

## AGREEMENT FOR ON-SITE SERVICES

THIS AGREEMENT (the "Agreement") is made effective as of \_\_\_\_\_, 20\_\_\_\_, (the "Effective Date") by and between PPG Industries, Inc., a Pennsylvania corporation, having its principal offices and place of business at One PPG Place, Pittsburgh, Pennsylvania 15272 ("PPG"), for itself and on behalf of its wholly-owned and majority-owned subsidiaries and affiliates located in the United States (the "PPG Companies") ("PPG" and the "PPG Companies" individually and collectively referred to herein as the "Buyer"), and \_\_\_\_\_, a \_\_\_\_\_, having its principal offices and place of business at \_\_\_\_\_ ("Contractor"). Buyer and Contractor are sometimes referred to herein, individually as a "Party" and collectively as "Parties".

Buyer desires Contractor to perform certain on-site services at a Buyer facility or facilities (the "Facility"), and Contractor desires to perform such services. Therefore, the Parties agree as follows:

### **1. Scope of Services.**

1.1 This Agreement is intended to cover certain on-site services (the "Services") to be performed by Contractor, at the Facility, per the performance schedule, the pricing therefor, and for the particular Buyer all as shall be specified and described in an "Accepted Order", and as required by and in accordance with this Agreement. An Accepted Order is a Buyer purchase order in the form of purchase orders, EDI orders, PPG's Corporate Purchasing Card or verbal orders (confirmed via written or electronic order) issued to Contractor for the Services that is accepted by Contractor by (i) written confirmation, (ii) by electronic acknowledgement (including an acknowledgement through PPG's electronic procurement program), (iii) by not being rejected by Contractor, in writing, within ten (10) calendar days after receipt by Contractor, (iv) by Contractor undertaking to provide the Services, or (v) by such other means as the Parties may agree upon from time to time. Each Accepted Order issued against this Agreement is incorporated by reference into this Agreement, and is made a part hereof with the same force and effect as though set forth in full above the signatures affixed hereto. If there are any terms or conditions in an Accepted Order which are inconsistent with or in conflict with this Agreement, the terms and conditions of the various documents constituting this Agreement shall control in the following priority and order: the front of the Accepted Order; this Agreement; and, then the reverse side terms and conditions of the Accepted Order.

1.2 The only manner in which any provision of this Agreement may be modified, superseded or overwritten is by a single document signed by the applicable Buyer and Contractor specifically identifying and referring to this Agreement and to the number and heading of the provision being modified, superseded or overwritten; any such signed document not signed by PPG only shall apply to the particular Buyer signing the document and not to the other Buyers. The immediately preceding sentence taken precedence over any document, understanding, course of conduct, or usage of trade to the contrary, whether having arise heretofore or arising hereafter.

### **2. Agreement Term.**

2.1 This Agreement shall begin on the Effective Date and shall continue until terminated by either PPG or Contractor by at least sixty (60) calendar days prior written notice to the other. Notwithstanding the giving of any such termination notice by one Party to the other and unless otherwise directed, in writing, by PPG or the applicable Buyer, all Accepted Orders in effect prior to the stated termination date shall be completed in accordance with the terms of this Agreement and those of the applicable Accepted Orders.

### 3. Accepted Order Cancellation.

3.1 Unless otherwise expressly stated on the front of an Accepted Order, the applicable Buyer, at any time and without cause upon notice to Contractor, may cancel the Accepted Order and the Services thereunder. Upon receipt of Buyer's notice of cancellation, Contractor, unless otherwise directed by the applicable Buyer, shall immediately discontinue all work in process and immediately cancel all orders and/or subcontracts given or made pursuant to the applicable Accepted Order. In the event of such a cancellation by the Buyer, without cause, that Buyer shall pay for all Services delivered, completed and accepted by that Buyer under the applicable Accepted Order through the cancellation date, and a reasonable settlement shall be reached (consistent with the price and intent of the applicable Accepted Order) for any reasonable and necessary demobilization costs incurred by Contractor as a result thereof.

