

TERMS AND CONDITIONS OF SALE

Asphalt Materials, Inc., an Indiana corporation, together with its affiliates and subsidiaries (which include without limitation Emulsicoat, Inc., Bituminous Materials and Supply, L.P., Heritage Asphalt Technologies, LLC, Heritage Asphalt, LLC, Laketon Refining, Inc., Asphalt Refining Co.) are referred to herein as "AMI Group". The terms and conditions set forth in this document ("Terms and Conditions") are intended to establish standard terms and conditions for all sales of AMI Group's products ("Products") to customers (each a "Customer"). In the event that these Terms and Conditions are associated with an offer, the offer, including these Terms and Conditions of Sale, may only be accepted on the exact terms set forth in the offer, and any different or additional terms in Customer's acceptance of the offer are hereby objected to. References herein to this "Agreement" shall include these Terms and Conditions and any applicable sales agreement or purchase orders (each, a "Sales Agreement") to which AMI Group and Customer are parties or have agreed to be bound. In the event of a conflict between the terms of any Sales Agreement and these terms and conditions, the provisions of the Sales Agreement shall control.

1. PRICE; TAXES — Unless otherwise specifically agreed to by AMI Group and Customer in writing, AMI Group's pricing as reflected in the executed Sales Agreement shall apply. Price quotes are subject to credit approval or other arrangements satisfactory to AMI Group to establish Customer creditworthiness. Any tax, excise or governmental charge imposed upon the value added to or the production, sale, storage, use or transportation of any Products sold hereunder, or imposed upon crude oil or any other raw materials from which such Products are made (collectively, "Impositions"), which AMI Group may be required to pay, shall be paid by Customer to AMI Group if not included in the purchase price. Customer shall provide AMI Group, on request, with properly completed exemption certificates for any tax from which Customer claims exemption. Customer hereby agrees to indemnify, defend, and hold AMI Group harmless from and against any claims, liabilities, losses, costs, damages and expenses (including, without limitation, attorney's fees and expenses) arising out of or related to any Impositions.

2. PAYMENT TERMS — Subject to ongoing credit approval by AMI Group, and unless otherwise specified on AMI Group's invoice or otherwise agreed to by Customer and AMI Group in writing, terms of payment shall be net 30 days from date of invoice. AMI Group reserves the right to withhold shipment for Customer's: (a) late payment; (b) non-payment; or (c) failure to provide reasonable assurance of payment upon AMI Group's request. Any payment that is not received by the date required herein shall accrue interest at a rate of eighteen per cent (18%) per annum of the outstanding balance or the maximum rate allowed by applicable law, whichever is less, from the date such payment is due until the full invoiced amount and accrued interest is fully paid. In addition, Customer shall be responsible for AMI Group's costs of collection of any past due amounts, including reasonable attorney fees. In the event Customer shall fail to make timely payment of any monies due and owing to AMI Group, AMI Group may set off, withhold or recoup any payments due under this or any other agreement between the parties.

3. DELIVERY; TITLE; RISK OF LOSS — Unless specifically agreed to otherwise in writing: (a) title to the Products and risk of loss shall pass to Customer at the earlier of delivery of the Products FOB the point of sale of the Products or FOB the delivery destination of the Products, as applicable; (b) Customer assumes all responsibility for risk of loss or damage to the Products from such point of delivery; (c) delivery dates are approximate.

4. RETURNS FROM CUSTOMER — Upon delivery of the Products to Customer, Customer shall have the right to inspect the Products and, not later than 24 hours following delivery, to provide AMI Group with written notice of any Products Customer believes to fail to conform with the express warranties and requirements set forth herein. If upon investigation AMI Group determines, in its reasonable judgment, that such Products fail to conform with such warranties or requirements (any such Products referred to herein as "Nonconforming Products"), then Customer shall be entitled, as its sole and exclusive remedy, to the refund or replacement specified in Section 7 below. If Customer fails to provide written notice of its objection to any Products within the timeframe specified above, then Customer shall

be deemed to have accepted all Products in the condition delivered. In the event that Customer attempts to reject or return any Products not found to be Nonconforming Products, then Customer shall not be entitled to any refund or replacement of such Products and shall promptly pay to AMI Group a processing fee in the amount of \$500.

