

**Flint Hills Resources, LP**  
**Standard Terms of Sale – ASPHALT**

**1. APPLICABILITY.** These Standard Terms of Sale shall apply to all sales of asphalt products by Flint Hills Resources, LP as “**Seller**” to each purchaser herein defined as “**Buyer**.” These Standard Terms of Sale, along with any sales agreement and other mutually agreed terms, shall together constitute the “**Agreement**.”

**2. TITLE.** Unless otherwise agreed in any sales agreement, title to and risk of loss of products shall pass to Buyer as: (a) bulk products pass final flange on Seller’s delivery line at Seller’s site or, where point of sale is other than Seller’s site, (i) as the products pass the final flange on the transport delivery line at the delivery point, or (ii) for railcar deliveries, when the railcars are constructively placed at the point of delivery; or (b) drums or other containers are loaded onto Buyer’s transport at Seller’s site, or, where point of sale is other than Seller’s site, as the products are loaded onto Buyer’s dock or transport.

**3. TAXES.** Buyer shall pay, or reimburse Seller for, all taxes, duties and other governmental charges of whatsoever kind imposed upon Seller with respect hereto or upon any transaction, products, use of products, production of products, or Seller’s purchase or use of raw materials to make products sold hereunder. Buyer shall be responsible for tax, penalty, and interested levied against Seller (pursuant an audit or any other method of levy) and will be billed for these charges by Seller. Paying the invoice does not absolve the buyer from tax liabilities levied in the future due to instances including, but not limited to, internal / external audit, tax law changes, etc. These charges may be recovered from Buyer in a court of law. Buyer agrees to work with Seller, and Seller agrees to work with Buyer, to mitigate any tax assessments levied against either party.

**4. PRICE AND QUANTITY.** Price and quantity shall be separately designated by Seller for each type of products hereunder. Unless otherwise stated in any sales agreement, all prices shall be FOB Seller’s point of manufacture or storage as selected by Seller.

**5. SHIPPING.** To the extent flexibility is allowed by this Agreement for time or size of deliveries, the parties shall reasonably cooperate to coordinate period(s) and time(s) for deliveries hereunder; and Buyer shall give reasonable prior notice as to quantities and scheduling desired.

**6. CREDIT AND PAYMENT.** Seller’s duty to perform, and Buyer’s right to purchase, hereunder is at all times subject to approval, and continuing approval, by Seller of Buyer’s credit worthiness. No assurance or guarantee is made of, or continuation of, any credit or any particular credit; and Seller, without limitation, reserves the right to sell at any time on pre-paid, COD or standby letter of credit, or other secured or collaterally assured basis acceptable to Seller. Without limitation on Seller’s rights and remedies on credit issues or any other causes(s), if Buyer fails to pay any amount promptly when due hereunder or if Seller needs assurance, or further assurance, of Buyer’s credit worthiness, Seller may cancel this Agreement, demand different payment terms, suspend or recall deliveries or shipments, impose different credit terms, or impose different requirements for collateral assurance of payment. **ANY SUCH DEMAND MAY BE MADE ORALLY AT SELLER’S ELECTION.**

Seller is hereby given an express right to set-off against any amount whatsoever owing, or becoming due, to Buyer hereunder and any amount owing to Buyer by, or becoming due to Buyer from, Seller or any company that is directly or indirectly subsidiary to, parent of, or affiliated with Seller. Unless credit is approved by, and arranged by Buyer with a Seller, payment shall be due in full in cash prior to loading of products except that, if products are unique to Buyer, payment shall be due in full in cash prior to manufacture by Seller. If credit has been arranged with, and approved by, Seller, usual payment terms – unless other terms are agreed or designated by Seller – shall be net thirty (30) days from date of Seller’s invoice. Payments not made within agreed or designated terms shall bear interest from original due date at - (i) the rate of 18% per annum or, if this rate is prohibited by applicable law; then (ii) the highest rate allowed by applicable law.

