



**SUPPLEMENTAL TERMS AND CONDITIONS  
APPLICABLE TO CONTRACTORS—FORM M**

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**1. Supplemental Terms and Conditions.** These Supplemental Terms and Conditions (“Supplemental Conditions”) are supplemental to the Purchase Order Terms and Conditions applicable to this Order. To the extent that the terms and conditions set forth in the Supplemental Conditions are inconsistent with those set forth in the Purchase Order Terms and Conditions Order, the terms and conditions of these Supplemental Conditions shall control.

**2. Scope of Order.** The Seller (as defined in the Order) accepts the relationship of trust and confidence established between Seller and Koppers by the Order and agrees to provide all architectural, engineering and construction services necessary to fully execute the work described in the Order (collectively, the “Work”), except to the extent indicated herein to be the responsibility of others. The term “Work” means all services and construction required by the Order, whether completed or partially completed, and includes all labor, materials, equipment and services required to fulfill the Seller’s obligations as set forth in the Order.

**3. Date of Commencement and Substantial Completion.** The date of commencement shall be the date of acceptance of the Order by acknowledgment or commencing performance, unless a different date is stated in the Order or provision is made for the date to be fixed in a notice to proceed issued by Koppers. The Seller shall achieve Substantial Completion (defined below) of the entire Work not later than the date specified in the Order or, if no date is specified, as expeditiously as possible in a manner consistent with the best interests of Koppers.

**4. Seller’s Design Services.** If applicable, the Seller shall prepare design development documents to fix the size and character of the Work as to structural, mechanical and electrical systems, materials and other essential elements and prepare for Koppers’ review and approval working drawings and specifications setting forth in detail the requirements for the construction of the Work based upon Koppers’ approved design criteria and applicable codes, laws and regulations (collectively, the “Construction Plans”). Koppers review and approval of the Construction Plans shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Order. Review and approval of such Construction Plans shall not be construed as approval of the design or design components or as a complete check and is not conducted to determine the accuracy and completeness of other details, such as dimensions and adequate design or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of Seller. Review, approval, inspection, or testing shall not relieve Seller of its responsibilities under the Order, the Purchase Order Terms and Conditions, or this Form M to provide goods and services as specified in the Order; shall not affect any

other rights or remedies of Koppers; and shall not constitute acceptance thereof or a waiver of any breach.

**5. Review of Field Conditions by the Seller.** Before starting each portion of the Work, the Seller shall carefully study and compare the Order and any Construction Plans applicable to that portion of the Work, as well as any information furnished by Koppers, take field measurements of any existing conditions related to that portion of the Work and observe any conditions at the site affecting it. Any errors, omissions or inconsistencies discovered by the Seller shall be reported promptly to Koppers. Acceptance of the Order by the Seller is a representation that the Seller has visited the site, become familiar with local conditions under which the Work is to be performed, has correlated personal observations with requirements of the Order and has taken such conditions into consideration in accepting the Order. Seller waives any right to make a claim based upon lack of understanding of site conditions.

**6. Ownership and Use of Construction Plans.** Neither the Seller nor any Subcontractor (defined below) or material or equipment supplier shall own or claim a copyright in the Construction Plans and other documents prepared by them in connection with the Order, and Koppers is hereby granted all common law, statutory and other rights therein, in addition to the copyrights. Notwithstanding the foregoing, the Seller may retain one record set of the Construction Plans.

**7. Koppers Right to Stop Work.** If the Seller fails to correct Work that is not in conformity with the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions, including, if applicable, the approved Construction Plans, or fails to carry out the Work in accordance with the Order, Koppers, without prejudice to any other rights or remedies Koppers may have, may issue a written order to the Seller to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of Koppers to stop the Work shall not give rise to a duty on the part of Koppers to exercise this right for the benefit of the Seller or any other person or entity.

**8. Koppers Right to Carry Out Work.** If the Seller fails to correct Work that is not in conformity with the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions, including, if applicable, the approved Construction Plans, or fails to carry out the Work in accordance with the Order, Koppers, after five business days’ written notice to the Seller and without prejudice to any other rights or remedies Koppers may have, may make good such deficiencies at Seller’s expense; however, the right of Koppers to carry out the Work shall not give rise to a duty on the part of Koppers to exercise this right for the benefit of the Seller or any other person or entity.

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**9. Labor and Materials.** The Seller shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. The Seller shall enforce strict discipline and good order among the Seller's employees and other persons carrying out the Work. The Seller shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Seller shall deliver, handle, store and install materials in conformity with manufacturers' instructions. The Seller may make substitutions only with the consent of Koppers and in accordance with the requirements of a Change Order (defined below). Seller's equipment and machinery shall be in first class operating condition upon arrival at the jobsite and shall be adequate and properly maintained to carry on the Work as required. If Koppers supplies material or equipment, it shall be Seller's responsibility to protect and account for all such materials or equipment. Suitable weather protection shall be furnished by Seller for all materials and equipment requiring such protection.

