

Terms and Conditions of Sale

Version 2 — September 25, 2026

1. Applicability and Acceptance. These Terms and Conditions of Sale (Terms), together with Midwest Aggregates, LLC's accepted quotation or order acknowledgment and the applicable scale ticket and invoice, govern every sale of aggregate or other material (Goods) by Midwest Aggregates, LLC (Seller) to the purchaser (Customer). Customer accepts these Terms by signing a credit application or other document incorporating them, placing an order after receiving them, permitting a vehicle to enter Seller's plant for pickup, accepting Goods, or failing to object specifically in writing within ten days after receipt. Seller rejects all additional or conflicting terms in Customer's purchase order, portal, ticket, or other document. No modification requested or proposed by Customer is effective unless a Seller officer signs a writing expressly accepting it. Seller's own prospective revision right is governed by Section 18.

2. Orders, Prices, and Availability. Orders are subject to Seller's acceptance, product availability, production capacity, and credit approval. Unless fixed by a signed quotation, prices and lawful surcharges are those in effect at pickup. Quotations expire according to their terms. Customer shall pay applicable taxes and shall provide a valid exemption certificate before pickup. Customer is responsible for Goods ordered by mistake or in excess of requirements, and aggregate may not be returned without Seller's prior written authorization. The quantity or weight stated in an accepted quotation may not be exceeded without Seller's prior written approval. Customer represents and warrants that Goods are purchased for resale or for commercial use and not for personal, family, or household purposes.

3. Sale As Is — No Warranty or Specification Obligation. ALL GOODS ARE SOLD AS IS, WHERE-IS, WITH ALL FAULTS, AND WITH NO WARRANTY OF ANY KIND, AND SELLER UNDERTAKES NO OBLIGATION TO MEET ANY GRADATION, CLASS, OR SPECIFICATION, UNLESS AN OFFICER OF SELLER AGREES OTHERWISE IN A SIGNED WRITING. SELLER DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. ONLY SELLER'S WARRANTY OF TITLE SURVIVES. Product names, trade designations, gradation references, samples, stockpiles, and test reports identify material only; they create no warranty and no specification, and a test report describes only the sample tested. A specification in Customer's purchase order, portal, or project documents does not bind Seller and does not become binding because Seller quoted, loaded, or was paid. Aggregate is a natural product, and commercially reasonable variation in color, gradation, moisture, and composition is not a defect. Customer is solely responsible for selecting the material and for any engineering advice, testing, and suitability determination. ABSENT A SPECIFICATION AGREED IN A WRITING SIGNED BY AN OFFICER OF SELLER, OBTAINING ITS OWN GOODS ARE NOT SUBJECT TO REJECTION, REVOCATION OF ACCEPTANCE, OR ANY CLAIM BASED ON QUALITY, GRADATION, COMPOSITION, OR SUITABILITY. Where Seller does sign a specification, that writing governs its scope, testing, tolerances, remedies, and price. Seller has no obligation to remove, replace, haul, or dispose of Goods and no liability for the cost of work into which they are incorporated.

4. Payment, Credit, and Service Charges. ALL SALES ARE COD UNLESS SELLER APPROVES CUSTOMER IN WRITING FOR OPEN-ACCOUNT CREDIT. If approved, Customer shall pay in full the invoice price of all purchases now or hereafter made from Seller promptly when due according to the terms stated on each invoice; if an invoice states no term, payment is due Net 30 days from invoice date and becomes past due immediately thereafter. Credit approval, limits, and terms may be reduced, suspended, modified, or revoked prospectively at any time; a change does not alter the stated due date of an invoice already issued unless Customer defaults. Seller's acceptance of an order that causes the balance to exceed an approved credit limit does not increase that limit or waive it as to any other order. Customer shall pay without setoff, deduction, retainage, recoupment, backcharge, or pay-if-paid condition, and shall not offset any claim asserted against Seller unless Seller has allowed that claim in writing. Delinquent balances accrue a service charge of one and one-half percent (1.5%) per month (18% annual percentage rate) or the maximum rate allowed by law, whichever is less, accruing from the day after the due date. All amounts constituting interest shall be limited to the maximum lawful amount; any excess shall be applied to principal or refunded. Payments received will be applied against open items on unpaid invoices in an order and sequence determined by Seller in its sole discretion. PAYMENT IS DUE PURSUANT TO INVOICE TERMS AND IS NOT CONTINGENT UPON CUSTOMER'S RECEIPT OF PAYMENT, RETAINAGE, OR APPROVAL FROM ANY OWNER, CONTRACTOR, LENDER, ENGINEER, OR OTHER THIRD PARTY. A returned or dishonored payment is subject to the maximum fee permitted by law.

