

## GENERAL TERMS AND CONDITIONS FOR PRODUCT SALES BY COLONIAL ASPHALT, INC.

These General Terms and Conditions (these "General Conditions") apply to all sales of asphalt and asphalt-related products (the "Product"), and related delivery, logistics, storage, heating, handling or other services, by Colonial Asphalt, Inc. ("Colonial" or "Seller") to or for the benefit of the purchaser identified in the applicable Order ("Buyer"). These General Conditions will be deemed accepted by, and binding upon, Buyer upon the earliest of: (a) Buyer's submission or confirmation of an order; (b) Colonial's confirmation of an order; (c) Buyer's or its carrier's collection, receipt, acceptance or use of Product; (d) Colonial's delivery, release, or making available of Product to or for Buyer; or (e) Buyer's payment for Product or services. No separate signature by Buyer is required for these General Conditions to be binding. Buyer may place Orders with Colonial from time to time. Terms relating to a particular order, including the type and grade of Product, quantity, price, delivery location, delivery method, specifications, temperature requirements, testing requirements and payment terms, must be stated in an Order. An "Order" means a purchase order, order confirmation, scheduling agreement or other such similar instrument issued for purchase, sale and delivery of Products and/or services under this Agreement that is accepted by Colonial. These General Conditions and each applicable Order collectively constitute the "Agreement" governing the applicable sale of Product and/or provision of services. In the event of a conflict between these General Conditions and an applicable Order issued or accepted by Colonial, the Order will control solely with respect to that transaction and only to the extent of the conflict. Any terms contained in Buyer's purchase order or other document that conflict with, supplement or vary these General Conditions are rejected and will have no force or effect unless such document expressly identifies the specific provision being modified and is signed by an authorized representative of Colonial.

### 1. Title, Risk of Loss, and Delivery.

**1.1 Title and Risk of Loss.** Except as otherwise expressly stated in the applicable Order, title to and risk of loss of or damage to Product passes to Buyer: (a) for Product loaded into a truck, railcar, vessel, or other carrier at Colonial's terminal, plant or loading facility, when the Product passes the final loading connection or flange into the carrier or (b) for book transfers, stock transfers or exchanges, on the effective date and at the time stated in the applicable Order.

Title and risk of loss will not be affected by Colonial's or its affiliates' ownership of the transportation assets, arrangement of shipment, pre-payment or collection of shipment expenses from Buyer. Colonial will have no obligation to deliver Product unless Buyer, its agents and its carriers have entered into, and are in compliance with, necessary agreements governing access to the Colonial facilities.

**1.2 Delivery.** Unless Colonial specifically agrees to otherwise, all sales from Colonial to Buyer will be FCA (applicable facility). Buyer shall ensure that all delivery locations, access routes, unloading areas, storage tanks, piping, pumps, valves, hoses, meters and other receiving equipment are safe, accessible, suitable for the Product ordered, in good operating condition, and compliant with applicable law. Buyer is solely responsible for confirming that its receiving tank or vehicle has sufficient capacity and is compatible with the Product being delivered. Colonial may refuse, delay, suspend, or discontinue delivery if Colonial reasonably determines that conditions at

the delivery location are unsafe, unsuitable, inaccessible or noncompliant, without liability to Buyer.

**1.3 Delays; Detention; Rejected Loads.** Buyer is responsible for all detention, demurrage, waiting-time, return-freight, rehandling, reheating, cleaning, disposal and other costs incurred by Colonial or its carrier as a result of Buyer's delay, refusal or inability to receive Product, inadequate tank capacity, unsuitable or unsafe receiving conditions, contamination concerns or any other act or omission of Buyer or its representatives. Colonial may invoice such amounts to Buyer, and Buyer shall pay them in accordance with the payment terms applicable to the Product.

**1.4 Delivery Documentation.** Bills of lading, delivery tickets, meter tickets, terminal tickets, certificates of analysis and other shipping documents prepared by Colonial or its carrier are prima facie evidence of the quantity and grade of Product delivered, absent manifest error.