5. PAYMENT BONDS — In the event that any payment bond has been or will be issued in connection with the project for which Customer or any affiliate, subcontractor, or general contractor intends to use any Products, Customer shall promptly provide or cause to be provided to AMI Group a copy of such bond when issued, together with instructions for making a claim against such bond in the event Customer breaches any payment obligations to AMI Group, whether hereunder or under a related agreement.

6. LIMITED WARRANTY — AMI GROUP WARRANTS THAT AT TIME OF SHIPMENT: (a) PRODUCTS SOLD HEREUNDER SHALL CONFORM TO THE MINIMUM STANDARDS FOR SUCH PRODUCTS SET FORTH IN REGULATIONS PROMULGATED BY THE DEPARTMENT OF TRANSPORTATION OF THE STATE IN WHICH THE PRODUCTS WILL BE DEPLOYED, IF ANY; (b) AMI GROUP HAS GOOD TITLE TO THE PRODUCTS; AND (c) THE PRODUCTS ARE FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES CREATED BY AMI GROUP. AMI GROUP MAKES NO WARRANTY OF ANY RESULTS CUSTOMER MIGHT OBTAIN IN ANY PARTICULAR APPLICATION. EXCEPT AS EXPRESSLY STATED IN THIS SECTION 6, AMI GROUP MAKES NO WARRANTY WITH RESPECT TO THE PRODUCTS, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PARTICULAR PURPOSE OR OTHERWISE.

7. LIMITATION OF REMEDIES — CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY SHALL BE LIMITED TO REPLACEMENT OF DEFECTIVE OR NONCONFORMING PRODUCTS BY AMI GROUP WITHOUT ADDITIONAL CHARGE, OR IN LIEU THEREOF, AT AMI GROUP'S OPTION, AMI GROUP MAY REFUND THE PURCHASE PRICE UPON RETURN OF THE DEFECTIVE OR NONCONFORMING PRODUCTS AT AMI GROUP'S EXPENSE.

8. LIMITATION OF LIABILITY — NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN OR IN ANY SALES AGREEMENT OR OTHER DOCUMENT TO THE CONTRARY, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, AMI GROUP'S TOTAL LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS, LOSSES OR DAMAGES (COLLECTIVELY A "CLAIM") ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THIS AGREEMENT AND/OR THE SALE, PURCHASE AND USE OF PRODUCTS HEREUNDER, WHETHER BASED IN CONTRACT, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, BREACH OF WARRANTY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT TO WHICH SUCH CLAIM AROSE. CUSTOMER ACKNOWLEDGES THAT THIS LIMITATION OF LIABILITY IS REASONABLE AND THAT THE PRICE OF AMI GROUP'S PRODUCTS HAS BEEN DETERMINED BASED UPON THE FOREGOING LIMITATION OF LIABILITY.

9. COMMENCEMENT OF ACTION — ANY CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR ARISING OUT OF SALE OF THE PRODUCTS WHICH CUSTOMER MAY HAVE AGAINST AMI GROUP MUST BE COMMENCED WITHIN SIX (6) MONTHS AFTER THE CAUSE OF ACTION HAS ACCRUED.

10. WAIVER OF INCIDENTAL AND CONSEQUENTIAL DAMAGES — NOTWITHSTANDING ANY OTHER PROVISION, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL AMI GROUP BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION THE SALE OR USE OF PRODUCTS), WHETHER THE ACTION IN WHICH RECOVERY OF ANY SUCH DAMAGES IS SOUGHT

IS BASED UPON CONTRACT, TORT, STATUTE OR OTHERWISE, EVEN IF AMI GROUP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. SAFETY, HEALTH AND INDEMNITY – Customer acknowledges that AMI Group has furnished product literature or information such as Safety Data Sheets (SDS) or Material Safety Data Sheets, that include warnings and safety and health information related to the goods furnished hereunder. Customer shall: (a) familiarize itself with such information; (b) adopt and follow safe handling, storage, transportation, use, treatment and disposal practices with respect to the goods furnished hereunder, including, without limitation, special care and practices as Customer's use of the goods requires including, without limitation, all such practices required by applicable federal, state, and local laws and regulations; (c) instruct its employees, independent contractors, agents and customers of the precautions and safe use practices required in connection with the unloading, handling, storage, use transportation and disposal of the goods furnished hereunder (including, without limitation, information contained in AMI Group's most recent SDS or MSDS); and (d) comply with applicable safety and environmental laws and take action necessary to avoid spills or other dangers to persons, property or the environment. AMI Group may suspend shipment of Products and/or cancel this Agreement on five (5) days' notice if Customer fails to comply with any of its obligations under this paragraph. Customer shall indemnify, defend and hold AMI Group harmless against any and all third party causes of action, claims, liabilities, losses, costs, damages and expenses (including, without limitation, attorney's fees and expenses) to the extent arising out of or related to (a) Customer's failure to comply with any of its commitments under this paragraph, (b) the negligence or willful misconduct of Customer or Customer's agents or employees, and (c) any breach of Customer's obligations under these Terms and Conditions or any related sale agreement or purchase order.