### 4. Indemnification.

4.1 Contractor assumes the risk of all damages, losses, costs and expenses, and agrees to indemnify, defend and hold harmless Buyer, their directors, officers, agents, and employees from and against any and all claims, liability, damage, loss, penalties, fines, cost and expense of any kind whatsoever which may accrue to or be sustained by any Buyer, their directors, officers, agents or employees, arising out of this Agreement and/or the Services, including, without limitation, for the death of or injury to persons or destruction of property involving Contractor, its employees, agents and representatives, sustained in connection with performance of the Services, arising from any cause whatsoever (including without limitation, injuries resulting from failure of or defect in any equipment, instrument or device supplied by Buyer or their employees to Contractor, its employees, agents or representatives at the request of Contractor, its employees, agents or representatives), except to the extent arising out of the sole negligence or willful misconduct of the Buyer or its employees acting within the scope of their employment. The indemnification obligation of this Section 4. shall be deemed modified as required to exclude that degree of indemnification required aforesaid which is expressly prohibited by applicable law, statute or regulation, if any; but to the extent the aforesaid indemnification obligation is valid and enforceable, it shall remain in effect though modified. The indemnity obligations of Contractor hereunder shall survive the termination or expiration of this Agreement and of any applicable Accepted Order.

### 5. Insurance, Performance and Payment Bonds.

5.1 **Contractor-Furnished Insurance.** Contractor, at its own expense, shall effect and maintain, and at all times keep current, insurance in the amounts and types hereinafter set forth during the progress of any of the Services with insurance companies approved by PPG and shall submit certificates to PPG, evidencing such. A complying insurance certificate must be provided to PPG within ten (10) days of the Effective Date and prior to any Service being performed, and complying certificates for renewals prior to the expiration date of the then insurances; **Contractor acknowledges and agrees that the aforesaid obligation to provide complying certificates to PPG is a material precondition to Contractor's receipt of any payment from PPG or the applicable Buyer for the Services.** Contractor shall require its subcontractors to effect and maintain such insurance and shall obtain certificates evidencing such insurance prior to the commencement of any portion of the Services by said subcontractors. Contractor shall not be relieved of any liability that falls within applicable deductibles, it being specifically understood that Contractor shall be solely responsible to pay all claims wholly or partly falling within any deductible and shall hold harmless and indemnify Buyer therefrom. Such insurance shall be:

5.1.1 Workers' Compensation or Workplace Safety insurance, and such other, as applicable, social insurance as may be required, covering all employees engaged directly or indirectly in the Services, in such coverages and amounts as would satisfy the minimum statutory requirements of (a) the province or state

wherein the Services is being performed, and (b) the province or state of the principal address or place of business of Contractor; it being understood that, for purpose of the Agreement, Contractor procurement of such coverages shall be deemed mandatory, regardless of whether the statute in either or both of said provinces or states permits Contractor to elect not to carry any such coverage.

5.1.2 Employer’s Liability Insurance, with a \$500,000 per-occurrence limit.

5.1.3 Comprehensive (Commercial) General Liability Insurance, including premises, operations, products liability, completed operations, blanket contractual, broad form property damage and personal injury (and if the Services include on-site construction types of Services, then Contractor’s protective, explosion, collapse and damage to underground property (XCU hazards)) in the following amounts:

Bodily Injury	) \$1,000,000 each occurrence
and	) \$5,000,000 annual aggregate
Property Damage	)

subject to a deductible no greater than \$100,000;

5.1.4 Automobile Liability Insurance covering all owned, non-owned and hired vehicles in the following amounts:

Bodily Injury	) \$1,000,000 each occurrence
and	)
Property Damage	)

subject to a deductible no greater than \$100,000; and

5.1.5 The certificates of insurance evidencing the insurance coverages specified in Sections 5.1.2 – 5.1.4 shall stipulate that PPG and any other applicable Buyer as may be specified on the Accepted Order: (i) shall be named an additional insured under such insurances (whether or not required by the other provisions of the Agreement); and, (ii) shall receive at least thirty (30) days’ prior written notice of any change or cancellation in the aforementioned coverages. It is understood neither PPG nor any other Buyer in any way represents that the types or the limits of insurance, hereinabove specified, are sufficient or adequate to protect Contractor’s interests or liabilities. Contractor agrees to, and hereby does, waive subrogation against Buyer under all such insurance, and all policies of insurance which Contractor must furnish shall contain an endorsement whereby the carrier waives any and all rights of subrogation against Buyer. Contractor shall not violate or knowingly permit to be violated any conditions of the policies of insurance required to be carried under the terms aforesaid, and shall at all times satisfy the requirements of the insurance companies issuing them. As used hereinabove, the word “occurrence” shall mean one loss, disaster or casualty or a series of losses, disasters or casualties arising out of one event.