### 2. Payment Terms.

**2.1 Payment.** Unless otherwise specified in the Order, following physical movement of Product purchased hereunder, the Buyer must make payment in full without set off or deduction to Colonial via wire transfer, Automated Clearing House transfer, or good and valid check delivered to Colonial of immediately available funds (at such address or depository as Colonial may designate in writing) in U.S. dollars. Unless otherwise indicated in the Order or Invoice with respect to a purchase of Product, full payment shall be made within ten (10) days of Colonial's invoice for the same, except that book/stock transfer receipts must be paid on the effective date of the transfer. If the payment due date falls on a Saturday, a Sunday or on a day on which there is a bank holiday in the place where payment is to be made, payment may be made in immediately available funds to Colonial on the next banking day after such payment due date. Each payment must include sufficient remittance information to enable Colonial to identify the applicable Buyer account and invoice or invoices to which the payment relates.

**2.2 Credit Arrangements; Assurance.** As a condition precedent to any or further or additional sales or deliveries of product or services at any time to or for Buyer by Colonial, Buyer and/or its guarantor will from time to time upon Colonial's request establish, re-establish and/or maintain credit satisfactory to Colonial in Colonial's discretion. Buyer authorizes Colonial, and its affiliates and agents, to obtain consumer credit reports and other credit-related information from any consumer reporting agency, at any time, for any permissible purpose under the Fair Credit Reporting Act, as amended. If Buyer and/or its guarantor fails to establish, re-establish or maintain credit satisfactory to Colonial in Colonial's discretion and at its request whenever made, Buyer and/or its guarantor fails to timely pay amounts due Colonial or Colonial has reasonable grounds for insecurity as to Buyer's creditworthiness or performance, Colonial may in its sole discretion suspend or terminate deliveries or sales of product or services to or for Buyer without liability to Buyer until payment is made and/or satisfactory credit or other conditions is/are met, established or re-established in each instance to Colonial's satisfaction in its discretion, which credit or conditions may include, without limitation, prepayment, new or additional guarantees and/or a clean standby letter of credit (in a form acceptable to Colonial). If Colonial elects to sell, deliver, load or discharge Product, any demurrage resulting from delays to Colonial's tanker, truck or railcar pending

receipt by Colonial of required credit documentation or conditions is and shall be for the account of Buyer. Colonial's delivery of Product hereunder prior to Buyer providing assurance of financial performance as set forth above, shall not operate as a waiver of Colonial's rights to immediately impose the credit support obligations under this Section or at any future time prevent Colonial from promptly exercising any other option, right or remedy that it may have under the terms of the Agreement. The exercise by Colonial of any right reserved under this Section 2.2 shall be without prejudice to any claim for damages or any other right under the Agreement or applicable law.

**2.3 Default Interest; Collection Costs.** Any amount payable for any Product, delivery thereof, or otherwise payable by Buyer to Colonial hereunder, if not paid when due, bears interest from the due date until the date payment is received by Colonial at the rate of 1.5% per month (18% per year), but not more than the maximum rate of interest permitted under applicable law. Buyer must pay any such accrued interest within ten (10) days following receipt of Colonial's request for the same from time to time. If Buyer fails to timely pay Colonial any amounts due Colonial, Colonial may in its discretion from time to time suspend or terminate deliveries or sales of Product without liability to Colonial until all amounts due are paid and/or satisfactory credit or other conditions is/are met, established or re-established as contemplated in Section 2.2 above. If any check, draft, order or other form or means of payment by Buyer is not honored by Buyer's bank or financial institution for lack of funds or credit, Colonial may charge Buyer a service charge not to exceed \$30.00 or five percent (5%) of the face amount of the check, draft, order or other form or means of payment, whichever is greater, plus the amount of any fees charged to Colonial by a bank or financial institution as a result thereof.

**2.4 Offset.** Colonial shall have the right to set off and/or to apply any money, accounts payable or product balance owed by Colonial to Buyer or any collateral of any description held by Colonial to secure any indebtedness or obligation owed by Buyer to Colonial against any unpaid money or accounts receivable owed to Colonial by Buyer and in such order as Colonial may determine in its discretion.

