



## PURCHASE ORDER TERMS AND CONDITIONS

**1. Offer and Acceptance.** The Purchase Order ("Order") is the offer of Koppers Inc. or its subsidiary identified on the Order ("Koppers") to Seller to purchase upon the terms and conditions set forth in the Order and in these terms and conditions. The Order shall become a binding contract upon, and only upon, such terms and conditions when accepted by Seller either through acknowledgment or commencing performance. Seller's acknowledgment or commencement of performance of the Order serves as Seller's certification that Seller has read and agrees that these terms and conditions shall exclusively govern the Order and performance thereunder. The Order is not a firm offer and may be changed or revoked at any time before acceptance. The Order is expressly made conditional on Seller's acceptance of these terms and conditions. Any previous correspondence, proposal, bid or quote from Seller characterized as an offer is hereby rejected in full, and in such situations the Order constitutes Koppers' counter-offer. Any terms and conditions set forth in Seller's acceptance or any other documentation of Seller that add to, differ from, materially alter or conflict with the Order or these terms and conditions shall be construed as proposals for addition to the contract, and said proposals are hereby objected to and rejected. Any such proposed terms or conditions shall not become part of the contract. Any reference by Koppers to an offer to sell or proposal is solely for the purpose of incorporating the Specifications contained therein to the extent they do not add to, differ from, materially alter or conflict with the Specifications on the Order. As used herein, the word "Specifications" shall mean the specifications, drawings, plans, qualities, nature, type, properties, amounts, assortments and other descriptions of and requirements for the goods and services as stated on or incorporated by the Order.

**2. Price and Payment.** Prices shown on the Order shall apply to all goods and services. Invoices for goods and services shall contain the following information, where appropriate: Order number, item number, description of goods and services, sizes, quantities and unit prices in addition to any other information required to be provided by the Order. All supporting papers, including bills of lading and express receipts, shall accompany invoices. Invoices shall be forwarded upon shipment of goods or completion of services. Failure to submit an invoice to Koppers within ninety (90) days after providing goods and services shall constitute a waiver by Seller of its right to payment for said goods and services. Unless otherwise provided on the Order, payment for all undisputed amounts will be due sixty (60) days following receipt of an acceptable invoice, with all necessary supporting papers. Cash discount periods will date from the receipt of invoice. Koppers shall at all times have the right to set-off any amount owing by Seller to Koppers against any amount owing by Koppers to Seller. Payment for goods and services shall not constitute acceptance thereof. The Seller shall be responsible for all sales, consumer, use and other similar taxes.

**3. Deliveries.** Unless otherwise specified on the Order, goods shall be shipped freight and insurance prepaid F.O.B. Koppers' loading dock or facility where goods and services are to be provided or delivered. Koppers reserves the right to specify a different delivery location. Seller shall enclose a packing list in all shipments showing Order number, Seller's name, shipper's name and the exact quantity and description of goods shipped. No charge shall be made for boxing, crating, handling damages, carting, drayage, storage or other packaging or hauling requirements. All packaging must meet regulatory requirements, commercial standards and accepted industry practices to ensure against damage to and for full protection of the goods. Except as otherwise specified on the Order, reels, drums, containers or packages shall not be returned to Seller. Seller shall mark all containers with necessary lifting, handling, regulatory and shipping information. Seller shall be responsible for all demurrage and shall be solely responsible for unloading, checking and storage of goods covered by the Order. Unless otherwise specified on the Order, time shall be of the essence with respect to delivery of goods and performance of services.

**4. Right to Inspect.** In addition to all other rights of inspection implied by law, Koppers or its representatives shall have the right to inspect or test goods delivered and services provided hereunder. Such inspection or testing may take place at any stage of manufacture, production, performance or delivery. Seller agrees to provide sufficient, safe and proper facilities for the inspection of goods and services. Seller shall keep and maintain accurate and complete books and records pertaining to the performance of the Order. All books and records of Seller relating to the Order shall be subject to audit by Koppers or its representative at all

reasonable times during normal business hours. Inspection or testing shall not relieve Seller of its responsibilities under the Order or these terms and conditions to provide goods and services in accordance with the Specifications; shall not affect any other rights or remedies of Koppers; and shall not constitute acceptance thereof or a waiver of any breach.

