺贝尔对借用设备不作任何明示或暗示的、口头或书面的保证，包括其适销性或适合某特定用途或不侵权，每项都明确否认；同时，阿克苏诺贝尔不承担因借用设备造成的或与之相关的任何形式的责任。本第 15 条或本协议其它条款下的任何规定都不表示阿克苏诺贝尔有义务提供借用设备。**
- 违约通知。** 买方必须及时向阿克苏诺贝尔发出书面通知，告知其所知晓的（或理应已知晓的）的对本协议任何条款的任何违反，并且必须给予阿克苏诺贝尔合理的机会来纠正该违约行为。如未及时履行通知义务，则买方不得就其遭受的任何可能与该违约相关的损失或损害提出索赔。除了前述通知且在不仅限于上述规定的情况下，买方必须在知晓该等索赔后七（7）日内通知阿克苏诺贝尔产品不符合第 10 条中的保证的任何索赔，但在任何情况下不得迟于产品交付后的三十（30）天。买方未在上句规定的期限内向阿克苏诺贝尔通知任何该等索赔，将构成其对该等索赔的放弃。
- 索赔。** 在不仅限于第 16 条规定的情况下，买方对阿克苏诺贝尔提出的、因本协议产生的或与之相关的任何及一切索赔，必须由买方根据第 21 条的规定在不迟于该索赔事宜发生之日后的（1）年发出通知，以解决争议。买方未在上句规定的期限内通知索赔，将构成买方对该等索赔的放弃。本第 17 条的规定将在本协议解除、取消或因其他原因终止后继续有效。
- 解除。** 尽管有期限规定，阿克苏诺贝尔可按本协议第 8 和 27 条规定或者当买方的管理层、所有权或控制权发生变化时，在向买方发出书面通知后解除本协议，并立即生效。尽管有期限规定，任何一方出现在以下情况时均可在向另一方发出书面通知后解除本协议，并立即生效：(i) 如果另一方严重违反本协议并且（如果该违约是可以补救的）未能在被要求作出补救的三十（30）日内对该违约进行补救，或 (ii) 如果另一方进入清算（无论是自愿还是强制），仅以重组或合并为目的的有偿付能力的自愿清算除外，或其业务或任何部分被任命了接管人和/或经营者、管理人或行政接管人，或就该方管理人的任命向法院提交了文件，或就该方的清算或有关该方的行政命令的批准通过了决议或向法院提交了申请，或如一方在何司法管辖区遭受与前述规定的措施和情形相类似的任何情形或措施（各称为“破产情形”）。任何解除不应减轻买方对本协议的任何违反。
- 解除的影响。** 本协议解除或期满后，(i) 本协议项下的所有权利和义务将终止，但不影响明确表示在解除后继续生效或根据其性质在解除后继续生效的任何权利或责任；(ii) 阿克苏诺贝尔将有权（但无义务）取消未交付的订单或出货，

- 且无需因此承担任何责任；(iii) 如解除系因买方违反其付款义务、买方的支付能力或财务稳定性令阿克苏诺贝尔不满意，或因影响买方的破产情形引起，则已交付给买方的所有产品的未支付的价款，无论是否已到期，将立即构成到期应付。
20. **不可抗力。**任何一方如直接或间接地受到战争（宣战或未宣战）、国家紧急情况、不足的交通设施、机械或设备故障、阿克苏诺贝尔无法按其可接受的条款和条件取得产品制造所用的原材料、物料、燃料或动力、火灾、水灾、风暴或其他天灾、罢工、停工或其它劳资纠纷、任何政府的命令或行为（无论是国外、国家或地方，也无论是有效或无效），或任何其他类似或不同种类的超出了受影响方合理控制的原因（各称为“不可抗力”）的妨碍或阻碍而未履行其在本协议项下的义务（买方未支付本协议项下的任何到期款项的除外），则任何一方在任何方面不应承担责任。涉及一方雇员的罢工、停工或其它劳资纠纷将被视为超出一方合理控制。受不可抗力影响的任何数量的产品将从阿克苏诺贝尔将供应的或/或买方将购买的总数量中扣除。在因不可抗力造成的产品短缺的任何时期内，阿克苏诺贝尔可在其可能认为公平和实际的基础上，在其集团成员（包括自身）及其客户、购买方、分销商和转销商之间分配可用的产品供应。如不可抗力的持续时间超过六（6）个月，或合理预计将超过六（6）个月，则任何一方均可通过向另一方发出不少于七（7）天的事先书面解除通知解除本协议，且无需承担任何责任，但前提是，如不可抗力在该通知所述的解除日之前已减弱，则该解除将不得生效。
21. **法律和争议解决。**本协议及因本协议下的履行造成的或以任何方式与之相关的一切争议，包括涉及本协议任何一方的母公司、子公司或附属企业的争议，将受阿克苏诺贝尔的地址（如本协议第一页所载）所在国家和（如适用）州或省的法律管辖，但始终不包括《联合国国际货物销售合同公约》和指向适用任何其他司法管辖区法律的任何法律选择规则。因本协议产生的或之相关的任何争议将通过以下方式解决：任何一方均可通过向另一方发送争议通知（“争议通知”）启动争议解决程序，该通知需合理详细地说明争议的性质和该方的立场。另一方应在争议通知之日起十五（15）天内以书面形式作出回复（“争议回复”），合理详细地就争议说明回复方的立场。在争议回复之日起三十（30）天内，双方的高级代表应诚意会晤并尝试解决争议。如果双方无法在争议回复之日起六十（60）天内解决争议，则任何一方可向阿克苏诺贝尔的地址（如本协议第一页所载）所在城市的对争议事项具有司法管辖权的（联邦、国家、州、省或地方）法院提起诉讼。（如果该城市没有对争议事项具有司法管辖权的法院，则可向最接近该城市的、对争议事项具有司法管辖权的（联邦、国家、州、省或地方）法院提起诉讼。）各方同意此类法院的司法管辖权和地点，并同意产生于本协议项下的履行或以任何方式与之相关的所有争议，包括未通过双方协议解决的涉及本协议任何一方的母公司、子公司或附属企业的争议，应仅在此类法院以及对此类法院的判决和裁定具有上诉阶段审理权的法院解决。