**2.5 Insolvency.** In the event Buyer becomes insolvent, makes an assignment or any general arrangement for the benefit of creditors, or if there are instituted by or against Buyer proceedings in bankruptcy or under any insolvency law or law for reorganization, receivership or dissolution, Colonial may elect in its discretion from time to time to withhold, suspend or terminate shipments, sales or any purchase order or cancel this Agreement unless otherwise prohibited by law.

**3. Taxes.** Any and all federal, state or local taxes, fees, duties, levies or other similar charges of any kind or nature (other than taxes based on or measured by Colonial's income or net worth) which are required to be collected or paid in connection with Buyer's purchase of Product from Colonial or which were paid or incurred by Colonial directly or indirectly with respect to Product being sold to Buyer will be charged to and paid or reimbursed by Buyer.

#### **4. Product Specifications; Inspection; Limited Warranty.**

**4.1 Warranties.** Colonial warrants only that, at the time title and risk of loss pass to Buyer, (a) the Product will conform in all material respects to the grade, specifications and requirements expressly stated in the applicable Order and (b) Colonial has good title to the Product at the time title passes to Buyer. If the applicable Order does not specify a grade or specification, Product will conform in all material respects to

Colonial's then-current commercial specifications for the applicable Product grade at the applicable delivery location.

**4.2 Product Condition.** Buyer acknowledges that the condition, workability, viscosity, temperature, composition and suitability of asphalt products may be affected by time, temperature, weather, storage conditions, mixing or commingling, contamination, transportation, handling, reheating and application methods after title and risk of loss pass to Buyer. Colonial is not responsible for any change in Product condition, degradation, hardening, separation, contamination or loss of usability occurring after title and risk of loss pass to Buyer.

**4.3 Sampling and Testing.** Colonial may, but shall not be obligated to (except to the extent required by applicable law), sample, inspect, test or analyze any Product for compliance with the applicable specifications. Any test results, certificates of analysis, measurements, determinations or other quality determinations made or issued by Colonial with respect to the Product shall be conclusive and binding on Buyer and shall control for all purposes under this Agreement, absent manifest error.

**4.4 Exclusive Remedy.** If Colonial determines, or the parties mutually determine, that Product did not conform to Section 4.1 at the time title passed, Buyer's sole and exclusive remedy, at Colonial's option, is replacement of the nonconforming Product, issuance of a credit for the purchase price paid for the nonconforming Product or refund of that purchase price.

**4.5 Disclaimer.** EXCEPT FOR THE EXPRESS LIMITED WARRANTY IN SECTION 4.1, COLONIAL MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCT OR SERVICE. COLONIAL EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES AND THE PROVISIONS OF THIS SECTION 4 CONSTITUTE THE SOLE AND EXCLUSIVE OBLIGATIONS OF COLONIAL WITH RESPECT TO THE SPECIFICATIONS, DESCRIPTION, QUALITY, CONDITION OR FITNESS OF THE PRODUCT, AND, EXCEPT FOR THOSE EXPRESSLY STATED IN THE AGREEMENT, COLONIAL MAKES NO OTHER (AND EXPRESSLY DISCLAIMS ANY AND ALL) REPRESENTATIONS, GUARANTEES, ASSURANCES, CONDITIONS AND/OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

**4.6 Exclusions.** Colonial has no responsibility for: (a) Product that has been commingled with other materials; (b) contamination occurring after title and risk of loss pass to Buyer; (c) Buyer's or a third party's storage, handling, heating, transportation, processing, application, mixing or use of Product; (d) conditions of Buyer's tanks, lines, equipment or jobsite; or (e) normal and commercially reasonable variations in temperature, quantity or specifications.

