

## **LICENSE AGREEMENT**

This **LICENSE AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2023 ("Commencement Date"), by and between **HEIDELBERG MATERIALS MIDWEST AGG, INC.**, a Kentucky corporation, with an address of 8909 Purdue Road, Suite 100, Indianapolis, IN 46268 ("Licensor") and the **ROMEOVILLE FIRE DEPARTMENT**, a department within the **VILLAGE OF ROMEOVILLE**, an Illinois municipal corporation, with an address of 18 Montrose Drive, Romeoville, Illinois 60446 ("Licensee").

### **RECITALS:**

**WHEREAS**, Licensor is the owner of certain real property located in Romeoville, County of Will, and State of Illinois, ("Licensor Property"); and

**WHEREAS**, Licensee has requested permission to temporarily use a certain portion of the Licensor Property, as shown outlined in blue and shaded in grey on Exhibit "A" attached hereto ("Licensed Area"); and

**WHEREAS**, Licensor has agreed to make the Licensed Area temporarily available to Licensee for such purpose on certain terms and conditions as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. **Term.** Unless revoked or terminated as provided herein, this Agreement shall begin on the Commencement Date and continue for a period of one (1) year ("Initial Term"), at which time it shall be automatically revoked and terminated without the necessity of further action by either party unless Licensee renews this Agreement. Licensee may renew the Initial Term for a nine (9) periods of one (1) year each (each a "Renewal Term")(the Initial Term and each applicable Renewal Term are collectively referred to as the "Term") by giving written notice to Licensor not less than sixty (60) days prior to the expiration of the Initial Term or Renewal Term, as the case may be. Notwithstanding the foregoing, either Licensor or Licensee may terminate this Agreement upon thirty (30) days written notice or as otherwise provided herein

2. **Fee/Consideration.** In consideration for Licensee's use of the Licensed Area, Licensee shall pay Licensor a fee in the amount of Ten and 00/100 Dollars US(\$10.00 US). Licensee has paid this fee on or before the Commencement Date.

3. **Use of the Licensed Area; Access to Licensed Area.**

(a) **Use of Licensed Area.** Licensee may make use of the surface of the Licensed Area during the Term for the sole and exclusive purpose of parking a diesel locomotive identified as "Locomotive 1802" upon the Licensed Area for Licensee's use in conducting training operations and such other uses reasonably necessary thereto provided that said training exercises shall not include the use of open flame, explosives or any other incendiary material As

part of the “use” of the Licensed Area, Licensee may permit a subcontractor of its to bring Locomotive 1802 unto the Licensed Area by way of rail tracks located upon Licensor Property and upon the Licensed Area, and to remove Locomotive 1802 from the Licensed Area at the expiration or earlier termination of this Agreement. Licensee shall not make improvements to the Licensed Area or Licensor’s Property unless permitted in writing by Licensor. Licensee shall have no privilege to use or access the subsurface of the Licensed Area or to use or access any streams, rivers, creeks, or other waterbodies located thereon or adjacent thereto. Licensee shall bring no hazardous materials or hazardous substances onto the Licensor Property or the Licensed Area other than fuel or other lubricants already placed in any vehicles. No fueling equipment or storage devices may be located on the Licensed Area or the Licensor Property.

(b) Access to Licensed Area. During the Term of this Agreement, Licensee shall be permitted non-exclusive use, ingress, egress, regress, and access to and from W. 9<sup>th</sup> Street to the Licensed Area, via the route along S. Material Road shown in yellow on Exhibit “B” attached hereto (the “Access Route”).

4. Appearance. Licensee agrees that, during the Term of this Agreement, it will maintain the Licensed Area in a neat and orderly fashion, and will not permit the accumulation of garbage, trash, or rubbish thereon. Other than brush removal as needed to exercise the permission granted herein, Licensee shall not disturb the timber, trees, or forest products, or any other resources on the Licensor Property or the Licensed Area. Licensee shall correct any issues brought to its attention by Licensor or any governmental authority.

5. Repairs. Concurrently with revocation or termination of this Agreement, Licensee will, at its sole cost, risk, or expense: (a) promptly remove all its materials, equipment, vehicles, and structures from the Licensed Area; (b) repair any damage caused by or resulting from any activity by Licensee or its employees, invitees, licensees, service providers, agents, and contractors on the Licensed Area or Licensor Property; and (c) leave the Licensed Area in a neat and clean condition. Licensee shall clean up any spills. Licensee shall return the Licensed Area in substantially the same condition as received as of the Commencement Date. Licensee shall not cause or permit any mechanics’ or materialman’s liens or other lien attributable to Licensee to be placed upon the Licensed Area.