**7. WARRANTIES AND LIMITATIONS.** Seller warrants only that: Seller has good title to products covered hereby at the time of delivery to Buyer; and, the delivered products shall conform at the time of delivery to Buyer to the specifications stated or referenced in the sales agreement. If there are no specifications stated or referenced in the sales agreement, then the products shall conform at the time of delivery to the Buyer to: (i) the specifications approved or adopted for such class of products by the governmental unit having jurisdiction over the public streets, highways or roads or other paved areas to which the products will be applied, or (ii) Seller’s then current standard specifications for such products. **ALL OTHER WARRANTIES OF SELLER, EXPRESSED OR IMPLIED, AND ALL REPRESENTATIONS, GUARANTEES, INSTRUCTIONS, PROMISES, DESCRIPTIONS AND SAMPLES FROM SELLER OF, OR PERTAINING TO, PRODUCT QUALITY, COMPOSITION, CHARACTERISTICS, ENVIRONMENTAL OR HUMAN SAFETY OR HAZARD OR HEALTH AFFECTS, PERFORMANCE OR LIKE MATTERS ARE EXCLUDED. WITHOUT LIMITATION ON THE FOREGOING SENTENCE, ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY AND ALL SELLER WARRANTIES OF FREEDOM FROM PATENT INFRINGEMENT ARE EXCLUDED.** Notwithstanding the foregoing, Seller shall supply a Safety Data Sheet complying with applicable law for the products.

**8. ACCEPTANCE; RESALE.** To reduce the potential of Buyer reselling or using nonconforming products, the following shall apply to each shipment or delivery as to the exclusive procedure of acceptance therefore: Buyer shall: (i) inspect or cause to be inspected the products within a reasonable time after delivery to Buyer and, in any event, prior to any sale, resale, other transfer or use thereof by or for Buyer; (ii) promptly report to Seller any actual or potential nonconformity that Buyer does or should discover prior to sale, resale, other transfer or use thereof and hold such available for Seller's prompt inspection; and (iii) not permit any sale, resale, other transfer or use of the products prior to Seller promptly inspecting the same and determining whether Seller will supply replacement products, or otherwise remedy the non-conformity. Further, Buyer shall be responsible for and hereby assumes all risk for all sales, resales, other transfers, uses or misuses of the products by Buyer, or by any third person or entity by, under, through or for Buyer and, further, for determining that the products are suitable for the eventual end use thereof by Buyer or any third person or entity by, under, through or for Buyer, including but not limited to any governmental agency or unit. Resale, transfer, or consignment of FHR products by Buyer for any purpose other than use in Buyer's paving projects will entitle FHR to terminate any or all sales agreements with Buyer upon notice to Buyer.

**9. EXCUSED PERFORMANCE.**

(a) **Force Majeure** - The parties shall be excused from their respective performance hereunder if performance has been prohibited or delayed by any cause(s) beyond the reasonable control of the party claiming an excuse. Such shall include, without limitation, any failure of mechanical or chemical function or equipment normally used by Seller for receipt, manufacturing, handling, or delivering of products and shortages at or failure of any expected or normal source of supply of products or raw materials from which products are derived or manufactured. Promptly after a party determines to claim excuse of performance, the party shall notify the other in writing of the circumstances and consequences claimed and shall use reasonable means to remove the cause(s) in question. But in no event shall either party be obligated to settle any demands of, or disputes with laborers, nor shall either party be excused from paying monies due nor shall Buyer be excused from complying with credit terms of Seller. Quantities affected by such cause(s) shall be dropped from this Agreement, but this Agreement shall otherwise continue in force and effect. In periods of shortage of products due to such cause(s), Seller shall be entitled to allocate available supply among itself and its affiliated, subsidiary and parent companies and customers, Buyer included.

(b) **Impracticability** - Notwithstanding the foregoing, Seller shall have the right to terminate this Agreement or any related deliveries or suspend performance without liability if for any reason Seller shuts down, temporarily or permanently, the units in, or the plant at, which the products are made, is unable to make the products or is unable to transport products via Seller's intended mode of transportation. Seller shall give Buyer at least 10 days prior written notice of such termination or suspension.

(c) **Regulated Price** - If Seller is prevented by law, regulation, rule, order or other governmental action from utilizing or increasing any price under this Agreement, Seller may terminate this Agreement or suspend performance upon giving Buyer notice thereof. Volumes affected by a suspension will not be delivered at a later date and will be considered removed from the Agreement.