#### **5. Storage, Handling, Health and Safety.**

**5.1** Buyer acknowledges that Product may be delivered at elevated temperatures and may be hazardous if improperly stored, heated, transferred, handled or applied. Buyer shall maintain all tanks, lines, pumps, valves, hoses, heating systems, loading and unloading equipment, and related facilities in safe operating condition, in compliance with applicable laws, permits, manufacturer recommendations, and industry standards. Buyer shall be responsible for

ensuring that its tanks, equipment and facilities are suitable and compatible for the safe receipt, storage and handling, and use of the applicable Product. Buyer shall ensure that its employees, agents, contractors and other personnel who receive, store, heat, transfer, handle or use Product are properly trained, qualified, and knowledgeable regarding the safe and proper handling of Product and the applicable safety data sheets, operating procedures and legal requirements. Buyer shall comply, and shall cause its customers, employees, agents, contractors, carriers and other representatives to comply with all applicable health, safety, environmental, transportation and other laws, rules, regulations, and permit requirements relating to Product and their respective operations. Buyer shall review and comply with all safety data sheets ("SDS") and other safety-related information provided by Colonial, including applicable recommended uses, restrictions on use, precautionary measures and exposure controls. Buyer shall ensure that its customers, employees, agents, contractors, carriers and other personnel who may receive, store, heat, transfer, handle, transport or use Product are properly trained, qualified, and knowledgeable regarding the safe and proper handling of Product and applicable SDS, operating procedures and legal requirements.

5.2 Buyer acknowledges that the vapor space in storage containers may contain lethal levels of H<sub>2</sub>S. Buyer will provide adequate warnings and safe handling information about H<sub>2</sub>S to its customers, employees, agents, contractors and invitees, and will require them to further communicate the warnings and information to all persons that they reasonably foresee may be exposed to or handle any storage containers that may contain H<sub>2</sub>S. The warnings and information will include a communication that lethal levels of H<sub>2</sub>S may be present, along with a statement of adequate precautions and the information contained in the SDS.

5.3 Colonial may rely on Buyer's or Buyer's representative's instructions concerning the designated delivery location, tank, and unloading point. Buyer is responsible for all consequences of any incorrect designation, including commingling, contamination, overflow, release, tank damage, Product loss, cleanup, disposal, return freight, reheating and related costs.

6. Force Majeure. Colonial's obligation to sell, make accessible or deliver Product to Buyer shall be suspended and, at Colonial's option, excused (a) if Colonial is prevented from or delayed in whole or in part in purchasing, receiving, having adequate inventory or availability of, transporting or delivering Product, or the supplies or materials from which such Product is manufactured, blended or otherwise made or prepared, or (b) if Colonial's performance hereunder is made substantially more expensive or otherwise prevented, frustrated or delayed, in each instance due to acts of God, earthquake, fire, flood or the elements, malicious mischief, riots, strikes, lockouts, boycotts, picketing, labor disturbances, terrorism, war, epidemics, pandemics, compliance with any directive, order or regulation of any governmental authority or representative thereof acting under claim or color of authority, inability to obtain in the ordinary course consistent with past practice any or adequate amounts of Product or services from third parties or suppliers, failure of or delay by third parties or suppliers to supply or deliver Product or services to Colonial, loss or shortage of any part of Colonial's own or customary transportation or delivery facilities, or any other reason beyond Colonial's reasonable control, whether or not similar to any of the foregoing. In the event of any shortage of Product or services, Colonial may allocate the same among itself, its affiliates and/or its customers in its discretion.

7. Environmental Protection. If any spill or release occurs while the Product is being delivered to Buyer or thereafter, Buyer shall promptly take such action as is necessary to remove the spilled product and mitigate or remedy the effects of such spill. Without prejudice to the generality of the foregoing, Colonial is hereby authorized in its discretion at its option (but without requirement or obligation) to take such action and incur such expense (whether by employing its own resources or by contracting with third parties) as Colonial deems necessary or appropriate to remove the spilled Product and to mitigate or remedy the effects of such spill. Buyer will cooperate with and render such assistance as is requested by Colonial in the course of any such action. All expenses, claims, costs, losses, damages, liability and penalties arising from spills shall be borne by the party that caused such spill, whether by act or omission. If both parties are at fault with respect to such spill, all expenses, claims, losses, damages, liability and penalties, shall be divided between the parties in accordance with their respective degree of fault. Buyer shall give Colonial all documents and other information concerning any spill or any program for the prevention thereof, that are required by Colonial, or which are required by law or regulation, which may be applicable at the time and place of delivery.