22. **转让和分包。**未经阿克苏诺贝尔事先书面同意，买方不得出让、转让、同意提供任何担保权益、代管或以任何其他方式处理本协议全部或任何部分的利益，也不得分包或更替其在本协议项下的任何或全部的义务。未经买方同意，阿克苏诺贝尔可出让、转让、同意提供任何担保权益、代管或以任何其他方式处理本协议全部或任何部分的利益，或分包或更替其在本协议项下的任何或全部的义务。
23. **无第三方受益人。**本协议中的任何内容不会赋予任何第三方任何利益或权利，双方的继任者或许可的受让人除外。
24. **双方的关系。**本协议中的任何内容和双方在本协议项下采取的任何行动不会在双方之间形成伙伴关系、合资或代理关系。
25. **文本。**本协议可签署任何数量的文本，并可由双方在单独的文本上签署，但在各方签署至少一个文本前不得生效。各文本将构成本协议正本，但所有文本一起将构成同一份协议。
26. **成本和费用。**各方将各自支付与本协议谈判、起草、签署和履行相关的费用。
27. **遵守法律；责任关怀®。**买方应遵守所有适用的法律法规和《责任关怀®全球宪章》附件 1。如果以阿克苏诺贝尔的合理判断，买方未遵守所有适用的法律法规，或严重违反了《责任关怀®全球宪章》附件 1，则阿克苏诺贝尔可暂停向买方的产品交付。如果买方不能或不愿在阿克苏诺贝尔关于其暂停交付产品的通知中规定的时限内达到此类要求，则阿克苏诺贝尔将有权通过向买方发出书面通知立即解除本协议。
28. **竞争法以及反腐败/反贿赂。**双方应始终遵守不时生效的与其行使本协议项下的权利以及履行本协议项下的义务相关的竞争法、反腐败及反贿赂方面的所有法律、法规、条例和法定要求。双方应始终自行承担费用取得并且保有与其行使本协议项下的权利以及履行本协议项下的义务相关的业务行为所必要的证书、授权、执照以及许可。在阿克苏诺贝尔的要求下，买方应当提供该等信息，阿克苏诺贝尔为了核实买方在本条款项下义务的合规可能会合理要求获取记录、联系雇员以及访问场所，买方应当配合提供。

29. **出口管制。**双方同意本协议的条款和规定须严格遵守所有适用的法律、法规和条例，包括但不限于 2008 年 12 月 4 日的定义了军用技术和设备出口管制的一般规则的《理事会共同立场 2008/944/CFSP》，2009 年 5 月 5 日的建立了对控制出口、转移、代理和转运双重用途项目的欧盟管理体制的《欧盟及理事会共同军事列表条例 No. 428/2009》、欧盟成员国的国内法律和法规以及美国的《出口管制条例》、《武器出口管制法》、《国际武器运输条例》、《对敌贸易法》、《国家紧急经济权力法案》以及《海外资产控制条例》，上述法律法规可能会不时被修订和补充（统称“出口管制法律法规”）。双方同意充分合作并确保遵守出口管制法律法规。任何一方不得向任何被出口管制法律法规禁止的个人、实体及国家销售、出口、转移、运输、转运或者以其他方式处置受出口管制法律法规控制的产品、技术、数据或服务。买方理解并且通过合同约定同意阿克苏诺贝尔销售并且出口产品、技术、数据或服务的权利受限于政府当局持续的批准。买方应当同意并且配合进行阿克苏诺贝尔或阿克苏诺贝尔的海关当局要求的为核实出口管制法律法规合规而在买方处进行的审计/现场检查。为遵守出口管制法律法规或者根据政府当局的要求，阿克苏诺贝尔有权经通知买方后立即停止本协议项下的任何销售或履约行为。针对阿克苏诺贝尔由于出口管制法律法规的违反、指控、调查或者强制行动产生的任何处罚、义务、罚金、责任或者其他类似损失（统称“损失”），买方应当在其行为的范围内对上述所有损失赔偿阿克苏诺贝尔，使其免受损失。
30. **完整协议。**双方可使用与本协议项下的产品买卖相关的采购订单、出货、确认或其他表单。使用此类表单只是为了管理方便，任何该表单中所包含的条款及条件不应产生任何效力。本协议连同所有附件，以及通过引用纳入本协议的任何其他文件，构成双方之间关于本协议事项的完整协议，并取代所有之前和同期关于该协议事项的书面和口头谅解、协议、陈述和保证。各方确认，在签订本协议时，除本协议明确载明的内容外，其未依赖于另一方的任何其他声明、陈述、保证或约定。
31. **修正。**本协议任何修正或变更必须以书面形式作出，并由双方授权代表签署。
32. **放弃。**任何一方未行使或延迟行使本协议项下或法律规定的任何权利或补救措施，不构成对该权利或补救措施或任何其他权利或补救措施的放弃，并且对任何权利或补救措施的任何单一或部分的行使其不会排除对该权利或补救措施的任何其他方面或进一步行使，或也不会排除对任何其他权利或补救措施的行使其。本协议项下的任何放弃必须以书面形式作出并由双方授权代表签署后才能生效。
33. **可分割性。**如果本协议中的任何条款因任何原因在任何司法管辖区中全部或部分成为无效、非法或不可执行，则该无效性、非法性或不可执行性不会影响本协议任何其他条款的效力，或使该条款在任何其他司法管辖区无效或不可执行。在确定任何条款无效、非法或不可执行后，双方将进行诚意谈判，以修改本协议，以双方可接受的方式尽可能达成双方的本意，使本协议拟议的交易在尽可能按双方的本意完成。