(d) **Alternate Supply** - Under no circumstances shall Seller be obligated to purchase or otherwise obtain products or raw materials for products from any other person or entity.

**10. TERMINATION.** The price, terms and volumes offered by Seller and committed to by Buyer pursuant to the terms of this Agreement are based on Buyer's commitment to honor the terms of this Agreement for the full term. Accordingly, Buyer may terminate this Agreement only after expiration of the term stated in the sales agreement or, if applicable, any subsequent extensions; however, such termination shall not relieve Buyer of its failure, if any, to purchase the agreed upon volumes, any such failure constituting a breach of this Agreement. Seller may terminate this Agreement: (i) after expiration of the term stated in the sales agreement or, if applicable, any subsequent extensions; (ii) at any time due to Buyer's uncured failure to purchase the required volume hereunder; (iii) for any other breach of this Agreement by Buyer, in which event Seller may also assert any other remedies it may have against Buyer.

**11. EEOC.** The Equal Employment Opportunity clause of Section 202 of Executive Order 11246, the implementing rules and regulations of the Office of Federal Contract Compliance, and all other state, local or federal laws which by law or government contract or subcontract with Seller or its affiliates, parent or subsidiary companies must be a part of this Agreement are incorporated herein by reference; and, Buyer agrees to comply therewith to the extent required by law or Seller's commitments to any governmental agency or governmental contractor.

**12. LIMITED REMEDIES.** Buyer shall not be entitled to recover incidental, special or consequential damages for any losses, costs, expenses, liabilities and damages (including but not limited to, loss of profits, expenses of operation, down time, all liabilities of Buyer to its customers or third parties) whether direct or indirect and whether or not resulting from or contributed to by the default or negligence of the Seller, its agents, employees, or subcontractors, which might be claimed as the result of the use or failure of the products delivered hereunder. SELLER'S LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR ANY CAUSE OF ACTION ARISING OUT OF THIS AGREEMENT IS EXPRESSLY LIMITED, AT SELLER'S OPTION, TO REPLACEMENT OF THE PRODUCTS AT THE F.O.B. POINT STATED HEREUNDER OR PAYMENT NOT TO EXCEED THE PURCHASE PRICE OF THE PRODUCTS AT SUCH F.O.B. POINT FOR WHICH DAMAGES ARE CLAIMED.

**13. INDEMNITY.** BUYER SHALL INDEMNIFY, PROTECT, HOLD HARMLESS, AND DEFEND SELLER AND ITS AFFILIATED ENTITIES, AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, MANAGERS, AND EMPLOYEES, FROM AND AGAINST ANY BREACH OF THIS AGREEMENT BY BUYER AND FROM AND AGAINST ANY LIABILITY OF WHATEVER NATURE OR KIND, TO WHICH SELLER MIGHT BECOME SUBJECT RESULTING FROM BUYER'S HANDLING, STORAGE, SALES, TRANSPORTATION, USE, MISUSE OR DISPOSAL OF PRODUCTS PURCHASED HEREUNDER INCLUDING BUT NOT LIMITED TO LIABILITY FOR ENVIRONMENTAL VIOLATIONS AND EMPLOYEE OR CONSUMER HEALTH OR SAFETY. BUYER AGREES WITHOUT LIMITATION TO PROMPTLY AND PROPERLY PROVIDE TO ITS EMPLOYEES, CUSTOMERS, AND COMMUNITY REPRESENTATIVES, AS APPROPRIATE, ANY INFORMATION PROVIDED BY SELLER RELATING TO HAZARDS, HUMAN HEALTH, OR HUMAN OR ENVIRONMENTAL SAFETY RELATED TO THE PRODUCTS SOLD HEREUNDER. IN ADDITION, IF BUYER BELIEVES OR HAS REASON TO BELIEVE THE INFORMATION PROVIDED TO BUYER BY SELLER IS INACCURATE OR IN ANY WAY INSUFFICIENT FOR ANY GIVEN PURPOSE, BUYER AGREES TO IMMEDIATELY INFORM SELLER OF SAME, AND PROVIDE SELLER A REASONABLE OPPORTUNITY TO SUPPLEMENT OR CORRECT THE INFORMATION.