8. Intellectual Property. Buyer will not use Colonial's name, trademark or service marks, trade dress or any Colonial proprietary information in any way with regard to the Product. Notwithstanding the foregoing sentence, Buyer may use Colonial's name solely in conjunction with required bills of lading, certificates of analysis, SDS and customs documents related to the Product.

#### 9. Confidentiality

9.1 "Confidential Information" means any non-public information disclosed or made available by one party (the "Disclosing Party") to the other party (the "Receiving Party") in connection with this Agreement, including pricing terms, volume projections, business operations, technical data, mix designs, formulas and customer or supplier lists. Confidential Information may be disclosed in oral, written, electronic, visual or other form and includes information that is not generally available to the public and that a reasonable person would understand to be confidential or proprietary under the circumstances of disclosure, whether or not it is marked or otherwise identified as confidential.

9.2 The Receiving Party agrees to (a) keep all Confidential Information strictly confidential; (b) use it solely for the purpose of performing its obligations or exercising its rights under this Agreement; and (c) disclose it only to its employees, officers, directors, and legal or financial advisors who have a strict "need to know" and who are made aware of and agree to the confidentiality obligations and use restrictions contained herein.

9.3 Confidential Information does not include information that (a) is or becomes publicly known through no breach of the Receiving Party; (b) was already in the Receiving Party's possession without restriction prior to disclosure; (c) is independently developed by the Receiving Party without reference to or use of the Disclosing Party's information; or (d) is legally required to be disclosed by law, regulation, or court order (provided the Receiving Party gives prompt written notice to the Disclosing Party, unless prohibited).

9.4 The obligations under this Section shall survive the expiration or termination of this Agreement for a period of two (2) years.

10. Limitation of Liability. Buyer's sole and exclusive rights and remedies for any claim arising out of or relating to any asphalt or asphalt-related product sold by Colonial to Buyer (the "Product"), or any delivery, handling, storage, heating, logistics, or other service provided by Colonial (collectively, "Services"), including any claim concerning Product grade, specification, quality, quantity, temperature, condition, delivery or invoiced amount, are limited to the remedies expressly set forth in this Section. To be valid, any claim relating to Product grade, specifications, quality, quantity, temperature, condition, contamination or any other alleged nonconformity must be made by Buyer in writing and received by Colonial within ten (10) business days after title and risk of loss pass to Buyer. Any claim relating solely to an invoiced amount must be made by Buyer in writing and received by Colonial within thirty (30) days after Buyer receives the applicable invoice. In each case, Buyer's notice must identify the applicable delivery, bill of lading, delivery ticket, invoice or other transaction record and describe the claim and its basis in reasonable detail. Buyer's failure to provide Colonial with timely written notice of a claim in accordance with this Section shall constitute Buyer's irrevocable waiver and release of that claim.

Buyer shall preserve any allegedly nonconforming Product and, upon Colonial's request, provide Colonial with a reasonable opportunity to inspect the Product, the applicable storage tank, delivery location, receiving equipment and related records, and to obtain or observe the taking of representative samples. Colonial shall have no liability for any claim to the extent the Product has been commingled with any other product, additive, material, water or contaminant; heated, reheated, stored, handled, transferred, processed or applied by or for Buyer; or otherwise altered after title and risk of loss have passed to Buyer.

Any civil action by Buyer against Colonial arising out of or relating to any Product or Services must be commenced no later than twelve (12) months from the date the applicable Product was delivered, released, made available or otherwise provided to Buyer. Any action not timely commenced is irrevocably waived, released, and time barred.

COLONIAL'S LIABILITY FOR ANY BREACH OF THIS AGREEMENT OR ANY CLAIM ARISING OUT OF OR RELATING TO ANY PRODUCT OR SERVICES SHALL, AT COLONIAL'S SOLE OPTION, BE LIMITED TO: (I) REPLACING THE AFFECTED PRODUCT OR REPERFORMING THE AFFECTED SERVICES; (II) PROVIDING PRODUCT OR SERVICES TO CURE OR MAKE UP ANY VERIFIED SHORTAGE; (III) ISSUING A CREDIT TO BUYER FOR THE PURCHASE PRICE PAID FOR THE AFFECTED PRODUCT OR SERVICES; (IV) REFUNDING THE PURCHASE PRICE PAID BY BUYER FOR THE AFFECTED PRODUCT OR SERVICES; OR (V) WAIVING BUYER'S UNPAID OBLIGATION TO PAY THE PURCHASE PRICE FOR THE AFFECTED PRODUCT OR SERVICES.