## 5.2 Bonds – Construction Services.

5.2.1 If the Services includes on-site construction type of work, the Contractor, at the option of the applicable Buyer and at that Buyer’s expense unless otherwise provided in the applicable Accepted Order, agrees to furnish or permit that Buyer to secure bonds in the full amount of the Accepted Order written by a surety company satisfactory to the Buyer, guaranteeing and conditioned for the full, complete, and faithful performance of the Accepted Order by the Contractor and for the payment of all claims for labor performed and materials furnished in connection therewith, all in accordance with the terms of the bonds. The Contractor

agrees to sign the required application, furnish a financial statement and such financial guarantees as are necessary for the securing of said bonds.

5.3 **Louisiana Statutory Employer.** *This provision only applies for Services for a Facility located in Louisiana.*

5.3.1 The Agreement recognizes that Buyer shall be considered the statutory employer of Contractor's employees and subcontractors who provide Services under this Agreement and any applicable Accepted Order for Buyer in Louisiana in accordance with Louisiana R.S. 23: 1031 or R.S. 23: 1061. Thus Buyer is to be granted the exclusive remedy protection of Louisiana R.S. 23: 1032 and it shall be liable to pay compensation benefits if the immediate employer (Contractor) is unable to meet its obligation under Louisiana Worker's Compensation Statute for Services that are performed in Louisiana under this Agreement and any applicable Accepted Order. The Parties agree that the recognition of the Statutory employer status is made pursuant to R.S. 23: 1061 of the Louisiana Worker's Compensation Statute and that Buyer is not the actual employer of any employees of Contractor or any of its subcontractors. Further, Buyer has no control or involvement in the hiring, firing or direct supervision or direction of any such employees. The Services performed under this Agreement and any applicable Accepted Order is an integral part of and essential to the ability of Buyer to generate its goods, products or services.

## **6. Payment/Liens.**

6.1 Invoices shall be the responsibility of and payable by the Buyer specified in the applicable Accepted Order. Unless otherwise provided on the front of an Accepted Order, the Buyer may, at its option, retain ten percent (10%) of each invoice amount until final acceptance by it of the Services. Invoices for Services not performed on a lump-sum basis shall be accompanied by such supporting documentation as PPG or the Buyer reasonably may require from time to time, and Contractor's books and records pertaining to any of its invoiced amounts may be inspected during normal business hours by PPG and/or the Buyer, or its representatives, during the performance of an Accepted Order and for thirty-six (36) months thereafter.

6.2 Contractor's invoices shall be in such format and medium (including without limitation, being in electronic medium as part of PPG's electronic procurement program), with such pricing and other information breakouts as the applicable Buyer may direct from time to time. Payments to Contractor may be made by check, wire transfer, Buyer's Corporate Purchasing Card, or by other means mutually agreed upon by the Parties from time to time.

6.3 To the full extent permitted by applicable law, Contractor hereby waives and releases any and all rights of mechanic's lien and similar rights of lien for payment for services, labor, equipment, or materials furnished by Contractor in performance of an Accepted Order and granted by law to persons supplying materials, equipment, services, and other things of value to improve or modify land or structures thereon, which Contractor may have against the Buyers' premises or property belonging to the Buyers. Contractor shall require each of its subcontractors and materialmen to agree in writing to the waiver of any such lien rights as a condition to the granting of a contract to it pertaining to the Accepted Order.