**14. LAW AND JURISDICTION.** This Agreement shall be governed by the laws of the state of Kansas, including any statute of limitation laws but excluding rules of conflict of law. Exclusive jurisdiction and venue is agreed to be the state or federal courts within the state of Kansas.

**15. WAIVERS.** Waiver by either party of any breach of the terms and conditions contained herein shall not be construed as a waiver of any other or any continuing breach.

**16. ASSIGNMENT.** The rights and duties under the Agreement are not assignable or transferable by Buyer, in whole or in part, by operation of law or otherwise, without the express written consent of Seller. Any assignment or attempted assignment in contravention of the foregoing shall be null and void, shall be considered a breach of the Agreement and shall permit Seller, in addition to any other rights which it may have, to terminate the Agreement. Notwithstanding any other provision herein, the rights and duties under this Agreement may be assigned or transferred by Seller, in whole or in part, at Seller's sole discretion.

**17. CLAIMS.** If claims or legal proceedings are asserted or instituted by Seller to enforce its rights or remedies hereunder or related hereto, Seller shall in addition be entitled to recover from Buyer all court costs, reasonable attorney's fees and expenses incurred by Seller incident to such.

**18. LOADING AND TRANSPORTING CONDITIONS**

**(a) Right to Reject Transport Vehicles and Refuse to Load/Transfer Under Unsafe Conditions:**

(i) Seller reserves the sole right to reject any rail cars, trucks, transports, barges, vessels or containers presented for loading which Seller reasonably believes would present an unsafe or potentially unsafe situation or condition; and

(ii) Seller reserves the right, in its sole discretion, to refuse to load products under any condition Seller deems unsafe, which is caused by, including but not limited to, drivers, personnel, equipment, procedures and/or weather conditions.

**(b) Compliance with FHR designated policies and procedures:** Buyer agrees that it, including its contractors, agents and employees, will comply with all of Seller's safety rules when on Seller's premises in connection with the performance of this Agreement.

**(c) Compliance with Hazmat Laws:** If and to the extent, Buyer loads, unloads or ships hazardous materials (as listed in the Tables of 49 C.F.R. 172.101 and 172.102 as amended from time to time) pursuant to this Agreement, Buyer hereby warrants that all hazardous materials shall be prepared for shipment, loaded, shipped and unloaded in compliance with all applicable federal, state, and local laws, rules and regulations regarding the handling and transportation of hazardous materials and Buyer shall indemnify and defend Seller from all liability, of whatever nature, to which Seller may become subject as a result of Buyer's failure to comply therewith.

**(d) Accident reporting and emergency response:** If a release occurs after the products have left Seller's facility and as between Seller and Buyer, Buyer shall make all release notifications and reporting that are legally required and shall provide Seller with written notice of such release notifications and reportings with three business days of making such notifications and reportings. Further, as between Seller and Buyer, Buyer shall be responsible for and shall clean up all releases that occur after the products have left the Seller's facility pursuant to applicable governmental standards and agency directives.

**19. INTERNATIONAL TRANSACTIONS.** The United Nations Convention for the International Sale of Products shall not apply to transactions under this Agreement. The provisions of INCOTERMS® 2020 Edition, International Chamber of Commerce, shall apply to any transaction which involves the sale and transportation of products outside of the United States, or between the United States and another country, and in such situations are incorporated herein by reference, except to the extent contrary to any of the terms hereof.

**20. COMPLIANCE.** (a) Customer agrees to comply with all applicable export and reexport control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms

Regulations ("ITAR") maintained by the Department of State. Specifically, Customer covenants that it shall not -- directly or indirectly -- sell, export, reexport, transfer, divert, or otherwise dispose of any products, software, or technology (including products derived from or based on such technology) received from FHR under this Agreement to any destination, entity, or person prohibited by the laws or regulations of the United States, without obtaining prior authorization from the competent government authorities as required by those laws and regulations. Representative agrees to indemnify, to the fullest extent permitted by law, FHR from and against any fines or penalties that may arise as a result of Representative's breach of this provision. This export control clause shall survive termination or cancellation of this Agreement. **(b)** Compliance with Antiboycott Law. Despite any other provision of this Agreement, no party shall be required to take or refrain from taking any action inconsistent with or penalized under the laws of the United States or any applicable foreign jurisdiction, including without limitation the antiboycott laws administered by the U.S. Commerce and Treasury Departments.