34. **通知。**与本协议相关的所有通知将以书面形式作出，并将在以下情况下被视为已送达：(a) 由专人送达时；(b) 如通过国际公认的商业快递公司发送，在送达时；(c) 如以预付邮资的一类邮件寄送时，在盖上寄件人邮政服务的第一个邮戳后第三天（要求回执，如有）。通知必须发送到“双方描述”中所载之相应方联系人的地址（或按本条发出的通知中指定的一方的其他地址）。
35. **标题。**本协议中的所有标题和题目仅为方便而添加，不构成本协议的一部分，影响本协议的解释。
36. **公告。**除非法律、法院或任何政府或监管机构另有要求，未经另一方事先书面同意（该同意不得无故拒绝或延迟），任何一方不得发布关于本协议拟议交易或任何附带事项的任何公告。在法律、法院或任何政府或监管机构要求公告的情况下，相关一方将采取在此类情况下可能是合理可行的一切措施，在发布该公告前与另一方约定该公告的内容。
37. **语言。**本协议以英语起草。如本协议已被翻译成多国语言，则以英文文本为准。本协议项下或与之相关的每项通知、要求或其他信函必须以英文书写或附有英文翻译，并由一方管理人员发出通知证明翻译准确性。
38. **解释。**本协议的解释将不考虑任何要求针对起草或促使起草任何文书的一方的说明或解释的假定或规定。在本协议中：(i) 个人包括自然人、法人或非法人团体（无论是否具有独立的法人资格），以及该个人的私人代表、继任者和受让人；(ii) 单数词语包括复数，反之亦然；(iii) 对一种性别的提及应包括其他性别；(iv) 对“日”或“天”的任何提及是指从午夜到午夜的二十四（24）小时，对“工作日”的任何提及是指除周六、周日或本协议指定的阿克苏诺贝尔联系人的地址所在城市的公众假期以外的一天；及(v)对一天中的各个时段的时间提及是指本协议指定的阿克苏诺贝尔联系人的地址所在城市的一天中的时段。

GENERAL SALES TERMS & CONDITIONS

1. **DEFINITIONS.** The terms "AkzoNobel," "Attachment(s)," "Buyer," "Delivery Term," "Effective Date," "Lead Time," "Maximum Monthly Quantity," "Packaging," "Payment Term," "Price(s)," "Product(s)," "Quantity," "Order Size," "Specifications," "Term," and "Warranty Period" have the meanings set forth above; the term "Agreement" means this agreement including the preceding page(s) and the Attachments; the term "Parties" means AkzoNobel and Buyer; and the term "Party" means either AkzoNobel or Buyer.
2. **PURCHASE AND SALE.** During the Term, AkzoNobel shall sell to Buyer, and Buyer shall purchase from AkzoNobel at the applicable Price(s) the Quantity of the Product(s).
3. **FORECASTS.** No later than thirty (30) days prior to the first day of each quarter, Buyer shall deliver to AkzoNobel a good faith forecast of Buyer's purchases of each Product for each of the next twelve (12) months. Such forecasts are not binding on Buyer or AkzoNobel.
4. **ORDERS.** Buyer shall place orders or requests for release of Product(s) in each case consistent with the applicable Maximum Monthly Quantity, Lead Time and Order Size. Notwithstanding anything to the contrary in this Agreement, AkzoNobel will not be required to accept or fill any orders or releases that exceed the Maximum Monthly Quantity, request delivery on less than the Lead Time or are for a quantity of Product that is not equal to the Order Size or a multiple of the Order Size. The Lead Time is the amount of time between the time an order is placed and the order is ready for shipment.