6.4 Contractor shall at all times promptly pay for all services, materials, equipment, and labor used or furnished by any party in the performance of the Accepted Orders and Services, and shall at its expense keep the Buyers' premises and all property belonging to the Buyers free and clear of any and all of the above-mentioned liens and rights of lien arising out of services, labor, equipment, or materials furnished by Contractor or its employees, materialmen or subcontractors in the performance of the Accepted Order and Services. If, at any time, there should be evidence of any lien or claim for which Buyers or their property might become liable or subject to and which originates with Contractor or its subcontractors or materialmen, or any subcontractor of

any of them, the applicable Buyer(s) shall have the right to retain out of any payment then due or thereafter to become due to Contractor an amount sufficient to protect the Buyer completely against such lien or claim until such time as Contractor shall deliver to the Buyer a complete release satisfactory to the Buyer releasing such lien or claim (including evidence of payment in full) or, if the Buyer has agreed in advance a surety bond or bonds underwritten by an insurance company and in form satisfactory to the Buyer covering such claim or lien. If Contractor, after five (5) days' notice from the Buyer, has not delivered to the Buyer, at the Buyer's sole option, either a release, receipt in full or surety bond, the Buyer may, at its option, pay and discharge the claim or lien or otherwise deal with the lien claimant and deduct the amount if any so paid from any monies which may be or may become due and payable to Contractor, and in the event no monies are or will be due, Contractor shall pay the Buyer any and all costs and expenses of the Buyer in so doing, including reasonable attorneys' fees incurred by PPG and/or the Buyer.

6.5 For on-site construction types of Services, Contractor shall furnish, if and when requested by PPG or the applicable Buyer, affidavits that all bills for materials and labor have been paid; such affidavits to be supported by receipted bills, if required by PPG or the applicable Buyer. Partial release of lien and general release in form prepared by PPG or the applicable Buyer, shall be furnished by Contractor and its subcontractors at such time(s) as may be required by PPG or the applicable Buyer; the furnishing of executed release(s) being a condition precedent to the applicable Buyer's payment obligations hereunder.

## **7. Safety.**

7.1 Contractor shall continuously maintain adequate protection of its work from damage and shall protect the Facility from injury or loss arising out of or in connection with its Services. The Contractor shall adequately protect adjacent property from loss or damage which might result, either directly or indirectly, from the activities of Contractor or its subcontractors at the Facility.

7.2 In all cases, Contractor's Services, including but not limited to all construction equipment used therefor, shall be in compliance and performed in accordance with all applicable federal, state, provincial and local safety laws, codes, regulations and standards.

7.3 Contractor shall take, or cause to be taken, at its expense, all necessary precautions for the safety of personnel engaged in the performance of the Services and shall comply with all applicable provisions of federal, state, provincial and municipal safety laws, building codes, and safety regulations to prevent accidents or injuries to persons on, about or adjacent to the Facility, including the erection, where appropriate, of all necessary safeguards for the protection of Contractor's and Buyer's employees. In the previous regard, Contractor shall provide its employees and any other party performing any part of the Services at the Facility with such warnings, advice and other information as may be provided by Buyer regarding the products, materials and chemicals received, stored, used and produced at the Facility.

7.4 The Contractor shall develop and have in effect during its performance of the Services at the Facility a Health and Safety Program for its employees and subcontractors performing its work, or any part thereof, and the Contractor shall provide a copy thereof to the Buyer prior to commencement of its Services at the Facility. The Contractor shall review and revise said program periodically. The Contractor shall be solely responsible for the compliance of its employees or subcontractors with the Contractor's health and safety program. Though Buyer shall have no obligation to observe Contractor's compliance with its health and safety program, the applicable Buyer may report all observed health and safety program violations to the Contractor who shall take prompt corrective action. Neither PPG nor any of the other Buyers is required to make evaluation or audits of the Contractor's program or implementation thereof. The Buyer shall have the right to require the Contractor to incorporate as part of the Contractor's health and safety programs, health and safety rules and regulations which the PPG and the applicable Buyer may issue from time to time; PPG's and the

applicable Facility safety requirements and implementing guidelines can be found at <http://corporate.ppg.com/PPG/Corporate/AboutUS/Purchasing/default.htm>. Compliance with the program and access to medical care for injuries and/or illness sustained by the Contractor's employees or those of its subcontractors shall be the responsibility of the Contractor. The Contractor waives its rights to subrogation for any payments made to its employees or those of its subcontractors. The Contractor shall maintain an accurate record of all causes of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of the Services, which records shall be made available to PPG upon request. Contractor shall give PPG and the applicable Buyer notice of any injuries and/or illness sustained by the Contractor's employees or those of its subcontractor by no later than the end of the work shift during which such injury and/illness occurred or became known.