5. Events of Default and Remedies. Customer is in default if Customer (a) fails to pay any amount when due; (b) fails, for five days after written notice from Seller, to perform any other obligation under these Terms; (c) becomes insolvent, or a voluntary or involuntary bankruptcy or receivership petition is filed and not dismissed within thirty days; (d) makes a general assignment for the benefit of creditors, or a substantial part of its assets is attached or seized and not released within thirty days; or (e) made a material misrepresentation in its credit application or in any financial information furnished to Seller. Upon default, or if Seller in good faith deems itself insecure because the prospect of payment or of performance of any provision of these Terms is impaired, Seller may, at its option, without prejudice to any other remedy and without notice or demand, (i) require cash in advance or other security satisfactory to Seller, (ii) suspend pickups and cancel the unfilled portion of any order, (iii) terminate Customer's credit privileges, (iv) declare all obligations immediately due and payable, and (v) exercise all rights of a secured party. Customer remains liable for all loss and damage sustained by Seller, including collection costs, court costs, expert fees, and reasonable attorneys' fees, in trial, bankruptcy, and appellate proceedings.

6. Authorized Purchases, Weights, Measurement, and Records. Customer is responsible for every order and pickup requested, accepted, or received by a person using Customer's name, purchase order, job number, vehicle, or account credentials until Seller receives written revocation. QUANTITY IS ESTABLISHED SOLELY BY THE WEIGHT RECORDED ON SELLER'S CERTIFIED SCALE AT THE TIME OF LOADING. Seller's certified scale weights, scale tickets, electronic records, and pickup records are conclusive and binding evidence of the identity, quantity, time, and place of each transaction, whether or not signed, absent fraud or manifest mathematical error. CUSTOMER ACKNOWLEDGES THAT THE UNITS OF MEASUREMENT AND CONVERSION FACTORS USED BY SELLER AT ITS PLANT CONTROL OVER ANY DISCREPANCY ARISING FROM UNITS OF MEASUREMENT OR CONVERSION FACTORS USED BY CUSTOMER OR ITS CARRIER, including any conversion between tons and cubic yards and any allowance for moisture, compaction, or swell. CUSTOMER'S SOLE MEANS OF CONTESTING A WEIGHT IS TO REQUEST A RE-WEIGH BEFORE THE VEHICLE LEAVES SELLER'S PLANT. ONCE A LOADED VEHICLE DEPARTS SELLER'S SCALE, THE TICKETED WEIGHT IS FINAL, CONCLUSIVE, AND BINDING FOR ALL PURPOSES, AND CUSTOMER WAIVES ANY CLAIM, SETOFF, DEDUCTION, OR DEFENSE BASED ON QUANTITY, WEIGHT, OR VOLUME.

7. F.O.B. Plant — Customer Pickup Only. ALL SALES ARE CUSTOMER PICKUP ONLY AND F.O.B. SELLER'S PLANT IN CLEVELAND, LIBERTY COUNTY, TEXAS. SELLER DOES NOT PROVIDE, SELECT, BROKER, DISPATCH, OR ARRANGE TRANSPORTATION. Customer exclusively selects, retains, instructs, controls, and pays every vehicle, driver, and motor carrier used to pick up Goods, and each acts for Customer and not for Seller. Title, possession, custody, control, and risk of loss pass to Customer when the Goods are loaded onto the transportation equipment at Seller's plant. Seller assumes no destination, jobsite, routing, freight, delivery, or unloading obligation. SELLER IS NOT RESPONSIBLE FOR CONTAMINATION, DEGRADATION, SEGREGATION, MOISTURE CHANGE, OR LOSS OF MATERIAL OCCURRING AFTER LOADING, including during transportation, unloading, stockpiling, or storage. Scheduling communication, weighing, and loading assistance do not create a carrier, broker, agency, joint-venture, or employment relationship with Seller.

8. Customer and Carrier Responsibilities. Customer shall ensure that every vehicle, driver, and carrier it sends to Seller's plant is properly licensed, registered, authorized, qualified, trained, maintained, and insured, complies with applicable motor-carrier, roadway, safety, weight, load-securement, tarping, hours-of-service, environmental, and permitting requirements, and complies with Section 9. Customer is responsible to Seller for the acts and omissions of its carriers and drivers, for the matters listed in Section 9, and for transportation, unloading, and delivery after the transfer stated in Section 7.

