



New Customer and Credit Application Form

CUSTOMER DETAILS

Company name:	
Address:	
City / State / Zip:	
Federal Tax Classification:	<input type="checkbox"/> Proprietorship <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Corporation
Date Established:	
Tax Exempt:	<input type="checkbox"/> YES (copy of State Sales Tax License and/or Resale License must be attached) <input type="checkbox"/> NO
Phone:	
Fax:	
Email:	
Purchasing contact:	
Accounting contact:	

COMPANY BILLING INFORMATION

Company name:	
Billing Address:	
City / State / Zip:	
Accounts Payable Contact Name:	
Phone:	
Fax:	
Email:	

*Invoices will be emailed unless otherwise noted.



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TRADE REFERENCES	
Company 1:	
Contact name:	
Address:	
City / State / Zip:	
Phone:	
Email:	
Company 2:	
Contact name:	
Address:	
City / State / Zip:	
Phone:	
Email:	
Company 3:	
Contact name:	
Address:	
City / State / Zip:	
Phone:	
Email:	



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BANK DETAILS

Bank name:	
Branch:	
Account number:	
Bank Contact Name:	
Bank Contact Phone:	

I hereby authorize Black Rock Material and Supply, LLC to obtain references from the above, as and when appropriate. I agree to abide by the Terms and Conditions as set out Black Rock Material and Supply, LLC which include that all invoices are due to be paid within 30 days from the date of invoice.

Signature:	
Printed name:	
Title:	
Date:	