7.5 If the applicable Buyer requires the use of special safety equipment, that Buyer, at its option, will provide same for use by Contractor's employees. Each item of equipment so provided must be returned or paid for by Contractor before final payment is made for its Service work. The Buyer will make no charge for normal breakage or wear with respect to such special safety equipment.

## **8. Delays and Extension of Time.**

8.1 A failure or delay by the applicable Buyer or Contractor to perform any act or obligation to be performed by it under the Accepted Order within the time specified therein for such performance, if caused by act of God or public enemy, explosion, fire, storm, earthquake, flood, drought, strikes, lockouts, labor troubles, riots, vandalism, sabotage, embargo, war, whether or not declared and whether or not the United States is a participant, federal, state or municipal law, regulation, order, license, priority, seizure, regulation, or allocation, failure or delay of transportation, shortage or inability to obtain supplies, raw materials, equipment, fuel, or labor, or by act or neglect of any separate contractor, or changes ordered in the work, or any other circumstance of a similar or different nature beyond the reasonable control of the party so failing or delayed, shall not constitute a breach of the Accepted Order nor subject the party so failing to any liability to the other and, except as herein otherwise expressly provided, the time of performance shall be extended for the duration of the delay so caused; provided such Party shall have notified the other Party in writing of the existence of such a condition, and the expected duration thereof within five (5) working days of the commencement of any such delay. If the Buyer determines that a delay so claimed by Contractor was beyond the control and without the fault or negligence of Contractor and not reasonably foreseeable by Contractor at the time the Accepted Order was entered into, the Buyer shall determine the duration of the delay and shall extend the time of performance of the Accepted Order thereby; provided, however, the Contractor will cooperate with the Buyer and use its best efforts to minimize the impact on the schedule of any such delay including, but not limited to, by re-deployment or other use made of labor and/or materials during such period of delay. Contractor shall not be entitled to, and hereby expressly waives recovery of, any damages suffered by reason of the delays contemplated by this provision, and extension of time shall constitute Contractor's sole remedy and PPG and the Buyer's sole liability for such delays. Failure to give the above-described notice of delay shall be sufficient ground for denial by the Buyer of an extension of time.

## **9. Warranties; Compliance.**

9.1 Except as may be otherwise stated on the face of an Accepted Order, Contractor warrants that in its performance of this Agreement and the Accepted Orders: Contractor, and each of its employees that will or are performing the Services, has all licenses, permits, consents and registrations necessary or appropriate to enter into this Agreement, any Accepted Order and to perform the Services; the Services will be performed with that standard of care, skill and diligence normally provided by a professional person or entity in the performance of services similar to the Services and will conform to all applicable descriptions, drawings, data and samples, and

the requirements of the Accepted Orders; the materials provided as part of the Services will be of new materials and free from defects in material and workmanship under normal use and service; and, Contractor in rendering the Services, has complied or will comply with all applicable federal, state, provincial and local laws and ordinances and all lawful orders, rules and regulations thereunder, including without limitation, compliance as applicable with Executive Order No. 11246 (Equal Employment Opportunity), Executive Order No. 11701 (Listing of Job Openings for Disabled Veterans and Veterans of the Vietnam Era – 41 CFR 60-250.4(M)), Executive Order No. 11758 (Employment of the Handicapped – 41 CFR 60-741.4(F)), Section 211 of Public Law 95-507 and Executive Order No. 12138 (Purchases from Small and Small Disadvantaged Businesses), the Federal Occupational Safety and Health Act of 1970, The Immigration Reform and Control Act of 1986, the Consumer Product Safety Act, the Toxic Substances Control Act, the Federal Hazardous Substances Act and the Fair Labor Standards Act (provided that where necessary to make the context of any law, rule and regulation applicable to this Agreement and the Accepted Orders, the term "Contractor" shall mean the Contractor and the term "Contract" shall mean this Agreement and the Accepted Orders).