9. Carrier Plant Access and Deemed Acceptance. Customer shall cause each carrier and driver it sends to Seller's plant to comply with this Section. EACH CARRIER AND DRIVER ENTERING SELLER'S PLANT DOES SO SUBJECT TO SELLER'S POSTED PLANT ACCESS TERMS AND THE TERMS PRINTED ON OR REFERENCED BY THE SCALE TICKET, AND BY ENTERING THE PLANT, ACCEPTING LOADING, OR RECEIVING A SCALE TICKET AGREES THAT: (a) IT ENTERS AND PICKS UP MATERIAL SOLELY FOR CUSTOMER AND IS NOT AN EMPLOYEE, AGENT, SUBCONTRACTOR, OR MOTOR CARRIER OF SELLER; (b) it will obey posted signs, traffic controls, speed limits, loading instructions, personal-protective-equipment requirements, and all directions of authorized plant personnel; (c) it is solely responsible for all licenses, registrations, permits, qualifications, hours-of-service compliance, vehicle condition, gross and axle weights, load distribution, securement, tarping, route selection, transportation, spills, unloading, and delivery, and the driver must inspect and accept the load and vehicle condition before leaving the plant; (d) it maintains all insurance required by law and any coverage required by Customer or Seller, including commercial automobile liability; and (e) it will promptly report to Seller any accident, injury, spill, property damage, citation, or unsafe condition occurring at the plant. Seller may deny entry, stop loading, or require departure at any time for any safety, credential, insurance, weight, equipment, or conduct concern, without liability, and may require any carrier to complete a written registration before or after first entry. Nothing in this Section limits Customer's obligations under these Terms.

10. Indemnity. (a) Transportation. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CUSTOMER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS SELLER AND ITS MEMBERS, MANAGERS, EMPLOYEES, AGENTS, AND AFFILIATES (Indemnitees) FROM THIRD-PARTY CLAIMS, DEMANDS, SUITS, LIENS, LOSSES, LIABILITIES, JUDGMENTS, FINES, PENALTIES, CLEANUP COSTS, DAMAGES, AND REASONABLE ATTORNEYS' FEES ARISING FROM OR RELATING TO CUSTOMER'S SELECTION OR USE OF A VEHICLE, DRIVER, OR CARRIER; THEIR ACTS OR OMISSIONS; OR THE POSSESSION, CUSTODY, CONTROL, WEIGHT, SECUREMENT, TRANSPORTATION, SPILL, UNLOADING, DELIVERY, OR USE OF GOODS AFTER THE TRANSFER IN SECTION 7, INCLUDING A MOTOR-VEHICLE ACCIDENT. This duty applies when Seller is named or joined based on those matters and is independent of any duty owed by a carrier. (b) Use of Goods. To the maximum extent permitted by law, Customer shall defend, indemnify, and hold harmless the Indemnitees from third-party claims, liens, losses, fines, penalties, damages, and reasonable attorneys' fees arising from Customer's or its contractors' directions, storage, handling, testing, design, mixing, placement, alteration, resale, or use of Goods, but only to the extent caused by their acts, omissions, negligence, or breach. (c) Limits. Neither subsection requires indemnity to the extent a final judgment determines the loss was caused by Seller's negligence, gross negligence, or willful misconduct; to the extent Chapter 151 of the Texas Insurance Code makes it void or unenforceable; or to the extent it would require a motor carrier to provide indemnity prohibited by Texas Transportation Code Section 623.0155.

11. Insurance and Plant Access. Before the first pickup, Customer shall furnish Seller a certificate of insurance with appropriate endorsements, in a form satisfactory to Seller, showing that Customer and each carrier maintain legally required insurance and at least \$1,000,000 per occurrence of commercial automobile liability, together with commercial general liability, workers' compensation as required by law, and employer's liability of at least \$1,000,000. Customer shall cause its applicable policies to name Seller and its members, managers, employees, agents, and affiliates as additional insureds on a primary and noncontributory basis and to waive subrogation in their favor, to the extent commercially available and permitted by law. Customer shall cooperate with any insurance credentialing service Seller uses and shall furnish renewal certificates without request. Insurance does not limit Customer's obligations. Plant access is conditioned on compliance with Seller's safety rules and on any carrier registration required by Seller under Section 9.

12. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SELLER SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, MULTIPLE, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, REVENUE, USE, PRODUCTION, CONTRACTS, OR BUSINESS INTERRUPTION, WHETHER ARISING IN CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF SELLER KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. Seller's aggregate liability arising from a transaction shall not exceed the amount actually paid for the specific Goods giving rise to the claim.

13. Delays and Force Majeure. Seller is not liable for delay, shortage, allocation, nondelivery, or increased cost caused by weather, flood, fire, casualty, breakdown, utility or fuel interruption, labor dispute, transportation shortage, governmental action, permit restriction, supply interruption, epidemic, acts of God, or other cause beyond Seller's reasonable control, or by any act or failure to act of Customer or its agents, contractors, or carriers. Seller may allocate supply among customers and extend performance for the duration of the event.

14. Security Interest and Payment Rights. As security for all obligations, Customer grants Seller a continuing security interest in Goods sold by Seller, inventory into which they are incorporated, rights to payment arising from their resale or use, and identifiable proceeds. Customer authorizes Seller to file financing statements and amendments describing that collateral. Customer shall promptly furnish, on request, complete project, owner, general contractor, surety, and bond information, and any other information needed to preserve lien, bond, trust-fund, joint-check, direct-payment, or other payment rights, and shall not require a waiver broader than payment actually received.

15. Invoice Disputes and Account Stated. Customer shall deliver any dispute of an invoice in writing, with supporting documents and the specific amount and basis disputed, within TEN (10) DAYS after receipt of the invoice. An invoice is deemed received on the date sent if transmitted electronically, and three days after deposit in the mail if mailed. AN INVOICE NOT DISPUTED IN WRITING WITHIN THAT PERIOD IS AGREED TO BE CORRECT, CONSTITUTES AN ACCOUNT STATED, AND CONSTITUTES ACCEPTANCE OF THE MATERIALS COVERED BY IT. Quantity, weight, and volume are governed exclusively by Section 6 and are not subject to dispute under this Section. Customer shall timely pay all undisputed amounts.

16. Confidentiality of Pricing. Customer shall not disclose Seller's quoted prices, discounts, or the commercial terms of any Proposal to a third party, except to Customer's own professional advisors under a duty of confidence or as required by subpoena, court order, or applicable public-records law. Customer shall give Seller prompt written notice of any legally compelled disclosure so that Seller may seek protection. This Section does not apply to information that is or becomes public through no act of Customer, or that Customer lawfully held before disclosure by Seller.

17. Texas Law, Forum, and Jury Waiver. Texas law governs, without regard to its conflict-of-laws rules. SUBJECT TO MANDATORY VENUE LAW, Customer irrevocably submits to exclusive jurisdiction and venue in the state courts of competent jurisdiction located in Liberty County, Texas. Seller may pursue lien, bond, security, attachment, garnishment, repossession, or other property-based remedies in any court where applicable law requires or permits. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CUSTOMER AND SELLER KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVE TRIAL BY JURY IN EVERY DISPUTE ARISING FROM OR RELATING TO THESE TERMS AND ANY TRANSACTION HEREUNDER, THE ACCOUNT, ANY GUARANTY, ANY ORDER OR PICKUP, OR GOODS SOLD BY SELLER.

18. Electronic Records, Changes, and Assignment. Electronic, scanned, facsimile, and counterpart signatures and records are enforceable as originals. Seller may prospectively revise these Terms on thirty days' written notice, and a revision applies to orders placed after the notice period; a revision does not retroactively alter a completed transaction. Customer may not assign the account or agreement without Seller's written consent. Seller may assign receivables, guaranties, security interests, and related rights. Delay or waiver on one occasion does not waive another right. Seller's approval, extension, or continuation of credit with knowledge of any fact, including any matter disclosed in Customer's credit application or learned from any credit report, reference, or public record, does not waive, release, or limit any right or remedy of Seller, does not preclude Seller from later acting on the same or similar facts or on their continuation or recurrence, and does not establish a course of dealing.

19. Entire Agreement, Severability, and Survival. These Terms, Seller's accepted quotation or order acknowledgment, the applicable scale ticket and invoice, and any separate writing signed by an officer of Seller constitute the agreement concerning each sale. A specifically negotiated writing signed by an officer of Seller controls only to the extent it expressly identifies a conflicting provision. Invalid language shall be reformed to the minimum extent necessary or severed without affecting the remainder. Payment, security, warranty-disclaimer, indemnity, limitation, dispute, forum, jury-waiver, confidentiality, and guaranty provisions survive termination, expiration, cancellation, and the completion of all sales.