5. **QUANTITY VARIATIONS.** Buyer will have no right to reject any delivery of Product on the grounds of variation of quantity where such variation is not more than ten percent (10%) of the quantity of the Product ordered or released. Buyer shall pay for the quantity of Product delivered. In the event of any claim concerning the quantity of a Product delivered, Buyer must notify AkzoNobel within two (2) business days of the date of AkzoNobel's invoice and in the absence of such notice, Buyer will be deemed to have waived any right to dispute the quantity of Product delivered as reflected on the invoice.
6. **RISK OF LOSS AND TITLE.** Risk of loss will pass to Buyer in accordance with the Delivery Term. If permitted under applicable law AkzoNobel retains a security interest in all Products delivered to Buyer to secure payment in full of all amounts due to AkzoNobel and Buyer shall, upon AkzoNobel's request, execute such documentation as AkzoNobel deems necessary to perfect or maintain its security interest in the Products. In such case title to the Products passes to Buyer (subject to AkzoNobel's security interest) at the time risk of loss passes to Buyer. In all other cases title in the Products will remain vested in AkzoNobel and, until payment in full by Buyer of the purchase price and pending payment, Buyer shall hold the unused Products in trust for AkzoNobel and AkzoNobel will have the right to enter the premises of Buyer to collect any Products to which it holds title pursuant to this Section 6. In either case Buyer may sell the Products in the ordinary course of its business, but may not pledge, mortgage or otherwise encumber the Products prior to payment in full of the purchase price.
7. **DISCONTINUATION OF PRODUCTS.** AkzoNobel may discontinue the manufacture or supply of any Product at any time with at least three (3) months prior written notice to Buyer, and, after such notice period, such Product will immediately be deemed to be removed from this Agreement. If all Products are removed from this Agreement, this Agreement will automatically terminate without further liability for either Party.
8. **PRICE AND PAYMENT.** AkzoNobel will issue invoices to Buyer for Products sold to Buyer. Buyer shall pay AkzoNobel's invoices in accordance with the Payment Term. Buyer may not withhold payment of any amount due to AkzoNobel because of any set-off, counter-claim, abatement or similar deduction. If Buyer disputes any portion of AkzoNobel's invoice, Buyer must provide written notice to AkzoNobel prior to the date payment is due, specifying the disputed amount and the basis for the dispute, and must pay all undisputed amounts in accordance with the Payment Term. Buyer will be deemed to have accepted the correctness of, and to have waived any and all rights to dispute all invoiced amounts for which notice of dispute has not been given as set forth in the preceding sentence. AkzoNobel's acceptance of any payment that is less than the full amount of any invoice will not constitute a waiver of AkzoNobel's right to collect the balance, and will not be deemed as satisfaction of AkzoNobel's claim for the full amount. Buyer shall immediately reimburse AkzoNobel upon demand for any and all costs (including to the fees of collection agencies or attorneys) incurred or expended by AkzoNobel to collect any amounts due under this Agreement. If Buyer fails to pay any amount due on time or if the financial responsibility or stability of Buyer becomes unsatisfactory to AkzoNobel, AkzoNobel may, in its sole discretion, terminate this Agreement with immediate effect upon written notice to Buyer or suspend deliveries until all amounts due are paid and the financial responsibility or stability of Buyer becomes satisfactory to AkzoNobel. Interest at the lesser of one and one half percent (1 1/2%) per month or the maximum rate allowed by law will accrue on all overdue amounts and be paid by Buyer. The interest period will run from the due date for payment until receipt by AkzoNobel of the full amount due whether or not the Agreement is terminated or delivery is suspended.
9. **TAXES.** Buyer will be responsible for the collection, remittance and payment of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase, import, sale or other distribution of the Products.
10. **WARRANTY.** AkzoNobel warrants to Buyer that, for the Warranty Period, the Product will meet the performance criteria set forth in the Specifications (the "Warranty"). **THIS WARRANTY IS THE SOLE WARRANTY GIVEN BY AKZONOBEL. AKZONOBEL MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCT, THE APPLICATION OR USE THEREOF, OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, EACH OF WHICH IS SPECIFICALLY DISCLAIMED. IN ADDITION AND WITHOUT LIMITING THE FOREGOING, ANY AND ALL WARRANTIES, CONDITIONS AND OTHER TERMS (WHETHER EXPRESS OR IMPLIED AND WHETHER STATUTORY OR OTHERWISE) AS TO THE QUALITY OR DESCRIPTION OF THE PRODUCT ARE DISCLAIMED AND ARE EXCLUDED FROM THIS AGREEMENT TO THE FULLEST EXTENT PERMITTED BY LAW.** Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of AkzoNobel which is not set out in this Agreement. After the Warranty Period, AkzoNobel no longer warrants the Product and Buyer agrees that it cannot obtain any compensation for defect or deterioration from AkzoNobel after the expiration of the Warranty Period.