## **10. Confidentiality.**

10.1 Contractor recognizes that by reason of its performing the Services pursuant to this Agreement and the Accepted Order, Contractor will gain knowledge of and may develop on behalf of Buyer information relating to and concerned with the past, present and future products, operations and plans of PPG and the Buyers. Contractor covenants and agrees on behalf of itself and all employees and personnel under the control of Contractor to the following conditions:

10.1.1 "Buyer Confidential Information" means the terms of this Agreement, any Accepted Order, and documents of any character and the information contained therein, including but not limited to drawings, designs, plans, specifications, requisitions, instructions, data, manuals, electronic media, (such as computer disk, computer programs, data stored electronically), and the like: (i) provided or disclosed to Contractor by or on behalf of Buyer in connection with this Agreement and/or any Accepted Order; (ii) learned by Contractor in performing or by virtue of this Agreement or any Accepted Order; (iii) produced for or developed by or on behalf of Contractor in connection with this Agreement and/or any Accepted Order; or, (iv) access to which is obtained by Supplier through use of a computer system utilized by Buyer, or a representative of Buyer, and any copies, printouts or displays thereof, including any computer programs and data used by Buyer, or a representative of Buyer which are stored electronically and any and all security code numbers or procedures for gaining access to a computer system used by Buyer, or a representative of Buyer. Buyer Confidential Information disclosed in documentary or tangible form to the extent practical shall be marked to indicate its confidential nature. In the case of Buyer Confidential Information disclosed orally or visually, Buyer shall confirm in writing the fact and general nature of each disclosure within thirty (30) calendar days after it is made.

10.1.2 Buyer Confidential Information and any rights therein shall be and remain the property of PPG and the applicable Buyer.

10.1.3 Contractor, for itself and on behalf of its officers, employees and agents, agrees: (i) to hold Buyer Confidential Information in strict confidence and not to disclose any part of it to others, exercising at least the same degree of care as Contractor takes in protecting its own trade secrets; (ii) not to disclose Buyer Confidential Information without Buyer's prior written consent to any entity or person other than Contractor's employees who require disclosure to perform the Services; (iii) not to allow any persons or entities other than such employees access to Buyer Confidential Information, and then only upon execution by the employee of a confidentiality agreement containing comparable confidentiality obligations as set forth herein; (iv) not to make any use not authorized in writing in advance by Buyer of Buyer Confidential Information; and, (v) not to use

Buyer Confidential Information other than in the performance of the Services pursuant to an Accepted Order. Contractor shall not be prevented, however, from using or disclosing information: (i) which is or becomes published or otherwise publicly available through no breach of this Agreement; (ii) which is already known to Contractor at the time of disclosure by Buyer as evidenced in writing; or, (iii) which Contractor later lawfully learns from some source other than directly or indirectly from Buyer. The burden of proving that information or data is not Buyer Confidential Information shall be with the Contractor.

10.1.4 Contractor shall not attempt to gain unauthorized access to any Buyer Confidential Information and in the event such access is obtained, Contractor shall immediately report that fact to PPG and the applicable Buyer and to the extent possible explain the details of the procedure used to gain such access.

10.1.5 The obligations of this Confidentiality section shall continue with respect to any Buyer Confidential Information from time of disclosure to and for a period of one hundred and twenty (120) calendar months from the later of the (i) date of termination of this Agreement, or (ii) last Accepted Order to expire.

10.1.6 Within thirty (30) days after completion or termination of Services, termination of the Accepted Order or upon written request by PPG or the applicable Buyer, whichever is earliest, Contractor shall return to the Buyer all Buyer Confidential Information (including that generated by or on behalf of Contractor which is in the possession of Contractor or its employees or sub suppliers and is in tangible form) and all copies thereof, or with PPG's prior written approval Contractor shall destroy the same and certify in writing, such destruction to PPG and the applicable Buyer.