**5. Warranties of Seller.** Seller expressly warrants for goods covered by the Order that: (a) all goods shall conform to the Specifications; shall be fit and sufficient for the purpose intended; merchantable; new; of good material, quality and workmanship; and free from defect; (b) it has good and marketable title to all goods delivered by it to Koppers hereunder, free and clear of all liens, claims and encumbrances; (c) it has all required patent, trade secret and other proprietary rights in all goods and components thereof as necessary for the manufacture and sale of goods as intended by the Order. In performing services covered by the Order, Seller warrants that: (a) all services furnished by Seller shall be performed (i) in a diligent, efficient and skillful manner, (ii) to the best of Seller's ability and (iii) at the highest professional standards in the field, to Koppers' satisfaction; (b) it will perform services on time and in strict accordance with all applicable laws, codes, ordinances, orders, rules and regulations of all local, state and federal governments and agencies and instrumentalities, including, but not limited to, applicable wage and hour, safety and environmental laws, and all standards and regulations of appropriate regulatory commissions and similar agencies; (c) all services furnished by Seller shall be free of defects; (d) all services performed by Seller do not and will not give rise to or result in any infringement or misappropriation of any patent, copyright, trade secret or any violation of any other intellectual property right of any third party; and (e) it shall not use subcontractors to perform the services except by prior written consent of Koppers, and only after Seller discloses in writing the services to be subcontracted and the identity of the proposed subcontractors. Without limitation and in addition to the foregoing warranties for goods and services: (a) Seller agrees to repair or remove and replace at its sole cost and expense, all goods or services which are defective or in breach of warranty and (b) Seller shall procure and pass on to Koppers all warranties, guarantees, parts lists and operating instructions received from any manufacturers of goods supplied by Seller under the Order. Payment for and inspection, tests, acceptance or use of the goods furnished hereunder shall not affect Seller's obligations under the Order or these terms and conditions. All warranties shall survive any delivery, inspection, test, acceptance, payment or use by Koppers. These warranties are cumulative and in addition to any other warranty, express or implied, provided by law or equity. Any applicable statute of limitations runs from the date of Koppers' discovery of the noncompliance of the goods or services with the foregoing warranties.

**6. Compliance with Law.** Seller represents and warrants it is and will be in compliance with all laws, codes, ordinances, orders, rules and regulations of all local, state and federal governments and agencies and instrumentalities applicable to Seller and its employees and the goods and services furnished pursuant to the Order, including, without limitation, the Fair Labor Standards Act of 1938, as amended; the Occupational Safety and Health Act of 1970, as amended ("OSHA") (including the OSHA Hazard Communication Standard); the Immigration Reform and Control Act of 1986, as amended; all anti-slavery, human rights, human trafficking and labor laws, the Toxic Substances Control Act ("TSCA"); the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"); and the Federal Hazardous Substances Act. Seller further represents and warrants that all goods are on the list of chemical substances compiled and published by the U.S. EPA pursuant to Section 8 of TSCA; have been properly registered in accordance with Section 3 of FIFRA; and that Seller will furnish to Koppers all material safety data sheets, safety data sheets, and such other documentation that Koppers may require for the safe use, handling, storage and distribution of any goods.

**7. Work Rules.** Seller shall be solely responsible for and shall control the work site, safety compliance and the manner in which work is performed under the Order, and Seller shall maintain competent superintendence on the job site; provided, however, Seller's and Seller's employees', officers', agents', carriers', sub-sellers' or vendors' ("Representatives") access to and presence on Koppers' property shall at all times be subject to, in accordance with and limited by such reasonable restrictions, regulations, rules and policies of which Seller may be notified from time to time by Koppers, including but not limited to any restrictions, regulations, rules and

policies regarding health and safety, hours and timing of services, use of roadways, insurance requirements, access to facilities and utilization of utilities. Seller's activities on Koppers' property shall be performed with a minimum of interference with Koppers' business operations, facilities and property. Seller shall maintain good order and discipline among its employees and shall not employ any unfit person or anyone not skilled in the work assigned. Seller shall remove from Koppers facilities any Representative upon Koppers' request.