11. **WARRANTY EXCLUSIONS.** AkzoNobel is not liable for and the Warranty specifically excludes all Product failures that result from: (a) causes beyond the control of AkzoNobel including without limitation environmental pollution, vandalism or other malicious damage, fire, flood, windstorm, other adverse weather or Acts of God; (b) the use of any product not manufactured by AkzoNobel; or (c) Buyer's failure to comply with any provision of this Agreement or any instructions or product literature published by AkzoNobel or given to Buyer by or on behalf of AkzoNobel concerning the Product including without limitation failure to perform surface preparation and pre-treatment for, and application of, Product strictly in accordance with such instructions or product literature. AkzoNobel does not warrant the workmanship or conduct of Buyer or any third-party contractor or applicator, and AkzoNobel will not be responsible for damages to or failure or deteriorations of the Product resulting, directly or indirectly, from faulty workmanship in any inspection, application (including surface preparation), installation or maintenance of the Product by Buyer, any third party contractor or applicator, or any other person or entity. Any repair or attempted repair by Buyer or its agents or representatives or any third party will render the Warranty void, unless such repair is carried out in accordance with AkzoNobel's written instructions.
12. **LIABILITY FOR NONCONFORMING PRODUCTS.** Buyer's sole cause of action against AkzoNobel for any failure, non-performance of, or defect in any Product will be a claim for breach of the Warranty and, in the event of such breach, AkzoNobel shall, at its option and expense, repair, replace or (if the Product cannot be repaired or replaced) issue a credit for Product found to be in breach of the Warranty. This remedy will be Buyer's exclusive remedy for breach of the Warranty.
13. **LIMITATION OF LIABILITY.** AkzoNobel will not be liable for any loss or damage caused by Buyer's failure to exercise effective quality control or the failure to store, use or otherwise handle the Products as advised or in accordance with instructions provided by AkzoNobel or industry standards. **AKZONOBEL WILL NOT BE LIABLE TO BUYER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY LOSS OF PROFIT, LOSS OF BUSINESS, DIMINUTION IN VALUE, OR DEPLETION OF GOODWILL OR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL LOSS OR DAMAGE. AKZONOBEL'S AGGREGATE LIABILITY TO BUYER IN RESPECT OF ALL LOSSES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH THE SUPPLY OF THE PRODUCTS WILL IN NO WAY EXCEED THE PRICE OF THE PRODUCTS PURCHASED UNDER IT, OR €200,000, WHICHEVER IS LOWER.** Nothing in this Agreement will limit or exclude AkzoNobel's liability for: (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; or (c) any matter in respect of which it is unlawful for AkzoNobel to exclude or restrict its liability.
14. **HAZARDS.** Buyer acknowledges that it is familiar with the Products and understands the risks associated with handling, transporting, using, storing and disposing of the Products, including, without limitation, those set forth in AkzoNobel's Material Safety Data Sheet for the Products ("MSDS"). Buyer shall maintain compliance with all appropriate safe handling and use procedures, and all safety and health-related governmental requirements concerning the Products, and shall take such steps as are reasonable and practicable to inform its employees, agents, contractors, customers and other third parties of proper use and handling requirements and of any risks associated with the Products, including handling, transportation, use, storage, and disposal.
15. **SERVICES.** IN THE EVENT AKZONOBEL PROVIDES ANY TECHNICAL OR OTHER INFORMATION, ADVICE, SUGGESTIONS, ASSISTANCE, WORK, DELIVERABLES OR SERVICES OF ANY KIND TO BUYER ("SERVICES"), WHETHER OR NOT FOR A FEE, AKZONOBEL MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO SUCH SERVICES, INCLUDING THE IMPLIED

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, EACH OF WHICH IS SPECIFICALLY DISCLAIMED; AND AKZONOBEL WILL HAVE NO LIABILITY TO BUYER OF ANY KIND ARISING OUT OF OR RELATED TO THE SERVICES. NOTHING IN THIS SECTION OR ELSEWHERE IN THIS AGREEMENT OBLIGATES AKZONOBEL TO PROVIDE SERVICES.

16. **LOANED EQUIPMENT.** In the event AkzoNobel provides any application, mixing, tinting, storage, dispensing or other equipment of any kind to Buyer ("Loaned Equipment"), whether or not for a fee, Buyer shall use the Loaned Equipment solely in relation to the Products and for no other purpose and shall at all times during the loaned period retain possession, custody and control of the Loaned Equipment and not allow its use by any person other than Buyer's employees who have been properly instructed by Buyer on the safe and proper use of the Loaned Equipment. The Loaned Equipment will at all times remain the property of AkzoNobel and Buyer shall execute any and all documents and forms required by AkzoNobel to protect AkzoNobel's interest in the Loaned Equipment. Buyer shall return the Loaned Equipment to AkzoNobel in the condition it was delivered to Buyer, reasonable wear and tear excepted, immediately upon (a) AkzoNobel's demand, which may be made at any time in AkzoNobel's discretion or (b) the termination or expiration of this Agreement. All costs of shipping, installation and removal of the Loaned Equipment shall be paid by Buyer. Buyer will bear all risk of loss of the Loaned Equipment and will be responsible for all damage thereto, normal wear and tear excepted. Buyer shall indemnify, defend, protect and hold AkzoNobel free and harmless from and against any and all losses, damages, injuries, death and liabilities alleged by any person or entity to have resulted from or in relation to the Loaned Equipment, including without limitation the operation, maintenance or ownership of the Loaned Equipment. Buyer shall operate and maintain the Loaned Equipment in a safe condition and shall instruct its employees accordingly. Buyer shall at its own cost and expense obtain policies of insurance issued by such insurers as are acceptable to AkzoNobel (a) naming AkzoNobel as loss payee and insuring the Loaned Equipment from fire, theft, flood, earthquake or other damage to the extent of the full replacement value thereof and (b) naming AkzoNobel as an additional insured and insuring AkzoNobel against liabilities arising out of the operation, maintenance or ownership of the Loaned Equipment with coverage amounts and deductibles acceptable to AkzoNobel. AKZONOBEL MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE LOANED EQUIPMENT, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, EACH OF WHICH IS SPECIFICALLY DISCLAIMED; AND AKZONOBEL WILL HAVE NO LIABILITY TO BUYER OF ANY KIND ARISING OUT OF OR RELATED TO THE LOANED EQUIPMENT. NOTHING IN THIS SECTION OR ELSEWHERE IN THIS AGREEMENT OBLIGATES AKZONOBEL TO PROVIDE LOANED EQUIPMENT.
