1. **Interpretation**

In these Conditions the following words have the following meanings:

- "the Buyer" means any person or firm to whom goods are sold or from whom goods are purchased;
- "the Company" means Paint Services Group Limited or another company nominated by the Company;
- "the Goods" means the goods specified or referred to in a Contract; the Buyer's order or offers for the supply of Goods;
- "the Company's place of business" means the address given in Condition 1.2;
- "the Contract" means the agreement made in a Contract;
- "the Credit Account Application" means the application for a credit account made by the Buyer and accepted by the Company;
- "Working Day" means any day which is not a Saturday, Sunday or a bank or public holiday.

2. **Application of Terms**

2.1. All conditions under Condition 2.2 a Contract will be as to those Conditions to the exclusion of any other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2. These Conditions apply to all sales and any variations to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a Director of the Company.

2.3. The Customer's order for payment shall be from the offer by the Buyer to purchase Goods subject to these Conditions.

2.4. No order placed by the Buyer shall be deemed to have been accepted by the Company and No Contract shall come into existence until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods pursuant to Condition 3.

2.5. The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.

3. **Risk/TITLE**

3.1. Any dates specified by the Company for the delivery of the Goods are intended to be an estimate and for delivery shall not be made of the essence by notice.

3.2. In the event that the Carrier is nominated by the Company the delivery of the Goods shall take place when the Carrier delivers the Goods to the Buyer's premises.

3.3. In the event that the Carrier is nominated by the Buyer and agreed with the Company, the Company will make delivery of the Goods by making the Goods available for collection from the Carrier.

3.4. If for any reason the Buyer or the Carrier will not accept delivery of any of the Goods when ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations then, at the time of such non-acceptance of delivery or inability to deliver:

3.4.1. All risk in the Goods will pass to the Buyer (including for loss or damage caused by the Company's negligence);

3.4.2. The Company will have no liability with regard to any claim in respect of which the Buyer has not complied with the claims procedures in these Conditions.

3.5. The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving otherwise.

3.6. The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless written notice is given to the Company within 5 Working Days of the date of delivery of the invoice to the Buyer.

4. **Risk/TITLE**

4.1. The Goods are at the risk of the Buyer from the time of delivery pursuant to Condition 3.

4.2. Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cleared funds) all sums due to it in respect of:

4.2.1. the Goods;

4.2.2. all other sums which are or which become due to the Company from the Buyer on any account.

4.3. Until ownership of the Goods has passed to the Buyer, the Buyer must:

4.3.1. hold the Goods on a fiduciary basis as the Company's bailee;

4.3.2. keep the Goods separate from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;

4.3.3. not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

4.3.4. maintain the Goods in a satisfactory condition insured for their full value at all times until the sale of the Goods;

4.3.5. hold the proceeds of the insurance referred to in Condition 4.3.4 on trust for the Company and not lend them with any other money, nor pay the proceeds into an overdraft bank account.

4.4. The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possess has terminated, to remove them.

5. **Price**

5.1. Unless otherwise agreed by the Company in writing the price for the Goods shall be the price set out in the Company's written acknowledgement of order issued in accordance with Condition 2.4.

5.2. No discount for early payment shall be allowed which shall amount to the Buyer will pay in addition when it is due to pay for the Goods.

5.3. Any costs and charges payable by the Buyer in relation to the carriage or the transport of the Goods shall be set out in the written acknowledgement of order issued pursuant to Condition 2.4, which amounts may be paid to the Company, in addition to the price for the Goods, when it is due to pay for the Goods.

5.4. The Company may charge to the Buyer for any costs and expenses incurred by the Company in relation to the sale of the Goods.

6. **Payment**

6.1. Payment of the price for the Goods due in accordance with the payment terms set out in the Credit Account Application.

6.2. Unless otherwise agreed in writing by a Director of the Company, payment shall be made in accordance with the terms of these Conditions.

6.3. All payments payable shall be made in the manner specified on the Credit Account Application or as otherwise agreed between the Company and the Buyer. No payment shall be deemed to have been received until the Company has credited cleared funds.

6.4. All payments payable to the Company under the Contract shall become due immediately upon termination of any Contract despite any other provision.

6.5. The Company will make all payments due under a Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

6.6. If the Buyer fails to pay the Company any sum due pursuant to a Contract the Buyer will be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank Plc accruing on a daily basis until payment is made, whether before or after any judgment.

6.7. The Goods shall be held by the Buyer free from any encumbrance until such time as the Company shall have been paid for the Goods.