**21. MISCELLANEOUS.** This Agreement constitutes the entire agreement and contract of the parties and shall control over any other terms except that, to the limited extent that any separate writing of the parties (i) relates expressly and directly hereto, (ii) is mutually executed by respective officers of Seller and Buyer, and (iii) is intended by the parties to replace or supersede rather than to supplement a specific portion of these sales terms, then such specific, replacing or superseding term shall control over the term hereof in question but not otherwise. **IF BUYER DOES NOT ACCEPT THESE STANDARD TERMS OF SALE BY EXECUTION HEREON OR OTHERWISE IN WRITING WITHOUT ALTERATION HEREOF OR ADDITION HERETO, THEN BUYER SHALL BE DEEMED TO HAVE ACCEPTED THESE STANDARD TERMS OF SALE BY PURCHASING OR TAKING DELIVERY OF, PRODUCTS FROM SELLER. ANY ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS AND CONDITIONS EXCEPT SUCH AS MEETS THE REQUIREMENTS OF THE FIRST PARAGRAPH OF THIS SECTION.** Without limitation on Seller's rights, no term in Buyer's purchase order or any other document, correspondence, or communication from Buyer which conflicts with the terms of this Agreement is, or shall be, accepted by Seller except in a separate written agreement executed by the parties. Headings are provided for convenience, and are not part of the Agreement of the parties. Waiver by either party of any breach of the terms and conditions contained herein will not be construed as a waiver of any other or continuing breach. Seller's rights and remedies hereunder are in addition to, and not in lieu of, Seller's other rights and remedies.

**22. BOOKOUT CLAUSE.** The parties may agree, either bilaterally or as part of a multi-party arrangement, to a book-out, book transfer, circle-out, or other cancellation of physical delivery (in each case, "Bookout"). Provided in each case that the Parties will be deemed to confirm that they are "Commercial Participants" as defined in the CFTC/SEC further definition of "Swap," "Security-based Swap," and "Security-based Swap Agreement" (August 13, 2012) and that they reasonably believe the other party(ies) with whom they agree to such Bookout likewise to be "Commercial Participants." In the event of a Bookout, (1) the agreement to such Bookout must be confirmed in writing or electronically between the parties within a reasonable timeframe, and/or (2) the delivery obligations under the contract will be extinguished (whether in whole or in part) to the extent agreed, and unless prepayment is required, payment will be due on the agreed effective date of the Bookout. Prepayment, if required, will be due at least two (2) business days prior to the effective date of the Bookout whether or not a sum certain is then known, but if not then known, Buyer shall prepay in the amount of Seller's estimate (subject to subsequent true-up). At any time prior to the agreed effective date of the Bookout, either party may elect, at its option and upon notice to the other party, to break the Bookout and thereby restore all original contract terms, including delivery and payment, all without liability to the other party.

**23. COMMERCIAL PARTICIPANT.** In compliance with Title VII – Wall Street Transparency and Accountability Act of 2010 ("Dodd-Frank"), each of the parties makes the following representation to the other party that (a) it has the capacity to make or take delivery of the Commodity in the ordinary course of its business, and is entering into this transaction in connection with its business; and (b) it intends to make or take physical delivery of the Commodity.

**24. FORWARD CONTRACT/FINANCIAL CONTRACT.** The parties acknowledge and agree that (1) this Agreement constitutes a "forward contract," (2) FHR is a "forward contract merchant," and (3) each payment hereunder constitutes a "transfer" or a "settlement payment" within the meanings of those terms under the U.S. Bankruptcy Code, with all attendant protections and benefits to FHR. The parties further agree that this Agreement constitutes an "eligible financial contract" for the purpose of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, *the Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended, and *the Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.