17. **NOTIFICATION OF DEFAULT.** Buyer must promptly provide written notice to AkzoNobel of any breach of any term of this Agreement of which Buyer becomes aware (or should reasonably have been aware) and must afford AkzoNobel a reasonable opportunity to correct the breach. Failure to do so will preclude Buyer from bringing a claim in respect of any loss or damage related to such breach. In addition to and not in limitation of the foregoing, Buyer must notify AkzoNobel of any claims Products do not comply with the warranty in Section 10 within seven (7) days after Buyer becomes aware of such claim but in no event later than thirty (30) days after delivery of the Product to Buyer. Buyer's failure to notify AkzoNobel of any such claim within the time set out in the preceding sentence will constitute a waiver by Buyer of such claim.
18. **CLAIMS.** Without limiting the provisions of the section headed "Notification of Default," any and all claims by Buyer against AkzoNobel arising out of or in connection with this Agreement must be notified by Buyer for dispute resolution in accordance with the section headed "Law and Dispute Resolution" no later than one (1) year following the date on which such claim accrued. The failure of Buyer to notify a claim for dispute resolution within the time set out in the preceding sentence will constitute a waiver by Buyer of such claim. The provisions of this Section will survive the termination, cancellation or other cessation of this Agreement.
19. **TERMINATION.** Notwithstanding the Term, AkzoNobel may terminate this Agreement upon written notice to Buyer with immediate effect as set forth in the sections headed "Price and Payment" and "Compliance with Laws; Responsible Care®" or if there is a change in the management, ownership or control of Buyer. Notwithstanding the Term, either Party may terminate this Agreement upon written notice to the other Party with immediate effect (a) if the other Party commits a material breach of this Agreement and (if that breach is remediable) fails to remedy that breach within thirty (30) days of that Party being required in writing to do so or (b) if the other Party enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purposes only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with any court for the appointment of an administrator of the Party, or a resolution is passed or a petition presented to any court for the winding-up of the Party or for the granting of an administration order in respect of the Party, or if a Party suffers any event or step analogous to the steps and events set out in the foregoing in any jurisdiction (each an "Insolvency Event"). No termination will relieve Buyer of any breach of this Agreement.
20. **EFFECT OF TERMINATION.** Upon termination or expiry of this Agreement (a) all rights and obligations under this Agreement will cease, without affecting any accrued rights or liabilities which are expressly stated as surviving termination or by their nature survive termination; (b) AkzoNobel will have the right (but no obligation) to cancel undelivered orders or releases for Products without further liability; and (c) if termination results from Buyer's default of its payment obligation, the financial responsibility or stability of Buyer becoming unsatisfactory to AkzoNobel or an Insolvency Event affecting Buyer the Price for all Products delivered to Buyer for which payment has not been made, whether or not due for payment, will become immediately due.
21. **FORCE MAJEURE.** Neither Party will be liable in any respect for failure to perform its obligations under this Agreement (other than Buyer's failure to make any payment under this Agreement when due) if hindered or prevented, directly or indirectly, by war (declared or undeclared); national emergency; inadequate transportation facilities; machinery or equipment failure; AkzoNobel's inability to secure materials, supplies, fuel or power for the manufacture of Product on terms and conditions that are acceptable to AkzoNobel; fire, flood, windstorm or other act of God; strike, lockout or other labour dispute; order or act of any government, whether foreign, national or local, whether valid or invalid; or any other cause of like or different kind beyond the reasonable control of the affected Party (each a "Force Majeure"). Strikes, lockouts, or other labour disputes involving employees of a Party will be deemed to be beyond the Party's reasonable control. Any quantity of Product affected by a Force Majeure will be deducted from the total quantity to be supplied by AkzoNobel and/or purchased by Buyer. During any period of Product shortage due to a Force Majeure, AkzoNobel may allocate its available supply of Product among itself and its parents, subsidiaries and affiliates, and its and their respective customers, buyers, distributors and resellers on whatever basis AkzoNobel may deem fair and practical. In the event the duration of a Force Majeure exceeds six (6) months or is reasonably expected to exceed six (6) months either Party may terminate this Agreement, without liability on the part of either Party, by giving not less than seven (7) days prior written notice of termination to the other Party, provided, however, that no such termination will be effective if the Force Majeure has abated prior to the termination date stated in such notice.
