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| **SOFTWARE & DATABASE USER AGREEMENT** |

This agreement is hereby entered into and agreed upon by **AKZO NOBEL COATINGS INTERNATIONAL B.V.**, a private company with limited liability incorporated under Dutch law, seated in Arnhem at Velperweg 76, 6824 BM, the Netherlands, hereinafter called: “**AkzoNobel**”, and you, either an individual or an entity (the "**User**"), and applies to the use by the User of the System Service.

*By using this System Service you understand and agree that the below terms and conditions constitute an agreement pursuant to which you - as the User - (i) confirm having the power and authority to legally represent, and (ii) agree to be bound to this agreement. If you are not a user of AkzoNobel paints, or you do not agree with the terms of this agreement, you may not use the System Service.*

***Whereas:***

(i) AkzoNobel produces and commercializes paints and coating products.

(ii) AkzoNobel has developed and set up one or more databases and has developed a software application that can be used in connection with said databases and AkzoNobel paints.

(iii) The User wishes to use said software application and databases and AkzoNobel is willing to grant a non-exclusive non-transferable license to use the software application and databases to the User and grant the User access to the server on which said software application and databases run and are installed, and finally to provide services related thereto under the conditions set out in this Agreement.

(iv) The use of the System Service by the User will generate User Data which AkzoNobel may use if the User has expressed its consent with sharing certain User Data with AkzoNobel. This Agreement sets out the terms upon which the User licenses AkzoNobel the right to use such User Data, and details the purposes for which it may be used.

***It is hereby agreed:***

# **Article 1 Definitions**

1.1. Affiliate(s): means any legal entity or legal person, or any association which through a majority of shares or voting stock (more than 50% (fifty percent)), is directly or indirectly controlling, controlled by, or under common (indirect) control with, AkzoNobel or User, as the case may be.

1.2. Agreement: this agreement between AkzoNobel and the User, including all the introductory paragraphs.

1.3. AkzoNobel Paints: the paints and coating produced, commercialized and sold by AkzoNobel to the User.

1.4. Database(s): the on-line (internet) and off-line databases developed and maintained by AkzoNobel.

1.5. Effective Date: the date the Software is made available to the User.

1.6. Software: the software application - including the user manuals and other related documentation - developed by AkzoNobel and provided to the User, and that can be used in connection with the Database.

1.7. System Service: the service provided by AkzoNobel to the User by which the Software and Database are made available to the User, either installed on User PC (via storage device) or on-line (internet), by granting the User access to the System and by processing the User Data in connection with the use of the Software by the User.

1.8. System: the servers controlled by AkzoNobel on which the on-line (internet) Software(s) and the on-line (internet) Database(s) are installed.

1.9. User Data: the data generated by the System Service and any other User-owned data, which the User may share with AkzoNobel by using the Software and which may subsequently be stored on the System.

**Article 2 License to use Software, Database and User Data**

2.1. AkzoNobel hereby grants to the User a non-exclusive and non-transferable license to use the Software, the Database and other software materials used therein, for the purposes of this Agreement and subject to the conditions set forth herein. The User shall strictly observe the restrictions set out in this Agreement.

2.2. The User may use the Software and the Database only for its own internal benefit and may not make the Software, the Database or any part thereof available to, or otherwise permit use thereof to or by any third party other than any User. The Software and the Database remain the property of AkzoNobel.

2.3. Provided that the User has expressed its consent with sharing certain User Data with AkzoNobel and in consideration of the license granted in paragraph 2.1, the User hereby grants to AkzoNobel a royalty-free perpetual irrevocable license to access, use and store the User Data for the following purposes:

- to identify the User (and the User representative, if applicable);

- to contact the User in order to answer questions or to inform the User about new AkzoNobel Paints or other products of AkzoNobel;

- to provide assistance to the User or improvements on assistance to the User;

- to fulfil its obligations under this Agreement and other related agreements;

- to use aggregated non-personal information for the purpose of statistics, auditing, research analysis, marketing and improvement of services to the User as well as improvement of AkzoNobel (or AkzoNobel partners) products and services to better fit the needs of the User;

- to provide the User with information on the User's performance generally and specifically regarding the colours of AkzoNobel Paint mixed by the User;

- to provide better and more accurate information regarding colours of AkzoNobel Paint and to log colours manufactured by the User;

- to enforce this Agreement, including potential violations thereof;

- to detect, prevent or otherwise address fraud, security or technical issues;

- to protect the rights, property and safety of AkzoNobel and its stakeholders.

The provisions of paragraph 2.3 will survive termination of this Agreement.

2.4. In accepting the terms of this Agreement, the User acknowledges AkzoNobel will leave traces on the User's device that are reasonably required for the use of the Software.

2.5. When the User uses the System, the following information of the User is collected and stored on the System: personal user ID, version number of the System Service, User's first name, User's last name, User's email, User's phone number, User's company name, User's address, User's postcode, User's state and User's country.