**10. Permits; Fees; Notices.** Unless otherwise specified in the Order, the Seller shall secure and pay for the building permit and all other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work. The Seller shall comply with and give all notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work. If the Seller performs Work not in conformity with applicable laws, statutes, ordinances, building codes, and rules and regulations, the Seller shall bear the costs attributable to correction of same.

**11. Use of Site; Cutting and Patching; Cleaning Up.** The Seller shall confine operations at the site to areas permitted by law, ordinances, permits and the Order and shall not unreasonably encumber the site with materials or equipment. The Seller shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. The Seller shall keep the site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Order. At completion of the Work, the Seller shall promptly remove from and about the site all waste materials, rubbish, the Seller's tools, construction equipment, machinery and surplus material. Seller shall not remove, connect, disconnect, change or alter in any way pipelines, sewers, conduits, cable or other utilities existing at the worksite except where so authorized, in writing, by Koppers.

**12. Access to Work.** The Seller shall at all times provide Koppers access to the Work in preparation and progress wherever located.

**13. Subcontractors.** Contracts between the Seller and Subcontractors shall require each Subcontractor, to the extent of the Work to be performed by such Subcontractor, to be bound to the Seller by the terms and conditions of the Order, and to assume

toward the Seller all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Seller, by the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions, assumes toward Koppers. The term "Subcontractor" means a person or entity who has a contract with the Seller to perform a portion of the Work at the site.

**14. Claims and Liens for Labor and Material.** Seller shall promptly pay all just claims for labor and/or material and shall promptly discharge all liens therefor arising out of or in connection with the Work hereunder. Koppers may retain, out of any money due or to become due to Seller from Koppers, an amount sufficient to satisfy any such claims or liens until satisfactory evidence is furnished that all liens and claims have been discharged or satisfied; provided, however, that Koppers shall not make any payment of said money so retained otherwise than to Seller in the event that, and so long as, Seller shall contest the validity of the claim in respect whereof such amount was so retained. Should there prove to be any such lien or claim after all money due from Koppers to Seller has been paid, Seller shall immediately reimburse Koppers all monies paid by Koppers in discharging or satisfying any such lien or claim.

**15. Change Orders/Termination.** Koppers, without invalidating the Order, may order changes in the Work within the general scope of the Order consisting of additions, deletions or other revisions, with the price payable by Koppers and the date of Substantial Completion being adjusted accordingly. Such changes in the Work (collectively, "Change Orders") shall be authorized by written addendum signed by Koppers and the Seller. The cost or credit to Koppers from a Change Order shall be determined by mutual agreement of the parties taking into account the Seller's actual cost of labor, material, equipment and reasonable overhead and profit. In addition, Koppers may terminate the entire Order at the sole convenience of Koppers. In the event the Order is terminated at the convenience of Koppers, the Order price shall be equitably adjusted, provided that such adjustment shall not exceed the total Order price, nor allow any amount for anticipated profit for performance not rendered. Upon receipt of the termination notice or directions to omit work, Seller shall stop work to the extent specified in the notice and take such other actions as may be necessary, or as Koppers may direct, for the transfer, protection, preservation of property and contract rights related to the termination or omission of work, and to minimize the costs of such termination or omission of work and for the benefit of Koppers.

**16. Payments, Warranties and Completion.** Payments by Koppers for the price for the Work specified in the Order ("Purchase Order Sum") shall be made as provided in the Purchase Order Terms and Conditions, less any applicable retainage. By submitting to Koppers an application covering all or a portion of the Purchase Order Sum (each such submittal, an "Application for Payment"), the Seller warrants to Koppers that: (a) all Work covered by the Application for Payment has been performed in conformity with the terms and conditions of the Order

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(including the Purchase Order Terms and Conditions) and these Supplemental Conditions, including, if applicable, the approved Construction Plans; (b) the Work is free from defects not inherent in the quality require or permitted; (c) title to all Work covered by the Application for Payment will pass to Koppers no later than the time of payment and shall be free and clear of all liens, claims, security interests or other encumbrances adverse to Koppers' interests; and (d) the Work conforms to all warranties set forth in the Order and the Purchase Order Terms and Conditions and these Supplemental Conditions. Any other provision of the Order to the contrary notwithstanding, Koppers may withhold payment of the Purchase Order Sum, in whole or in part, to such extent as may be necessary in Koppers' opinion to protect Koppers from loss for which the Seller is responsible, including, without limitation, loss resulting because of: (a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of the Seller to make payments properly to Subcontractors for labor, materials or equipment; (d) reasonable evidence that the Work cannot be completed for the unpaid balance of the Purchase Order Sum; (e) damage to Koppers or its property; (f) reasonable evidence that the Work will not be completed by the date specified for Substantial Completion; (g) breach of any applicable warranties; or (h) failure by the Seller to carry out the Work in conformity with the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions. When the above reasons for withholding payment are removed or satisfied to Koppers' satisfaction, payment will be made to the Seller for any amounts previously withheld. Neither a progress payment by Koppers, or partial or entire use or occupancy of the Work by Koppers, shall constitute acceptance of Work not in conformity with the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions.