22. **LAW AND DISPUTE RESOLUTION.** This Agreement and all disputes arising out of or relating in any way to performance under this Agreement, including disputes involving the parent company, subsidiaries or affiliates of any Party to this Agreement, will be governed by the laws of the country and, if applicable, state or province, in which AkzoNobel's address (as set forth on the first page of this Agreement) is located, excluding always the United Nations Convention on Contracts for the International Sale of Goods and any choice of law rules that direct the application of the law of any other jurisdiction. Any dispute arising under or relating to this Agreement will be resolved in the following manner. Either Party may institute the dispute resolution process by sending to the other a notice of the dispute (the "Dispute Notice"), stating the nature of the dispute and the Party's position in reasonable detail. The other Party shall, within fifteen (15) days of the date of the Dispute Notice, respond in writing stating the responding Party's position with respect to the dispute in reasonable detail (the "Dispute Response"). Within thirty (30) days of the date of the Dispute Response senior representatives of the Parties shall meet in good faith and attempt to resolve the dispute. If they are unable to resolve the dispute within sixty (60) days of the date of the Dispute Response, either Party may bring suit in the courts (federal, national, state, provincial or local) having jurisdiction over the subject matter of the dispute that are located in the city in which AkzoNobel's address (as set forth on the first page of this Agreement) is located. (Provided, however, that if no court having jurisdiction over the subject matter of the dispute is located in such city, suit may be brought in the court (federal, national, state, provincial or local) having jurisdiction over the subject matter of the dispute closest to such city.) Each Party consents and agrees to the jurisdiction and venue of such courts and agrees that all disputes arising out of or relating in any way to performance under this Agreement, including disputes involving the parent company, subsidiaries or affiliates of any Party to this Agreement which are not resolved by agreement of the Parties shall be resolved exclusively in such courts and the courts having appellate level review over the decisions and rulings of such courts.
23. **ASSIGNMENT AND SUBCONTRACTING.** Buyer may not assign, transfer, grant any security interest over, hold on trust or deal in any other manner with the benefit of all or any part of this Agreement, nor sub-contract or novate any or all of its obligations under this Agreement without AkzoNobel's prior written consent. AkzoNobel may assign, transfer, grant any security interest over, hold on trust or deal in any other manner with the benefit of all or any part of this Agreement, or sub-contract or novate any or all of its obligations under this Agreement without Buyer's consent.
24. **NO THIRD PARTY BENEFICIARIES.** Nothing in this Agreement will confer any benefit or right upon any third party except for the Parties' successors or permitted assignees.
25. **RELATIONSHIP OF THE PARTIES.** Nothing in this Agreement and no action taken by the Parties under this Agreement will constitute a partnership, joint venture or agency relationship between the Parties.
26. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, and by the Parties on separate counterparts, but will not be effective until each Party has executed at least one counterpart. Each counterpart will constitute an original of this Agreement, but all the counterparts together will constitute but one and the same contract.
27. **COSTS AND EXPENSES.** Each Party shall pay its own costs relating to the negotiation, preparation, execution and performance of this Agreement.
28. **COMPLIANCE WITH LAWS; RESPONSIBLE CARE®.** Buyer shall comply with all applicable laws and regulations. AkzoNobel may suspend delivery

- of Product to Buyer if, in AkzoNobel's judgment, acting reasonably, Buyer is not complying with all applicable laws and regulations. If Buyer is unable or unwilling to comply with its obligations under this Section within the time frame specified in AkzoNobel's notice that it is suspending delivery of Product, AkzoNobel may terminate this Agreement with immediate effect by giving written notice to Buyer. Buyer represents and warrants that Buyer is committed to the safe management of chemicals throughout their life cycle and contributing to sustainable development in a manner that is consistent with the commitments set forth in [The International Council of Chemical Associations' Responsible Care® Global Charter](#).
29. **COMPETITION AND ANTI-CORRUPTION/BRIBERY.** Each Party shall at all times comply with all relevant laws, rules, regulations and statutory requirements that from time to time come into force that relate to competition law, anti-corruption or bribery relating to the exercise of the Party's rights and the performance of its obligations under this Agreement. Each Party shall at all times, at its own expense, obtain and maintain all certifications, authorisations, licences and permits materially necessary to conduct its business relating to the exercise of its rights and the performance of its obligations under this Agreement. Buyer shall, at the request of AkzoNobel, provide such information or access to Buyer's records, employees and sites as may be reasonably required by AkzoNobel to verify Buyer's compliance with its obligations under this Section.