10.1.7 Contractor agrees to refrain from revealing or disclosing to third parties other than Buyer-approved subcontractors that Contractor was considered to or is rendering services to the Buyers.

10.1.8 Contractor shall require the same covenants and agreements from third parties to which Buyer Confidential Information is disclosed upon approval of the Buyer. Contractor shall inform its employees assigned to the Services of Contractor's obligations contained in this Confidentiality section, and shall require such employees to sign agreements of confidentiality including this same covenants and agreements, prior to giving them access to Buyer Confidential Information. Contractor shall review on an annual basis with such employees the obligations of confidentiality that each employee has to Contractor and Buyers.

## **11. Use of PPG Products by Contractor.**

11.1 Contractor agrees to use products manufactured or distributed by PPG, and its subsidiaries and affiliates, whenever such products are technically suitable and reasonably available for the Services required by an Accepted Order for Buyers. Contractor shall notify PPG if Contractor has any question on the availability or technical suitability of a PPG product.

## **12. Subcontracts.**

12.1 Contractor may not subcontract any portion of the Services without prior written approval of the applicable Buyer, both in respect of that portion of the Services to be subcontracted and the proposed subcontractor therefor. Such approval shall not relieve Contractor of any of its duties, obligations, warranties, liabilities or responsibilities under this Agreement or the applicable Accepted Order(s). Contractor shall assure the performance of all subcontractors and furnish such information relative to subcontractors as the Buyer may at any time reasonably request, including but not limited to furnishing the Buyer with a copy of the subcontract.

12.2 Nothing contained in this Agreement or the applicable Accepted Order(s) shall create any contractual relation between the Buyer and any subcontractor of Contractor, but Contractor shall be fully



responsible to the Buyer for all acts and omissions of its subcontractors, their agents and employees, as Contractor is for the acts and omissions of all persons directly employed by Contractor.

12.3 Contractor shall require its subcontractors to be bound by the terms and conditions of this Agreement and the applicable Accepted Order(s). All portions of the Services performed for Contractor by a subcontractor shall be pursuant to an appropriate agreement between Contractor and such subcontractor (and where appropriate between subcontractors and sub-subcontractors).

### **13. Dispute Resolution.**

13.1 Except to the extent of a claim to enforce intellectual property rights, including confidentiality obligations, and as a precondition to instituting any legal action permitted by the provisions below, any controversy, claim or dispute between the Parties arising out of or relating to the provision of this Agreement or an Accepted Order, or the breach, termination or a validity thereof shall, upon written request of either Party, immediately be referred jointly for resolution to senior executives of each of the Parties who have authority to settle the controversy and who are at a higher level of management than the person(s) with direct responsibility for day-to-day administration of this Agreement. Within fifteen (15) days after delivery of the written request of a Party, the receiving Party shall submit to the other a written response. The request notice and the response shall each include: (a) a statement of the respective Party's position and a summary of arguments supporting that position; and (b) the name and title of any other person who will accompany the senior executive. Within thirty (30) days after delivery of the disputing Party's request notice, the senior executives of both Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt in good faith to resolve the controversy. The Parties agree to honor all reasonable requests for information. All negotiations pursuant to this provision are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

13.2 If the controversy has not been resolved by negotiation within forty-five (45) days of the disputing Party's request notice, or if the Parties fail to meet within thirty (30) days of such request notice, the Parties agree to attempt to settle the dispute by mediation under the mediation procedure rules then in effect of the CPR Institute or any rules mutually agreed upon by the Parties. Unless otherwise agreed, the Parties shall select a neutral mediator from the CPR Panels of Distinguished Neutrals. All mediation proceedings are non-binding. This mediation must be concluded within any period mutually agreed upon by the Parties, or if there is no such agreement, then within forty-five (45) days of the selection of the mediator. Unless the Parties expressly agree otherwise, each Party shall bear its own costs, legal and expert fees incurred in mediation, and evenly share the costs of the mediator. If after proceeding in good faith (i) the Parties are unable to agree on a neutral mediator within thirty (30) days of the failure of the senior executives to meet as required in this Subsection or the failure of the senior executives to resolve the dispute in accordance with this Subsection, whichever is earlier; or (ii) with the assistance of a neutral mediator, the Parties do not resolve the dispute within the period prescribed in this Subsection, either Party may initiate litigation to resolve the dispute. The litigation shall be commenced only in the Federal or state courts located in Pittsburgh, Pennsylvania and each party hereto submits to the jurisdiction of the court in which such litigation is commenced.