WITHOUT LIMITING THE FOREGOING, COLONIAL SHALL NOT BE RESPONSIBLE FOR, AND BUYER WAIVES ANY CLAIM FOR, OR COSTS ARISING FROM THE REMOVAL, REPLACEMENT, HANDLING, TRANSPORTATION, STORAGE, HEATING, REHEATING, DISPOSAL, APPLICATION OR REAPPLICATION OF PRODUCT, EXCEPT TO THE EXTENT COLONIAL EXPRESSLY AGREES IN WRITING TO ASSUME A PARTICULAR COST AS PART OF ITS ELECTED REMEDY.

NO CLAIM FOR A SHORTAGE OF PRODUCT OR SERVICES MAY EXCEED THE PURCHASE PRICE

APPLICABLE TO THE QUANTITY OF PRODUCT OR SERVICES ACTUALLY ALLEGED TO BE SHORT OR NOT PROVIDED. IN NO EVENT SHALL COLONIAL BE LIABLE FOR SPECIFIC PERFORMANCE OR FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOST REVENUE, LOSS OF USE, LOSS OF BUSINESS OPPORTUNITY, COST OF CAPITAL, LOSS OF PRODUCTION, PROJECT DELAY, LIQUIDATED DAMAGES, DOWNTIME COSTS OR COSTS ASSOCIATED WITH PAVING, MILLING, REMOVAL, REPLACEMENT, REWORK OR REAPPLICATION OF ASPHALT OR ASPHALT MIX.

IN NO EVENT SHALL COLONIAL'S TOTAL, CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO ANY PRODUCT OR SERVICES EXCEED ONE HUNDRED TWENTY-FIVE PERCENT (125%) OF THE PURCHASE PRICE PAID TO COLONIAL FOR THE SPECIFIC PRODUCT OR SERVICES GIVING RISE TO THE CLAIM.

11. Indemnity. To the fullest extent permitted by law, Buyer will indemnify, protect, hold harmless and defend Colonial, its affiliates and each of their officers, directors, employees and agents from and against all claims, demands, causes of action, losses, damages, costs and expenses (including attorney fees and other litigation costs), arising out of, related to or in connection with: (a) any failure of Buyer, its agents, contractors or employees to comply with the terms and conditions of this Agreement; (b) any and all negligent acts or omissions, regardless of cause or causes thereof, by Buyer, its agents, contractors, employees, representatives and customers; (c) any act or failure to act in the handling, loading, unloading, blending, transloading, storage, transportation, resale or other use, by Buyer, its agents, contractors, employees, customers or others of a product sold under this Agreement; or (d) any violation of applicable law, permit, license, safety rule or environmental requirement. In addition, Buyer will pay all costs and expenses, including attorney fees and all other expenses of litigation incurred by Colonial to enforce Buyer's obligations as set forth in this section. Buyer's obligations under this Section shall not apply to the extent that the applicable claim was caused by Colonial's gross negligence or willful misconduct.

#### 12. Site Access; Safety; Buyer Responsibilities.

12.1 All employees, agents, contractors, carriers, drivers, and representatives of either party who enter property owned, leased, operated, controlled or designated by the other party shall comply with all applicable laws and with the property owner's or operator's then-current safety, security, environmental, traffic-control, routing, delivery, unloading, parking, personal-protective-equipment, hazardous-materials, product handling and site access rules, policies, procedures, and instructions.

12.2 Without limiting the foregoing, Buyer shall ensure that each delivery location and all access roads, gates, unloading areas, storage tanks, piping, valves, pumps, hoses, heating systems and other equipment used to receive, store, transfer, heat or handle Product are safe, accessible, properly maintained, legally compliant, and suitable for the Product and the delivery vehicle. Buyer shall provide Colonial and its employees, agents, contractors, carriers, and drivers safe and unobstructed access to the delivery location and shall identify all site-specific hazards, delivery instructions, tank-designation requirements, routing restrictions, security requirements and applicable emergency procedures before delivery.