**8. Termination.** Koppers may terminate the Order by giving notice to Seller, effective immediately upon such notice, on the happening of any one or more of the following events: (a) Seller fails to perform its duties under the Order or is in default under or breach of any other term or condition of the Order, including these terms and conditions; (b) any applicable law prevents full compliance with the Order or these terms and conditions by Seller and/or Koppers; or (c) commencement of voluntary or involuntary proceedings under any bankruptcy, reorganization or similar laws of any jurisdiction by or against Seller, or if any order shall be made or any resolution passed for the winding up, liquidation or dissolution of Seller, or if a receiver be appointed for it or its property, or if any of its goods or properties shall be taken in execution. Additionally, Koppers shall have the right at any time and from time to time without cause, to terminate all or any part of the undelivered portion of the Order, effective upon written notice to Seller, provided that Koppers shall be responsible for Seller's actual and properly documented out-of-pocket costs reasonably incurred in reliance on the Order until the date of such termination; provided, however, that such costs are reasonable in amount and are properly allocable under generally accepted accounting principles and that Koppers shall not be liable for and shall not be required to make payments to Seller for unauthorized amounts, damaged or destroyed goods or materials, loss of anticipated profit, unabsorbed overhead, interest, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, general and administrative charges, or for stock or readily marketable goods.

**9. Koppers' Remedies and Liability.** Koppers shall be entitled to all rights and remedies available at law or in equity for Seller's breach, and all available remedies shall be cumulative and not exclusive. Without limitation of the foregoing, in the event goods or services do not conform to the Order or the Specifications, Koppers may, at its election and as applicable: (a) reject and refuse delivery or return all or any portion of goods at Seller's expense (including all freight charges incurred by Koppers) to Seller for full refund or credit; (b) undertake reasonable commercial efforts to sell such non-conforming goods and pay Seller the price obtained from the sale of such goods, less any expenses or damages incurred by Koppers in selling the same and any damages resulting from the non-conformance, as payment in full for the goods; (c) recover any advance payments to Seller for undelivered or returned goods or services not fully performed; (d) require Seller, at its expense, to promptly replace or correct non-conforming goods or services; (e) stop any work hereunder and make good any deficiencies at Seller's expense; or (f) accept non-conforming goods at a reasonably reduced price. In no event shall Koppers be liable to Seller, regardless of the form of action, whether in contract or in tort or otherwise, for any incidental or consequential damages of any nature whatsoever, including without limitation, lost profits.

**10. Indemnification.** Seller will defend with counsel selected by Koppers, indemnify and hold harmless Koppers and its subsidiaries, affiliates, successors or assigns, and their respective directors, officers, shareholders and employees from and against any and all losses, damages, suits, civil actions, claims, costs, judgments, penalties or expenses (including, but not limited to, attorneys' fees) for injuries or deaths of persons, loss or destruction of or damage to property or delays in performance, and for any and all other injuries, losses, damages, suits, civil actions, claims, costs, judgments, penalties or expenses (including, but not limited to, attorney's fees) ("Claims") arising from, associated with or related to, in any way, the Order or the actions or omissions of Seller or its Representatives, including but not limited to: (a) supply of defective, unsafe or non-conforming goods and services; (b) failure to comply with laws, codes, ordinances, orders, rules and regulations of all local, state and federal governments and agencies and instrumentalities; (c) employment practices, including wage and payment issues; (d) infringement or breach of patent, copyright, trade secret or other intellectual property rights of any third party or unfair

competition; (e) the presence of Seller or its Representatives upon Koppers' premises or use or possession of Koppers' property (in such cases, whether or not such Claims result from the negligence or fault of Koppers); or (f) breach of contract or of any representation or warranty under the Order or these terms and conditions. Seller, on behalf of itself, its successors and assigns hereby agrees to waive any provisions of relevant workers' compensation or other employee benefits laws to the extent such provisions would reduce or limit Seller's or its Representatives indemnity obligations hereunder or would provide Seller with immunity against its indemnity obligations undertaken herein.