6. Licensor Activities. Licensee acknowledges that Licensor’s activities upon and around the Licensor Property may cause vibrations, noise, dust, particulates, debris, and other materials and odors to be in the air above, descend upon, go across, or go through the Access Route and Licensed Area and in general, subject the Licensed Area to all similar consequences arising from the location and operation of Licensor’s (and its successors’ and assigns’) rock quarries, rock crushing plants, sand and/or gravel operations, asphalt plants, concrete and cement plants, truck loading areas, and related activities (including without limitation equipment operation and truck traffic at, to, and from said operations). Licensee releases Licensor from any claims caused by such activities.

7. Compliance with Laws.

(a) Licensee shall, in its use and occupancy of the Licensed Area, comply with all current and subsequent federal, state, and local laws, rules and regulations including, but not limited to, those pertaining to the protection of the environment or land use or zoning, and Licensee shall not create or permit any condition which would be subject to redress or corrective action under any such laws, rules or regulations. Licensee agrees to promptly comply with recommendations made to it by Licensor: (i) for the correction or control of hazardous conditions, or the release of contaminants or offensive matter; (ii) for the correction or control of conditions which are in violation of any laws, rules or regulations; (iii) to control traffic problems; or (iv) to maintain a good general appearance of the Licensed Area.

(b) Licensor shall have the right to terminate this Agreement upon written notice to Licensee if Licensor receives notice of violation of any of permits related to the Licensed Area from any governmental agency and if: (i) Licensee's operations caused or substantially contributed to the alleged violation; and (ii) either (A) the violation is not capable of being cured; or (B) if the violation is capable of being cured, Licensee fails to cure the violation within the period allowed by law or the applicable governmental agency.

(c) Licensee shall immediately advise Licensor in writing of, and if applicable, provide Licensor with a copy of: (i) any notice of violation or potential or alleged violation of this section; (ii) any and all inquiries, investigations, enforcement, clean-up, removal or other governmental or regulatory actions instituted or threatened relating to Licensee or the Licensed Area; (iii) all claims made or threatened by any third party or governmental authority against Licensee relating to hazardous materials at the Licensed Area; or (iv) any release of any hazardous materials on or about the Licensed Area that Licensee knows of or reasonably believes may have occurred.

8. **Notices.** All notices and other communications made under this Agreement shall be in writing and shall be deemed to have been duly given if sent by overnight courier or registered or certified mail, postage prepaid, return receipt requested, addressed as below set forth or to such other address as shall be furnished in writing by either party to the other (each a "Notice"):

Licensor: Heidelberg Materials Midwest Agg, Inc.  
8909 Purdue Road, Suite 100  
Indianapolis, IN 46268  
Attn: Land Manager  
Email: brian.knapp@heidelbergmaterials.com

With copy to: Heidelberg Materials US, Inc.  
8909 Purdue Road, Suite 100  
Indianapolis, IN 46268  
Attn: Associate General Counsel – Midwest Region

Licensee: Romeoville Fire Department  
18 Montrose Drive, Romeoville, Illinois 60446  
Attn: Michael Pemble, Assistant Chief

9. **Inspection; AS-IS.** LICENSEE HAS INSPECTED, OR HAD THE OPPORTUNITY TO INSPECT, THE LICENSOR PROPERTY, THE ACCESS ROUTE, AND THE LICENSED AREA AND AGREES TO USE SUCH AREAS "AS-IS" AND WITH ALL FAULTS, KNOWN OR UNKNOWN, AND UNCONDITIONALLY RELEASES LICENSOR WITH RESPECT TO ANY PERSONAL INJURY OR PROPERTY DAMAGE AS A RESULT OF ITS USE UNDER THIS AGREEMENT EVEN IF CAUSED OR ALLEGED TO BE CAUSED BY THE NEGLIGENCE OF LICENSOR. LICENSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, CONCERNING THE LICENSED AREA, ACCESS ROUTE, OR LICENSOR PROPERTY, HEREBY DISCLAIMS ALL WARRANTIES INCLUDING WITHOUT LIMITATION, WARRANTIES CONCERNING THE FITNESS OF THE LICENSED AREA, ACCESS ROUTE, OR LICENSED PROPERTY, AND SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY DAMAGES OR INJURY CAUSED BY ANY VICES OR EFFECTS THEREIN WHETHER TO THE LICENSEE OR ITS AGENTS, LICENSEES, INVITEES, OR SUBCONTRACTORS.

10. **Taxes and Other Expenses; Utilities.** Licensor shall be responsible for the payment of all ad valorem taxes for the Licensor Property. However, Licensee shall be responsible for the payment of all other taxes, including personal property taxes, or other expenses in any way associated with Licensee's activities on the Licensor Property, Licensed Area, or any improvements made by Licensee thereon. Licensee shall be responsible for costs associated with its usage of electricity, water, and any other utility services, if any.

11. **Insurance.** Licensee shall obtain, maintain, and comply with the insurance requirements set forth in Exhibit "B" attached hereto.