12.3 Colonial and its employees, agents, contractors, carriers and drivers may, without liability to Buyer or any other person, refuse to enter a delivery location, load, unload or otherwise perform services whenever Colonial reasonably determines that conditions are unsafe, inaccessible, noncompliant, unsuitable or likely to result in injury, property damage, delay or damage to any person, vehicle, equipment or property.

12.4 Buyer shall be responsible for the acts and omissions of its personnel, agents, contractors, customers, invitees and representatives at or relating to the delivery location. Buyer shall indemnify, defend, and hold harmless Colonial and its affiliates, and their respective employees, agents, contractors, carriers, and drivers, from and against claims, losses, damages, liabilities, penalties, costs and expenses, including reasonable attorneys' fees, arising out of or relating to unsafe, inaccessible, defective, unsuitable or noncompliant conditions at Buyer's delivery location, except to the extent finally determined to have been proximately caused by Colonial's negligence or willful misconduct.

### 13. Compliance with Laws.

13.1 During the performance of this Agreement, each party hereto agrees to comply with all applicable laws, rules, regulations, ordinances and requirements of federal, states and local governmental or regulatory bodies relating to such party and its business, properties, facilities and operations.

13.2 Buyer shall, at its own expense, obtain, maintain and comply with all licenses, permits, registrations, approvals, insurance and other governmental or regulatory requirements necessary for Buyer to receive, transport, store, handle, use, resell, or otherwise dispose of Product and operate its facilities and equipment.

13.3 If at any time after the Agreement is entered into, any applicable laws are changed or any new applicable laws come into effect at any time during the pendency of the Agreement, and if the impact of such new or changed applicable laws will materially and adversely impact Colonial, then Colonial shall have the option, by written notice to Buyer, to request a good faith renegotiation of the affected provisions of the Agreement so as to eliminate or minimize as much as possible the impact of such new or changed applicable laws on Colonial. If Buyer fails or refuses to negotiate with Colonial in good faith, or if the parties are unable to agree upon changes to the Agreement, within fifteen (15) days after Buyer's receipt of Colonial's notice under this Section, Colonial shall have the right to terminate the Agreement immediately at the end of such fifteen (15) day period. Any Product sold prior to such termination shall be sold in accordance with the Agreement without adjustment in regard to such new or changed applicable laws; provided, however, neither party shall be required to perform any obligation under the Agreement if such performance is in violation of applicable law.

14. Insurance. During the term of this Agreement, Buyer shall, at its sole cost and expense, maintain insurance with reputable insurers and in amounts commercially reasonable for Buyer's operations and the risks assumed under this Agreement, including: (a) commercial general liability insurance, including contractual liability, products/completed operations, bodily injury, and property damage coverage, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; (b) automobile liability insurance covering owned, hired and non-owned vehicles used in connection with Product, with a combined single limit of not less than \$1,000,000 per accident; (c) workers' compensation insurance as required by applicable law and employer's liability insurance with limits of not less than \$1,000,000; and

(d) umbrella/excess liability coverage with a limit of not less than \$5,000,000.

Upon Colonial's request, Buyer shall provide certificates of insurance evidencing the required coverage and shall cause Colonial and its affiliates, and their respective officers, directors, employees, agents, contractors, carriers and representatives, to be named as additional insureds. Buyer hereby waives, and shall cause its insurers to waive, all rights of subrogation, recovery, contribution, reimbursement or recourse against Colonial, its affiliates, and their respective directors, officers, employees, agents, contractors, carriers, drivers and representatives. Buyer's failure to maintain the insurance required by this Section constitutes a material breach of this Agreement and permits Colonial, without liability, to suspend deliveries, require prepayment or other credit support, or terminate the applicable Order or this Agreement. The insurance requirements are minimum requirements only and do not limit, cap, reduce, satisfy, discharge or otherwise affect Buyer's liabilities or obligations under this Agreement.