30. **EXPORT CONTROLS AND SANCTIONS.** The Parties agree that the terms and provisions of this Agreement are subject to strict compliance with applicable laws, rules, and regulations, as they may be amended and supplemented from time to time, including without limitation (i) the Council Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment in combination with the Common Military List of the EU, Council Regulation (EC) No. 428/2009 setting up a Community regime for the control of exports, transfers, brokering and transit of dual-use items, and any national laws and regulations of the EU Member States implementing those as well as the US Export Administration Act, Export Administration Regulations, Arms Export Control Act, and International Traffic in Arms Regulations and (ii) the EU Council Regulations regarding economic sanctions against any person, entity or body and any national laws and regulations of the EU Member States implementing those as well as the US Trading with the Enemy Act, International Emergency Economic Powers Act, and Foreign Assets Control Regulations and any US restrictions following from the Specially Designated Nationals & Blocked Persons List and any other applicable economic sanctions, inter alia product, sector or services related restrictions (together "Export Control and Economic Sanctions Laws and Regulations"). The Parties agree to fully cooperate and ensure compliance with the Export Control and Economic Sanctions Laws and Regulations. Neither Party shall sell, export, transfer, ship, divert, or otherwise dispose of any goods, technology, data or services controlled by or subject to restrictions pursuant to the Export Control and Economic Sanctions Laws and Regulations to any person, entity, or country contrary to the Export Control and Economic Sanctions Laws and Regulations. Buyer understands and contractually accepts that AkzoNobel's right to sell and export goods, technology, data or services is subject to the continuing approval of governmental authorities. Buyer shall agree and cooperate with any verification audit/on-site inspection at Buyer's facilities requested by AkzoNobel or AkzoNobel's customs authorities to verify compliance with the Export Control and Economic Sanctions Laws and Regulations. AkzoNobel shall have the right to immediately terminate any sale or performance under this Agreement upon notice to Buyer in order to comply with the Export Control and Economic Sanctions Laws and Regulations, or at the request of governmental authorities. Buyer shall indemnify and hold AkzoNobel harmless for any penalties, obligations, fines, liabilities or other similar losses (collectively, "Losses") incurred by AkzoNobel stemming from violations, charges, investigations or enforcement actions concerning the Export Control and Economic Sanctions Laws and Regulations, to the extent such Losses resulted from actions by Buyer.
31. **ENTIRE AGREEMENT.** The Parties may use purchase orders, releases, acknowledgements or other forms in connection with the purchase and sale of Products under this Agreement. The use of such forms is for administrative convenience only and no terms and conditions contained in any such form will be of any force or effect. This Agreement, together with all Attachments and any other documents incorporated herein by reference, constitutes the entire contract of the Parties with respect to the subject matter in this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the subject matter. Each Party acknowledges that, in entering into this Agreement, it has not relied on any statement, representation, warranty or agreement of the other Party other than as expressly contained in this Agreement.
32. **AMENDMENTS.** Any amendment of or variation to this Agreement must be in writing and signed by authorized representative(s) of both Parties.
33. **WAIVER.** Except as otherwise expressly stated in this Agreement, no failure or delay by either Party in exercising any right or remedy provided under this Agreement or by law will constitute a waiver of that or any other right or remedy, nor will any single or partial exercise of any right or remedy preclude any other or further exercise of it or the exercise of any other right or remedy. Except for any waiver expressly provided for in this Agreement, no waiver under this Agreement is effective unless it is in writing and signed by authorized representative(s) of both Parties.
34. **SEVERABILITY.** If any provision in this Agreement, for any reason, is invalid, illegal or unenforceable, in whole or in part, in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision of this Agreement or invalidate or render unenforceable such provision in any other jurisdiction. Upon a determination that any provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated herein are consummated as originally contemplated to the greatest extent possible.
35. **NOTICES.** All notices provided in connection with this Agreement must be in writing and will be deemed to have been given (a) when delivered by hand; (b) when delivered if sent by an internationally recognized commercial courier; or (c) on the third (3rd) day after the first post-mark of the sender's postal service if sent by first class mail, postage prepaid (return receipt requested, if available). Notices must be sent to a Party at the Party's address set forth on the first page of this Agreement (or at such other address for the Party as may be specified in a notice given in accordance with this Section).
36. **HEADINGS.** All headings and titles in this Agreement are inserted for convenience only, and are not a part of this Agreement and will not affect the interpretation of this Agreement.
37. **ANNOUNCEMENTS.** Unless otherwise required by law, a court or any governmental or regulatory authority, no announcement concerning the transactions contemplated by this Agreement or any ancillary matter may be made by either Party without the prior written consent of the other, which consent will not be unreasonably withheld or delayed. In cases where an announcement is required by law, a court or any governmental or regulatory authority, the Party concerned shall take all such steps as may be reasonable and practicable in the circumstances to agree to the contents of such announcement with the other Party before making such announcement.
38. **LANGUAGE.** This Agreement is drafted in the English language. If this Agreement has been translated into multiple languages, the English language text will prevail. Each notice, demand, or other communication under or in connection with this Agreement must be in English or accompanied by an English translation and certified by an officer of the Party giving notice to be accurate.
39. **INTERPRETATION.** This Agreement will be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing an instrument to be drafted. In this Agreement: (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and assigns; (b) words in the singular include the plural and vice versa; (c) a reference to one gender includes the other gender; (d) any reference to a "day" means a period of twenty-four (24) hours running from midnight to midnight and any reference to a "business day" means a day other than a Saturday, Sunday or public holiday in the city in which the address of AkzoNobel (as set forth on the first page of this Agreement) is located; and (e) any references to times of day are to the time of day in the city in which the address of AkzoNobel (as set forth on the first page of this Agreement) is located.