### **14. Miscellaneous.**

14.1 Independent Contractor. Contractor's relationship with the Buyer under this Agreement is that of an independent contractor. Nothing in this Agreement or any Accepted Order shall be construed as being inconsistent with that status. Contractor shall be solely responsible for its employees, subcontractors and agents and for their benefits, contributions and taxes, as applicable and shall indemnify and hold Buyer harmless from any and all liability arising therefrom.

14.2 Assignment. Neither this Agreement nor any Accepted Order is assignable by either Party, in whole or in part, without the prior written consent of the other (which consent shall not be unreasonably or untimely withheld), and any attempted assignment without such consent, whether by operation of law or otherwise, shall be void. If the non-assigning Party fails to respond within twenty (20) business days to a written request by the assigning Party for written consent to the assignment, the non-assigning Party will be deemed to have consented to the assignment. Subject to the foregoing, this Agreement and all Accepted Orders shall bind and inure to the benefit of the successors and assigns of the respective Parties hereto, including without limitation, any purchaser of Contractor's or Buyer's respective businesses or facilities as to which this Agreement and/or the Accepted Order relates.

14.3 Waiver. The failure of either Party to enforce at any time any of the provisions of this Agreement or of an Accepted Order shall in no way constitute or be construed as a waiver of that or any other provision of this Agreement or of the Accepted Order, nor in any way to affect the validity of this Agreement or of the Accepted Order or any provision thereof or the right of such Party to enforce thereafter each and every provision of this Agreement or of the Accepted Order. No waiver of any provision or breach of this Agreement or of the Accepted Order shall be deemed to be a waiver of any other provision or breach. The remedies herein reserved by the Parties shall be cumulative and additional to any other or further remedies provided in law or equity which the Parties may possess.

14.4 Governing Law. This Agreement, each Accepted Order and the relations and rights of the Parties hereunder are made under and shall be governed by the local laws of the Commonwealth of Pennsylvania (without giving effect to the conflict of law principles thereof).

14.5 Reformation. In the event any provision of this Agreement or of an Accepted Order is determined to be invalid, illegal or otherwise unenforceable for any reason, that provision shall be reformed to the maximum extent permitted to preserve the Parties' original intent, failing which it shall be severed from this Agreement or the applicable Accepted Order, with the balance of this Agreement and of the applicable Accepted Order continuing in full force and effect.

14.6 Translation. This Agreement is executed in English. In the event this Agreement is translated into a language or languages other than English, this version in English shall be controlling on all questions or interpretations and performance.

14.7 Reproductions. This Agreement, any Accepted Order, and all documents relating hereto and thereto may be stored and/or reproduced by any means or process including electronic or mechanical means. Any reproduction shall be admissible into evidence as the original in any litigation without regard to whether the original is in existence. If a Party signs this Agreement and/or any Accepted Order and then transmits an electronic facsimile of the signature page, (including, without limitation, in PDF format), the receiving Party may rely upon such electronic facsimile as an originally executed signature page without any modification or change to this Agreement, unless such modification or change is noted on such electronic facsimile by the transmitting Party.

14.8 Entire Agreement. This Agreement and any Accepted Order, including all documents referenced herein and therein, contain the entire agreement of the Parties with regard to the subject matter hereof and thereof and supersedes any prior communications, commitments, representations or warranty, or contracts between the Parties relating to the subject matter hereof and thereof.

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

**WITNESS**

PPG Industries, Inc. ("PPG"), on its behalf and on behalf of the PPG Companies

\_\_\_\_\_

Signature: \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Title: \_\_\_\_\_

**WITNESS**

\_\_\_\_\_ ("Contractor")

\_\_\_\_\_

Signature: \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Title: \_\_\_\_\_