### 15. General Provisions.

15.1 Amendment and Modification. No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure therefrom, will in any event be effective unless the same is in writing and is signed by the party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given. No waiver by either party of any breach or default by the other party under this Agreement shall be deemed a waiver of any prior, concurrent or subsequent breach or default of the same or any other provision of this Agreement.

15.2 Assignments. Except as provided herein, no party may assign or transfer any of its rights or obligations under this Agreement to any other person without the prior written consent of the other party. Notwithstanding the preceding sentence, either party may assign its rights under this Agreement without consent, including the performance thereof, in whole or in part to (a) its parent corporation or any affiliate of such party; (b) the successor of all or of substantially all of its entire business and assets; or (c) an entity which either party may merge into or be consolidated into, provided that the other party is not prevented by any applicable law from doing business with the assignee, and that any such assignment does not release the assigning party of any of its obligations hereunder. All provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the parties and their respective successors and permitted assigns.

15.3 Captions. Captions contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

15.4 Construction. Unless the context of this Agreement clearly requires otherwise: (i) references to the plural include the singular and vice versa; (ii) references to any person include such person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement; (iii) references to one gender include all genders; (iv) "including" is not limiting; (v) "or" has the inclusive meaning represented by the phrase "and/or"; (vi) the words "hereof", "herein", "hereby", "hereunder" and similar terms in this Agreement refer to this Agreement as a whole

and not to any particular provision of this Agreement; (vii) section references are to this Agreement unless otherwise specified; (viii) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; and (ix) general or specific references to any law mean such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time.

**15.5 Counterparts Electronic Signature.** This Agreement, including any Order, amendment or other document executed in connection with it, may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Signatures delivered by e-mail, DocuSign, facsimile, or other electronic means will be deemed original signatures and will have the same legal effect as an original manually executed signature.

**15.6 Failure or Delay.** No failure on the part of any party to exercise, and no delay in exercising, any right, power or privilege hereunder shall operate as a waiver thereof; nor does any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No notice to or demand on any party in any case entitles such party to any other or further notice or demand in similar or other circumstances.

**15.7 Governing Law and Jurisdiction.** This Agreement and the rights and obligations of the parties hereunder shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Georgia, without regard to choice or conflict of laws rules. The parties agree that any dispute, claim, or cause of action arising out of or relating to this Agreement, or the enforcement of this Agreement, shall be brought exclusively in the United States District Court for the Southern District of Georgia. If that court lacks subject matter jurisdiction over the dispute, claim, or cause of action, the matter shall be brought exclusively in the State or Superior courts of Chatham County, Georgia. Each party irrevocably submits to the personal jurisdiction and venue of those courts and waives any objection based on improper venue or inconvenient forum. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not in any way apply to or govern this Agreement.

**15.8 Attorney Fees.** If Colonial takes any action to enforce Buyer's obligations under these General Conditions, any Order or any transaction governed by them, whether or not litigation, arbitration or another formal proceeding is commenced, Buyer shall reimburse Colonial for all costs and expenses of collection and/or enforcement. Such costs and expenses include attorneys' fees, court and filing costs, collection and recovery costs, expert and consultant fees, administrative and investigation expenses and any other costs incurred by Colonial in collecting amounts due or enforcing Buyer's obligations. To the extent permitted by applicable law, Colonial shall be entitled to be paid for attorney fees in an amount equal to fifteen percent (15%) of the principal and interest owed. Buyer shall pay all such costs and expenses within ten (10) days after receiving Colonial's written demand.

**15.9 Notices.** All notices or claim related to this Agreement to be given to Colonial will be valid only if sent by overnight courier or certified mail return receipt requested and addressed as follows: Colonial Asphalt, Inc., Attention:

Executive Vice President or General Counsel, 1375 Chatham Parkway, Savannah, GA 31405. All notices given by Colonial to Buyer will be sent to the address set forth in this Agreement or such other address as Buyer may notify Colonial of from time to time.

**15.10 Remedies Not Exclusive.** Each and every right granted hereunder and the remedies provided for under this Agreement are cumulative and are not exclusive of any remedies or rights that may be available to any party at law, in equity or otherwise, except as may otherwise be set forth in Section 10 or other sections of this Agreement.