**11. Independent Contractor.** Seller is an independent contractor. As such, Seller shall be responsible for control and supervision of the production of goods and performance of services under the Order, and shall reimburse, indemnify and defend Koppers if Koppers incurs any of the aforesaid responsibilities under applicable law or regulation. Nothing contained in the Order or these in these terms and conditions shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**12. Intellectual Property Rights.** All deliverables created by Seller as part of any services performed and all goods provided pursuant to the Order shall be the sole and exclusive property of Koppers. Title to all such deliverables and goods shall pass to Koppers upon delivery. Title to originals and all copies of all plans, blueprints, drawings, specifications, schedules, computation data, bills of material, studies, reports and other items and written media furnished to Koppers by Seller or prepared by or for Seller in relation to the Order shall be and remain vested in Koppers. All goods and deliverables shall be, if appropriate, considered work(s) made by Seller for hire for Koppers as defined by 17 U.S.C. § 101 and all developments, inventions, improvements, ideas, concepts, information, materials, processes, data, programs, know-how, discoveries, designs, artwork, formulae, other works and techniques and the like, including, without limitation, all trade secrets, copyrights, trademarks, mask work rights, patents and other intellectual property rights recognized by the laws of any country ("Intellectual Property") arising from or created in connection with the Order shall belong exclusively to Koppers and its designees. If by operation of law or for any other reason, any Intellectual Property does not constitute a work made for hire or is not owned in its entirety by Koppers automatically upon creation thereof, then Seller agrees to irrevocably assign, transfer and convey, and does hereby irrevocably assign, transfer and convey, to Koppers and its designees the ownership of such Intellectual Property. Furthermore, in light of the exposure of Seller to Koppers' technology and/or confidential information, Seller shall not, directly or indirectly, reverse engineer, translate, disassemble, decompile or otherwise attempt to recreate any such Koppers technology. Seller further grants to Koppers a non-exclusive, perpetual, fully-paid and royalty-free, irrevocable and world-wide right, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, distribute, publicly perform and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import, offer for sale, and exercise any and all present or future rights in any software or other technology or inventions developed by Seller other than in the course of providing goods or services pursuant to the Order and all inventions, software or other technology acquired or licensed by Seller that Seller uses in performing the services or incorporates into the goods.

**13. Confidentiality.** The Order and the terms thereof and all technical, non-public, proprietary or other confidential information of Koppers furnished to Seller for any purpose shall be kept confidential by Seller and shall be used by Seller solely for the purpose of performance of the Order. Seller shall not publicize the fact that Seller has furnished or has contracted to furnish to Koppers the goods or services covered hereby; nor, except as is necessary for the performance of the Order, shall Seller disclose any of the terms of the Order to third parties. Upon Koppers' request, Seller shall promptly return all documents and other materials received from Koppers. Seller shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made (a) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney solely for the purpose of reporting or investigating a suspected

violation of law or (b) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. If Seller files a lawsuit for retaliation by Koppers for reporting a suspected violation of law, Seller may disclose the trade secret to Seller's attorney and use the trade secret information in the court proceeding, if Seller files any document containing the trade secret information in the court proceeding under seal and does not disclose the trade secret, except pursuant to court order.

**14. Insurance.** If work or services are performed on Koppers' property, or if otherwise required by Koppers, Seller, at its sole cost and expense, shall procure, and shall maintain while performing services or supplying goods to Koppers insurance for protection from claims under workers' compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death and claims for damages to property which may arise out of or result from the Seller's operations under the Order, whether such operations be by the Seller or by a sub-seller or anyone directly or indirectly employed by any of them. Such insurance shall be written by companies licensed to do business in the state in which Koppers' property is located and shall be of types and in minimum amounts not less than those required below:

- (a) Workers' Compensation, including coverage under United States Longshoremen's and Harbor Workers Act, where applicable: Statutory limits for state or states in which the work is to be performed.
- (b) Employer's Liability: \$500,000 per accident, \$1,000,000 bodily injury by Disease - policy limit, \$500,000 bodily injury by disease - each employee.
- (c) Commercial General Liability (bodily injury and property damage-CSL) including products and completed operations coverage: \$2,000,000 per occurrence, \$2,000,000 General Aggregate, \$2,000,000 Products - Completed Operations Aggregate.
- (d) Automobile Liability (bodily injury and property damage-CSL): \$2,000,000 per occurrence.
- (e) For design professionals, engineers and other professionals, Professional Liability (Errors and Omissions): \$5,000,000.

Thirty (30) days' prior written notice of change or cancellation to Koppers by registered mail must be given before any change to or cancellation of the policy will be effective. Seller will take all steps required to prevent all such insurance from lapsing or being cancelled. Koppers, its officers, employees and agents shall be included as additional insureds, as their interests may appear, on the policies evidencing coverage as required. The policies evidencing coverage as required shall be endorsed to waive any and all rights of subrogation against Koppers, its officers, employees and agents. Seller shall furnish Koppers, upon commencement of the Order and not later than thirty (30) days prior to the expiration of any policy of insurance, an original and two (2) copies of properly executed Certificates of Insurance evidencing the above described coverages and containing the following information: (a) description of the above coverage(s); (b) evidence that Koppers is named as an additional insured, as its interest may appear; (c) evidence that all rights of subrogation against Koppers, its officers, employees and agents have been waived; and (d) a provision that the policy is not subject to cancellation or change except after providing thirty (30) days' written notice to Koppers. Seller's insurance coverage shall not be deemed a limitation on the liability of Seller, but shall be additional security therefor. Failure of Seller to comply with any one of the above-described insurance requirements may result in delay and/or, at Koppers' option, termination of the Order, without liability to Koppers, effective upon Koppers' notification to Seller. All insurance required to be carried by Seller shall be with insurance companies subject to Koppers' approval, reasonably exercised. Renewal certificates shall be furnished to Koppers not less than thirty (30) days prior to the expiration of the coverages required by this section. Seller agrees that it shall require all Representatives of Seller to execute such waivers of liability as may be required by Koppers from time to time, before such Representatives enter onto the property of Koppers.