7. **Title and Insolvency**

7.1. Subject to the remaining provisions of this Condition 7 and providing that the Buyer complies with Condition 8, if the Goods are damaged beyond use during transit by a Carrier nominated by the Company prior to the Goods being delivered by the Company to the Buyer, then the Company shall have no liability for the damaged Goods; and

7.2. The Company will not be entitled to assign the Contract or any part of it.

7.3. The Buyer may assign the Contract or any part of it to any person, firm or company.

7.4. The Company may assign the Contract or any part of it to any person, firm or company.

8. **Claims**

8.1. The Company shall inspect the Goods immediately following taking possession of them.

8.2. Any claim that the Goods have been delivered damaged must be notified by the Buyer to the Company within 3 Working Days of the Buyer taking possession of them, containing full details of the claim.

8.3. The Company must be afforded a reasonable opportunity and facilities to investigate any claims made under this Condition. The Buyer, if so requested by the Company, must promptly return the Goods to the Company free of charge.

8.4. The Company will have no liability with regard to any claim in respect of which the Buyer has not complied with the claims procedure in these Conditions.

9. **Limitation of Liability**

9.1. Subject as expressly provided in these Conditions all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from any Contract.

9.2. Neither this Conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

9.3. The Buyer agrees to indemnify the Company against any damages, losses, costs, claims or expenses incurred by the Company as a result of any breach by the Buyer of the terms of Condition 10.

10. **Assignment**

10.1. The Buyer shall not be entitled to assign the Contract or any part of it.

10.2. The Company may assign the Contract or any part of it to any person, firm or company.

10.3. The Company reserves the right to defer the date of delivery or to cancel the Contract without liability or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business by reason of business being beyond the reasonable control of the Company, including, without limitation, acts of God, governmental actions, war or national emergency, riot, fire, explosion, flood, strike or other labour disputes, import restrictions, or non-payment or delays affecting carriers or delay in obtaining supplies of adequate or suitable quality.

11. **Insolvency or other default of the Buyer**

11.1. If the Buyer applies for an administration order or being made an individual or becomes bankrupt or being a company goes into liquidation or being a company goes into liquidation; or

11.3. an encumbrancer takes possession of, or a receiver is appointed over, any of the property or assets of the Buyer; or

11.4. any winding up or any other act of anyone in relation to the Buyer.

11.5. The Company reasonably considers that any of the events listed in Conditions 11.2 to 11.4 is about to occur in relation to the Buyer and notifies the Company accordingly.

11.6. If this Condition 11 applies the Company may in its absolute discretion suspend all further deliveries of Goods, and/or terminate a Contract, without liability on its part.

11.7. If the Company suspends or terminates a Contract pursuant to Condition 11.6, the Company will notify the Buyer of any such suspension or termination of the Contract and the remainder of such suspension or termination shall continue in full force and effect.

12. **Confidentiality**

12.1. The Company and the Buyer shall keep confidential all pricing and financial information regarding the Company received or obtained as a result of entering into a Contract.

12.2. The Buyer may disclose information which would otherwise be confidential if and to the extent:-

12.2.1. that disclosure is required by law or any regulatory or governmental authority;

12.2.2. the information has come into the public domain through no fault of the Buyer;

12.3. The Company has given prior written approval to the disclosure.

12.4. The obligations imposed upon the Buyer by this clause shall survive the cancellation or expiry of a Contract.

15. **General**

15.1. Subject to the right or remedy of the Company under a Contract is without prejudice to any other right or remedy of the Company whether under a Contract or not.

15.2. Any provision of a Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partially illegal, invalid void, unenforceable or unenforceable it shall to the extent of such illegality, invalidity, unenforceability or unenforceability by severable and the remainder of such provision shall continue in full force and effect.

15.3. The formation, existence, construction, performance, validity and all aspects of a Contract shall be governed by English law and parties to submit to the exclusive jurisdiction of the English courts.
15.6 A person, firm or company who is not a party to a Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of a Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

16. Notices
16.1 All notices between the parties about a Contract must be in writing and sent by facsimile transmission to such facsimile number for the other party as is set out in the Credit Account Application, or such other facsimile number as may be notified in writing from time to time by the relevant party to the other.

16.2 Notices shall be deemed to have been received 48 hours from the time of despatch.

17. Data Protection
17.1 The personal data that you give to us under these terms and conditions and any contract entered pursuant to these conditions will be governed by the data protection policies and procedures found on the Company website (www.paintservices.com). The Company will comply with its obligations under all applicable data protection laws in the United Kingdom and from time to time the General Data Protection Regulation and Data Protection Act 2018. The parties acknowledge that the data protection laws may, separately and in addition to these terms and conditions and the data protection policies and procedures for the Company, provide for remedies to either party and third parties in respect of non-compliance. The term “personal data” used in these terms shall have the same meaning as in the General Data Protection Regulation. Personal data means the personal data processed by Paint Services Group Ltd in connection with the Original Agreement.