TERMS AND CONDITIONS OF SALE

1. **TITLE** - For asphalt products sold F.O.B. Origin, title to and risk of loss shall pass from Seller to Buyer at Seller's point of shipment as asphalt products are delivered into Buyer's delivery equipment or into contract or common carrier. For asphalt products sold F.O.B. Destination, title to and risk of loss shall pass from Seller to Buyer at the time said carrier arrives at its destination.
2. **TAXES** - The amount of any applicable governmental tax, fee or duty shall be added to the prices herein stated and shall be paid by Buyer.
3. **PRICE ESCALATION** - The above prices will be increased or decreased by an amount equal to (i) any increase or decrease in the price of asphalt, petroleum resin, polymers, emulsifiers, or raw materials utilized in the production of the commodities sold; (ii) any increase or decrease in cost of transportation; and (iii) an implementation or increase or decrease of: tax on energy use, carbon tax, emission tax, or emission credit costs.
4. **DESTINATION** - All asphalt products purchased hereunder shall be used by Buyer only at the Destination and only on the Project identified in the Contract. Buyer or its agent shall certify to Seller the destination of each shipment of asphalt products purchased hereunder at the time of shipment.
5. **LOADING** - Seller may, at its sole discretion, refuse to load transports or conveyances that are not empty or are contaminated. Contamination is defined as any product including unused quantities of the like product to be loaded, solid residue, liquid residue, water, or any other substance which seller's personnel reasonably believe may damage the product, degrade the product, or cause the product to be off specifications. The shipping papers of deliveries of material into conveyances that contain any quantity of any material may, at the seller's sole discretion, be marked "contaminated conveyance".
6. **INSPECTION** - Upon receipt of any asphalt products, BUYER shall have the right to inspect and test such products to determine whether the asphalt products satisfy any specifications communicated to Seller prior to delivery. Any rejection of defective products shall be presented to Seller by Buyer, in writing, within twenty-four (24) hours after Buyer's receipt of such products, or such claim in irrevocably waived by buyer.
7. **ASPHALT RETURNS AND CHARGES** - All Asphalt products returned due to adverse weather, completion of project, ordering error, etc. will be charged a \$250.00 unloading fee. Seller at its sole discretion will decide which products may be returned. No products that were loaded into a contaminated conveyance will be accepted for return. No products that have been diluted, either by seller or by buyer will be accepted for return. Freight will be charged at the applicable tariff.
8. **PAYMENT** - Buyer agrees to make payment in accordance with the Terms of Payment. In the event Buyer fails to do so, an interest charge of 1½% per month, before and after judgment, shall be charged on the past due balance, and Seller may (1) terminate this contract with or without notice, (2) suspend deliveries until all indebtedness is paid in full, and/or (3) place Buyer on a cash-on-delivery or prepayment basis. In addition, if in the sole opinion of Seller the financial responsibility of Buyer is impaired or unsatisfactory to Seller, Seller may suspend deliveries.
9. **CREDIT TERMS** - Seller, based on its sole opinion of the financial responsibility of the Buyer, will determine credit limits and terms available to the Buyer. The Seller may adjust or cancel the Buyer's line of credit at any time. The Seller's issuance of a quotation or contract does not express or imply the availability of credit terms or credit limits to the seller.
10. **SELLER'S WARRANTIES: DISCLAIMER OF IMPLIED WARRANTIES** - Seller represents and warrants to Buyer that (i) Seller has good and valid title to the asphalt products delivered pursuant to this agreement and (ii) the asphalt products, when delivered pursuant hereto, shall comply with any specifications applicable thereto. Except as expressly set forth herein, all sales of products shall be "as is" and seller expressly negates and disclaims any and all representations and warranties, express or implied, written or oral, including without limitation, any representations of warranties of merchantability, fitness for a particular purpose or use, and conformity to models or samples or mix designs or aggregate compatibility tests. Seller does not warranty that the product specifications meet any particular end user or agency requirements. It is the Buyers responsibility to make sure the Sellers product specifications are acceptable to the end user or agency.
11. **FORCE MAJEURE** - Either party shall be relieved from liability hereunder for failure to deliver or receive product for the time and to the extent such failure is occasioned by war, fire, explosion, riot, strike or other industrial disturbance, act of God, governmental regulation, allocation of raw materials or other supplies or transportation or production facilities (where mandatory or voluntary), disruption or breakdown of production or transportation facilities, or either party's inability after reasonable diligence to obtain necessary equipment, materials or supplies, in whole or in part of at prices reasonable in relation to the price established herein, or by any other cause, whether or not similar to those listed, which is reasonably beyond the control of a party; provided, however, that any obligation of Buyer to pay any amount due hereunder shall not be excused by any such event.
12. **INDEMNITY** - To the extent allowed by law, Buyer agrees to release, indemnify and hold harmless Seller from any and all claims and liability for damages to property or injury to person resulting from or in connection with Buyer's purchase, use, sale or distribution of the products sold by Seller.
13. **LIMITATION OF LIABILITY** -
 - (a) Notwithstanding anything to the contrary in this agreement, in no event shall seller be liable for any consequential, indirect, incidental, special, exemplary, punitive, or enhanced damages, lost profits or revenues, or diminution in value, arising out of, or relating to, and/or in connection with any breach of this agreement, regardless of (i) whether such damages were foreseeable, (ii) whether or not seller was advised of the possibility of such damages, (iii) the legal or equitable theory (contract, tort, or otherwise) upon which the claim is based, and (d) the failure of any agreed or other remedy of its essential purpose.
 - (b) In no event shall seller's aggregate liability arising out of or related to this agreement, whether arising out of or related to breach of contract, tort (including negligence), or otherwise, exceed the total of the amounts paid to seller for the products sold hereunder.
14. **CONFIDENTIALITY** - Buyer agrees to maintain the confidentiality of all proprietary information, technical data, and trade secrets ("Confidential Information") disclosed by the Seller. Buyer shall not disclose any Confidential Information to any third party without the prior written consent of the Seller. Without limiting the foregoing, Buyer shall not, directly or indirectly, reverse engineer or otherwise attempt to derive the composition of or formulas or processes used to develop any products provided by the Seller. The obligations set forth in this clause shall not apply to any information that (a) is or becomes publicly available through no fault of the Buyer; (b) is rightfully received from a third party without breach of any confidentiality obligation; or (c) is independently developed by the Buyer without use of or reference to the Seller Confidential Information.
15. **WAIVERS AND MODIFICATIONS; SAVINGS CLAUSE** - This instrument embodies the entire agreement between Seller and Buyer. There are no promises, terms, conditions or obligations other than contained herein. No variation or modification hereof shall be deemed valid unless signed by the parties hereto with the same formalities as this contract. No waiver of any breach by Seller or Buyer or any terms, conditions or obligations shall be deemed a waiver of subsequent breaches of the same of other nature. If any provision of this agreement or the application of such provision to any person or circumstance, shall be held invalid or unenforceable, the remainder of this agreement, or the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.
16. **ASSIGNABILITY** - This agreement shall extend to and be binding upon the respective parties hereto, their successors and assigns in interest provided, however, that neither party shall assign this contract or any interest herein without the prior written consent of the other, except to a successor to either of the parties hereto.
17. **GOVERNING LAW: VENUE** - This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws. Each party hereby consents to the jurisdiction of any state or federal court located in Denver, Colorado, and each party hereby waives any objection which it may have based on improper venue or *forum non conveniens* to the conduct of any proceeding hereunder and consents to the granting of such legal or equitable relief as is deemed appropriate by the court.