2.6. AkzoNobel may also collect information about the User’s usage of the System Service with respect to AkzoNobel Paints, such as product code, unit volume, date of production, mix batch number, base batch number, label language, base code, curing agent and formulation details. This will allow AkzoNobel to perform and fulfil its rights and obligations as set out under paragraph 2.3 and the rest of this Agreement.

2.7. The User is not entitled to grant third parties access to the System in any way, unless prior written approval is obtained from AkzoNobel. The User shall keep all usernames, passwords and other personal credentials strictly confidential. AkzoNobel is not in any way liable for misuse of any credentials and is entitled to assume that if a user logs on to the System using the credentials of a user, that such user is in fact an authorized user. In the event the User knows or suspects that any credentials have fallen into the hands of an unauthorized third party, it shall inform AkzoNobel immediately, and shall also immediately take all effective and necessary measures to stop such third party from gaining access to the System.

**Article 3 Availability of the System Service**

3.1. AkzoNobel shall endeavour to keep the System Service available to the User. AkzoNobel does not provide any guarantee that the System Service will be available at all times.

3.2. AkzoNobel may temporarily take the System Service off line for maintenance or to make changes or implement improvements to the System, the Software or the Database. AkzoNobel will not be liable for damages sustained by the User as a result of taking the System Service off line.

3.3. In order for the User to use the System Service, the User will have the required equipment and a working internet connection that is compatible with the System Service. AkzoNobel will not be liable for any losses or damages sustained by the User as a result of the fact that the User does not have such equipment and/or working internet connection.

**Article 4 Purpose of the System Service**

The Software, Databases and, therefore, the System Service are intended and tailor-made for AkzoNobel Paints and could lead to incorrect references and results if used with other products.

# **Article 5 Termination**

5.1. Either party may terminate this Agreement by giving the other party at least forty-five (45) days advance written notice of termination. All notices shall be sent by e-mail to addresses determined by parties.

5.2. In addition, AkzoNobel may terminate this Agreement, with immediate effect, upon occurrence of any of the following events:

5.2.1. The User no longer uses the Software, Database or System Service;

5.2.2. The User fails to perform in accordance with this Agreement; and

5.2.3. The User ceases to function as a going concern or to conduct its operations in the normal course of business, the User is insolvent or declared bankrupt, the User is issued a moratorium of payments or takes advantage of any legislation on insolvency and bankruptcy.

5.3. Upon termination of the Agreement, the User shall cease to use the System Service, the Software and Database and AkzoNobel may terminate the System Service.

5.4. Upon termination of this Agreement, the User shall also promptly return to AkzoNobel at User’s expense the documentation and other material provided to the User by AkzoNobel.

**Article 6 Intellectual property**

6.1. All intellectual property rights, including copyrights and database rights, with respect to the System Service, Software, Database and other materials developed by AkzoNobel or provided to the User under the Agreement are solely held by AkzoNobel or its licensors.

6.2. The User shall not remove from or change in the Software, Database or other materials provided by AkzoNobel to the User, any designation concerning copyrights, trademarks, trade names or other designation relating to any intellectual property right of AkzoNobel, including any indications concerning the confidential nature and secrecy of the (contents of) the Software and the Database.

6.3. The User is not entitled to:

- make any changes to the Software, Databases or parts thereof;

- remove or modify any program markings or any notice of AkzoNobel’s proprietary rights;

- make the Software, programs or materials resulting from the services available in any manner to any third party for use in the third party’s business operations;

- disclose results of any System Service, Software or program tests, benchmark or otherwise, without AkzoNobel’s prior written consent;

- reverse engineer, disassemble or decompile the Software or parts thereof, except for those circumstances that are allowed under mandatory copyright law and under the condition that the User has obtained prior written approval of AkzoNobel to do so. AkzoNobel is entitled to attach conditions to such approval.

6.4. In the event that it is judicially and irrevocably established that software or databases made available through the System Service infringes any intellectual property right belonging to any third party or that in AkzoNobel’s opinion there is a fair chance that such infringement will occur, AkzoNobel may either (1) deny access to the System Service, or (2) see to it that the User is able to continue to use the System Service with such changes as designed to prevent further issues. AkzoNobel will have no liability, nor obligation to indemnify the User in respect of infringement of any intellectual or industrial property rights of third parties.

**Article 7 Confidential information**

7.1. The User is aware of the fact that the Software, Database and other materials provided to it by AkzoNobel contain confidential information and trade secrets of AkzoNobel or its licensors. The User undertakes to keep such Software, Database and other materials secret and not to disclose this information to third parties, and to use this information only for the purpose for which it was placed at its disposal.

# **Article 8 Liability**

8.1. AkzoNobel’s total liability in respect of any failure to perform its obligations under the Agreement, this failure being imputable to AkzoNobel, shall be limited to compensate for any direct loss up to the amount of the total value of purchases of AkzoNobel products in the twelve (12) months prior to the occurrence of the failure. In no event, however, shall the total compensation for any direct loss exceed five thousand euros (€ 5,000).