**17. *Payments to Subcontractors.*** Upon receipt of payment from Koppers, the Seller shall promptly pay to each Subcontractor the amount, if any, to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Seller on account of such Subcontractor's portion of the Work. Koppers shall not have any obligation to pay or see to the payment of money to any Subcontractor.

**18. *Premium Time.*** If Seller chooses to work outside the normal workweek for his or her own convenience, Koppers shall not be liable for any premium charges involved. However, no such overtime work shall be performed without specific approval of Koppers. Seller shall, at the written request of Koppers, work outside of the normal workday or workweek. If the Order price is based on a normal workday or workweek and Koppers requests that Seller work outside of the normal workday or workweek, the following shall apply: Seller shall be reimbursed for out-of-pocket overtime and/or premium payments together with taxes and welfare payments required by legal or union regulations with no addition of overhead or profit. On all overtime or premium time chargeable to Koppers, Seller shall prepare a daily list of his or her forces showing hours worked and wage rates. This list must be submitted

to Koppers' designated field representative at the end of each day for approval. It shall be Seller's responsibility to obtain this signed approval before noon of the workday after the overtime work was performed.

**19. *Substantial Completion.*** The term "Substantial Completion" means the stage in the progress of the Work when the Work or a designated portion thereof is sufficiently complete in accordance with the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions so that Koppers can occupy or utilize the same for its intended use.

**20. *Final Completion and Final Payment.*** Upon receipt of written notice that the Work is ready for final inspection and acceptance, Koppers will promptly make such inspection and, when Koppers finds the Work to be fully performed in conformity with the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions, final payment of the outstanding balance of the Purchase Order Sum (including any applicable retainage) shall be due and owing to the Seller, provided that final payment shall not become due until the Seller has delivered to Koppers a complete release of all liens arising out of the Order or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to Koppers to indemnify Koppers against such lien. If such lien remains unsatisfied after payments are made, the Seller shall refund to Koppers all money that Koppers may be compelled to pay in discharging such lien including costs and reasonable attorneys' fees. The making of final payment shall not constitute a waiver of claims by Koppers arising from: (a) unsettled liens, claims, security interests or encumbrances arising out of the Work; (b) failure of the Work to comply with the requirements of the Order; or (c) terms of any warranties required by the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions. Acceptance of final payment by the Seller, a Subcontractor or material supplier shall constitute a waiver of all claims by that payee, except those previously made in writing and identified by that payee as unsettled at the time of final payment. No claim may be brought by Seller against Koppers after one year from the date of completion of the Work.

**21. *Safety Precautions and Programs.*** The Seller shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Order. The Seller shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (a) employees, officers, agents, carriers, sub-sellers, vendors, Subcontractors and their respective employees performing the Work and other persons who may be affected thereby; (b) the Work and materials and equipment necessary for completion of the Work and/or to be incorporated therein and (c) other property at the site or adjacent thereto. The Seller shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Seller shall promptly remedy damage and loss to

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property caused in whole or in part by the Seller, a Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Seller is responsible under clauses (b) and (c) above. The foregoing obligations of the Seller are in addition to the Seller's indemnity obligations under Paragraph 10 of the Purchase Order Terms and Conditions.

**22. Correction of Work.** The Seller shall promptly correct all Work failing to conform to the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions, including, if applicable, the approved Construction Plans, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections made necessary thereby, shall be at the Seller's expense. If the Seller fails to correct nonconforming Work within a reasonable time, Koppers may correct it in accordance with Paragraph 8 hereof.

**23. Tests and Inspections.** Tests, inspections and approvals of portions of the Work required by the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions or by applicable laws, ordinances, rules, regulations or orders of public authorities having jurisdiction over the Work shall be made at an appropriate time. Unless otherwise provided, the Seller shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to Koppers, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Seller shall give Koppers timely notice of when and where tests and inspections are to be made so that Koppers may be present for such procedures.

**24. Separate Contractors.** Koppers reserves the right to perform construction or operations related to the Work with Koppers' own forces, and to award separate contracts in connection with other portions of the project or other construction or operations on the site under conditions of the contract identical or substantially similar to these. The Seller shall afford Koppers and its separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Seller's activities with theirs as required by the terms and conditions of the Order (including the Purchase Order Terms and Conditions) and these Supplemental Conditions.