12. FORCE MAJEURE – AMI Group shall be relieved from liability hereunder for failure to perform any or all of its obligations for the time and to the extent of such failure to perform where AMI Group's failure is occasioned by any cause or causes of any kind or character beyond the reasonable control of AMI Group (any such cause herein referred to as "Force Majeure"), including, without limitation: acts of god; accidents; fire; explosion; flood or hurricanes; strikes, lockouts or other industrial disturbances; riots or civil commotion; war whether declared or undeclared; compliance with any law, rule or regulation; shortage or breakdown or other failure of facilities used for manufacture or transportation; shortage of labor; inability to secure, in AMI Group's sole discretion, all at reasonable prices, transportation, power, fuel, materials or supplies; or total or partial shutdown due to AMI Group's normal plant turnaround or as required by AMI Group's operations. If AMI Group is rendered unable by Force Majeure to carry out its obligations hereunder, AMI Group shall give notice to Customer, and upon the giving of such notice the obligations of AMI Group, insofar as they are affected by such Force Majeure shall be suspended during the continuance of the Force Majeure event. Upon the cessation of the cause or causes for any such failure or delay, performance shall be resumed but such delay shall not, except by mutual agreement, operate to extend the term of this Agreement or obligate AMI Group to make up deliveries missed. Regardless of the occurrence or non-occurrence of any of the causes set forth above, if for reasons beyond AMI Group's control, supplies of any Products deliverable hereunder, or of crude petroleum or other feedstock from which such Products are derived, from any of AMI Group's existing sources are curtailed or cut off or are inadequate to meet AMI Group's own requirements and its obligations to its customers, AMI Group's obligation hereunder during such period of curtailment, cessation or inadequacy shall at its option be reduced to the extent necessary in AMI Group's sole judgment to allocate among AMI Group's own requirements and its customers (whether under contract or not), such Products as received and as may be available in the ordinary and usual course of AMI Group's business from any such existing sources of supply at the location(s) from which deliveries hereunder are normally shipped. AMI Group shall not be obligated to purchase or otherwise obtain other supplies of such Products, crude petroleum or other feedstock from which such Products are derived to make up inadequate supplies or to replace the supplies so curtailed or cut off. AMI Group shall not be obligated to make up deliveries omitted or curtailed hereunder, and any such deficiencies in deliveries shall be canceled from the contract with no liability to either party therefor.

13. COMPLIANCE WITH LAWS AND REGULATIONS — Customer agrees to comply with all laws, rules and regulations in any way relating to Customer's purchase, ownership, transportation, receipt, handling, storage, processing, alteration, use, disposal or resale of the Products, alone or in combination with other substances or processes and shall indemnify, defend and hold AMI Group harmless against all losses, claims, causes of action, penalties and liabilities arising out of Customer's failure to comply with the foregoing.

14. US SANCTIONS AND EMBARGOES – Customer shall ensure that no volumes of the Products will reach any countries, entities or individuals which are under sanctions and/or import or export restrictions of the United States or the country from which AMI Group ships the Products.

15. MISCELLANEOUS — This Agreement shall not be assigned in whole or in part by either party without the written consent of the other party, except that AMI Group may, upon written notice to Customer, assign its obligations hereunder to any affiliate of AMI Group or any purchaser of all or substantially all of the assets or business of Asphalt Materials, Inc. No waiver by either party of any breach of any of the terms and conditions hereunder contained shall be construed as a waiver of any succeeding breach of the same or any other term and condition. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Indiana, without regard to its conflicts of law principles. The parties hereto irrevocably agree that any action arising with respect to this Agreement shall be brought and maintained only in a state or federal court located in Marion County, Indiana. AMI Group and Customer explicitly exclude the application of the United Nations Convention on the International Sale of Goods (1980). If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

LR10688.0642402 4835-2121-1542v3