8.2. “direct loss” only consists of:

8.2.1. the reasonable expenses which the User would have to incur to make AkzoNobel’s performance conform to the Agreement. However, such loss will not be compensated if the Agreement is terminated by the User or for any reason attributable to the User;

8.2.2. reasonable expenses incurred in determining the cause and extent of the loss in so far as such determination relates to any direct loss within the meaning of the Agreement; and

8.2.3. reasonable expenses incurred in preventing or reducing the loss in so far as the User proves that such expenses have resulted in the reduction of any direct loss within the meaning of the Agreement.

8.3. AkzoNobel’s liability for indirect loss, including without limitation, consequential loss, loss of profits, loss of data, lost savings and loss caused by interruption of operations, is excluded.

8.4. AkzoNobel will only be liable in respect of a failure to fulfil its obligations under the Agreement after the User has properly declared AkzoNobel in default in writing, stating a reasonable period in which to remedy the failure and AkzoNobel continues, and AkzoNobel can be blamed for continuing, to fail in the fulfilment of its obligations even after such reasonable period. The notice of default must specify the failure in detail, so that AkzoNobel will be able to react adequately.

8.5. AkzoNobel’s liability for any other causes and for any other damages or losses is excluded.

# **Article 9 *Force Majeure***

9.1. AkzoNobel is entitled to suspend the performance of its obligations under the Agreement in the event of *force majeure*. "*Force majeure"* meansany of the following events: (1) act of God, (2) outbreak of hostilities, riots, civil disturbance, acts of terrorism, (3) the act of any government or authority (including refusal or revocation of any license or authorisation), (4) fire, explosion or flood, (5) power failure, failure of telecommunication lines or internet connections, failure or breakdown of a plant, machinery or vehicles, (6) *force majeure* of AkzoNobel’s suppliers or subcontractors, (7) theft, malicious damage, strike, lock-out or industrial action of any kind, and (8) any cause or circumstance whatsoever beyond AkzoNobel’s reasonable control.

9.2. If a situation of *force majeure* has lasted for more than thirty (30) days, either party may terminate the Agreement by written notice. In such an event, AkzoNobel will not be liable for any damages or costs the User incurs as a result of such termination.

# **Article 10 Choice of Law and Dispute Resolution**

10.1. This Agreement and all disputes arising out of or relating in any way to performance under this Agreement, including disputes involving an Affiliate of any party, are governed by the laws of the Netherlands.

10.2. All disputes arising out of or relating in any way to performance under this Agreement, including disputes involving an Affiliates, will be resolved exclusively in the courts of The Hague, the Netherlands and the parties, by executing this Agreement, consent to jurisdiction in that court.

10.3. Both parties acknowledge, understand and agree that monetary damages and remedies at law may be wholly inadequate to protect AkzoNobel against any actual or threatened breach of this Agreement by the User; and, without prejudicing the rights and remedies otherwise available to it, AkzoNobel may seek any and all rights and remedies, including specific performance, injunctive relief and other equitable remedies in favour of it.

# **Article 11 Miscellaneous**

11.1. AkzoNobel shall comply with its binding corporate rules regarding personal data protection and privacy.

11.2. The User may not assign or transfer any of its rights or obligations under this Agreement without prior written consent of AkzoNobel.

11.3. The User shall ensure that all people it allows to use or have access to the System, Software or Database are informed of the obligations set forth in the Agreement and that they will comply with them precisely.

11.4. The parties hereby acknowledge that;

11.4.1 this Agreement contains all the terms which the parties have agreed to in relation to the subject matter of this Agreement and supersedes any prior written or oral agreements, representations or understandings between the parties in relation to such subject matter;

11.4.2 save as expressly set out in this Agreement, this Agreement has not been entered into wholly or partly in reliance on, nor has either party been given any warranty, statement, promise or representation made by or on their behalf. To the extent that any such warranties, statements, promises or representations have been given, the recipient party unconditionally and irrevocably waives any claims, rights or remedies which it might otherwise have had in relation to them; and

11.4.3 nothing in this paragraph 11.4 will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

11.5. AkzoNobel may unilaterally amend the Agreement, subject to the requirements of the principle of reasonableness and fairness. AkzoNobel will notify User of any intended unilateral amendment two (2) weeks prior to such amendment entering into force.

11.6 Both Parties may further amend the Agreement if such amendment is executed in writing and signed by a duly authorized representative of both Parties.

11.7. If any provision of the Agreement is found invalid or unenforceable by any court or administrative body of competent jurisdiction, the invalidity or unenforceability of such provision shall not effect the other provisions of the Agreement and all provisions not effected by such invalidity or unenforceability shall remain in full force and effect to the extent reasonable. The parties hereby agree to attempt to substitute any invalid or unenforceable provision by a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

11.8. Any failure of either party to enforce or require the strict performance of any of the provisions of the Agreement shall not constitute the waiver of such provision or of any breach of such provision, nor in any way affect the right of such party to enforce hereafter any provision of the Agreement.

11.9. This Agreement is drafted in the English language. If this Agreement has been translated into another language, the English language text shall prevail.