**15. Waiver.** Koppers' purported waiver of any breach or failure or delay to enforce any of the terms and conditions of the Order at any time, shall not in any way affect, limit or waive Koppers' rights thereafter to enforce and compel strict compliance with every term and condition hereof. Inspection, use or acceptance of any goods or services or payment therefore shall not constitute a waiver by Koppers of any breach. No waiver of any provision of the Order or these terms and conditions shall be valid unless such waiver is in writing and signed by Koppers.

**16. Force Majeure.** Koppers shall not be liable for delay in acceptance of goods or services or for any other interruption, delay, loss or damage which is incurred or suffered as a result of a Force Majeure, and Koppers' obligations hereunder shall be excused and suspended during the period such Force Majeure remains in effect. "Force Majeure" shall mean a condition or cause beyond the reasonable control of Koppers, including but not limited to acts of God, including floods, storms, earthquakes, hurricanes, tornadoes or other severe weather or climatic conditions; plant shutdown; widespread disease or virus, including pandemics or epidemics; acts of public enemy, war, blockade, insurrection or riot; fire, wreck, washout or explosion; strike, lockout or labor dispute; embargoes or governmental laws, orders or regulations; equipment failure; shortage of energy or raw materials; act of governmental authority or compliance with governmental laws and regulations; or circumstance beyond Koppers' control not enumerated in the foregoing which reasonably shall prevent Koppers from performing its obligations in the usual and normal course of its business. Koppers may terminate the Order, without penalty, if Force Majeure continues longer than three (3) months.

**17. Assignment.** Seller shall not assign, transfer, convey, delegate, subcontract or authorize disposition of the Order or Seller's right, title or interest in or to the same or any part thereof without the previous consent in writing of Koppers. No assignment or delegation shall relieve Seller of any obligations hereunder.

**18. Severability and Reformation.** In the event that any provisions of the Order or these terms and conditions shall be held to be invalid or unenforceable in whole or in part, those provisions to the extent enforceable and all other provisions shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts had not been included.

**19. Non-Solicitation.** During the provision of goods and/or services under the Order and for six months after the last provision of goods and/or services by Seller, Seller shall not, directly or indirectly, for itself or any third party, solicit, participate in or promote the solicitation of any employee of Koppers with whom it had contact in connection with the Order to leave the employ of Koppers or hire or engage such employee. Notwithstanding the foregoing, the foregoing restrictions shall not prohibit any advertisement or general solicitation (or hiring as the result thereof) that is not specifically targeted at employees of Koppers.

**20. Complete Agreement; Governing Law.** The Order, any Specifications expressly intended by Koppers to be incorporated therein, and these terms and conditions supersede all prior understandings, transactions, and communications, whether oral or written, with respect to the matters referred to herein and in the Order, and form the complete contract between Koppers and Seller relating to the subject matter thereof. No modification, alteration or amendment of the Order, any Specifications expressly intended by Koppers to be incorporated therein, or these terms and conditions shall be binding upon Koppers unless in writing and signed by Koppers' authorized representative. Except as expressly set forth in these terms and conditions, the Order is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder. The Order, any Specifications expressly intended by Koppers to be incorporated therein, these terms and conditions, and all performance thereunder shall be interpreted, construed and governed by the laws of the state under which the Koppers entity identified on the Order is formed, without regard to any choice of law principles thereof which would cause the law of another jurisdiction to govern. The headings set forth herein are provided for convenience only and will not affect the construction or interpretation of these terms and conditions.

**21. *Survival.*** Provisions of the Order and these terms and conditions which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Order including, but not limited to, the following

provisions: Warranties of Seller, Koppers' Remedies and Liability, Indemnification, Intellectual Property Rights, Confidentiality, Non-Solicitation, and Complete Agreement; Governing Law.