12. **Indemnification.** To the fullest extent permitted by law, Licensee hereby agrees to defend, indemnify, and hold Licensor, its parents, subsidiaries, and affiliates, and their respective directors, officers, employees, and representatives harmless from and against any and all actual or alleged claims, liabilities, losses, damages, costs, and expenses (including reasonable attorneys' and expert witness fees) (collectively "Claims") for: (a) injury or damage to persons or property arising from, connected with, or related, in whole or in part, to any act or omission under this Agreement on the part of Licensee, its subcontractors, agents, invitees, or licensees, including Claims alleged or brought by Licensee, its employees, subcontractors, agents, invitees, or licensees, and including Claims alleging negligence on the part of a party to be indemnified hereunder; (b) violation of any agreement, representation, or warranty contained in this Agreement; (c) violation or alleged violation of any law, rule, order, ordinance, or regulation affecting the Licensor Property or the use thereof on the part of Licensee, its subcontractors, agents, invitees, or licensees; and (d) any environmental liability including, but not limited to, Claims for personal injury, payment of liens, diminution of value of the Licensed Area or Licensor's Property, the investigation of site conditions, or any repair, clean-up, remediation, removal or restoration work, or detoxification required by any governmental authority, which said Claim arising or pertains to Licensee's acts or omissions under this Agreement. Upon written notice of an indemnity claim, Licensor shall be entitled to retain counsel of its choice (reasonably acceptable to Licensee) to defend or settle any such claim,

without loss or expense to Licensor. This indemnification provision shall survive the expiration or termination of this Agreement.

13. **Limitation of Liability.** Licensor shall not, under any circumstances, whether in contract, tort (including negligence), warranty, indemnity, strict liability, or any other legal theory, be liable for any loss of anticipated profits or revenue, or for any special, indirect, consequential, punitive, exemplary, or incidental damages. Licensor's liability arising out of or related to this Agreement, whether in contract, tort (including negligence), warranty, indemnity, strict liability, or any other legal theory, shall be limited to, at Licensor's option, either: (a) the amount of Licensor's equity interest in the Licensed Area; or (b) refund of the fee/consideration paid by Licensee under this Agreement.

14. **Default.** If Licensee breaches any term, covenant, or condition of this Agreement, then Licensor shall have the authority to immediately suspend use of the License Area, access thereto, or any portion thereof, until such time as said default is cured. Licensor shall give Licensee written notice of any default on Licensee's part hereunder as soon as practicable, but no later than the date that Licensor suspends Licensee's use of the License Area. Licensee shall cure any default hereunder within ten (10) days of Licensor's delivery of written notice of such default. If any default remains uncured after applicable notice and cure periods, then Licensor may revoke this Agreement upon written notice to Licensee and shall have no liability to Licensee for such revocation. Time is of the essence for curing defaults. Licensor shall further be able to proceed with any remedy permitted under this Agreement, either at law, or in equity.

15. **Miscellaneous Provisions.**

(a) **Entire Agreement; Amendment.** This Agreement contains all of the agreements between the parties with respect to the subject matter hereof. This Agreement can only be modified or amended by written agreement executed by authorized representatives of both parties.

(b) **Assignment; Binding Effect.** Licensee may not assign all or any part of its privileges or obligations hereunder without the advance written consent of Licensor, which may be withheld in Licensor's sole and absolute discretion. Licensor may freely assign this Agreement. It is further mutually understood and agreed that the covenants and agreements contained in this Agreement, to be performed by the respective parties, are binding on the parties, and each of them, their successors and permitted assigns.

(c) **No Recording.** Neither party shall cause this Agreement or memorandum thereof to be recorded in public records.

(d) **Confidentiality.** Licensee agrees to keep this Agreement and all information learned in the course of this transaction confidential, except to the extent disclosure is: (i) required by law or court order; or (ii) to enable third parties to advise or assist Licensee in its performance of this Agreement, provided such third parties are likewise bound by this confidentiality provision.

(e) Governing Law; Attorneys' Fees.

(i) This Agreement shall be governed by the laws of the State of Illinois without regard to its principals of conflicts of law. The parties agree to the exclusive jurisdiction of the courts of Will County, Illinois with regard to the resolution of any matters arising hereunder.

(ii) In the event of any litigation or arbitration for the interpretation or enforcement of this Agreement, or for damages for a default, or that in any other manner relates to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court, arbitration, and other costs from the non-prevailing party, including costs and fees on appeal and in any bankruptcy or insolvency proceeding, but only if: (A) prior to litigation or arbitration the prevailing party made a good faith offer to settle the dispute; and (B) the amount and/or relief awarded to the prevailing party is substantially what it had claimed.

(f) No Agency. Licensee's agents, invitees, and licensees are not employees or agents of Licensor and nothing contained herein shall be construed to create any agency, partnership, or joint venture relationship between the parties.

(g) No Lease. The parties acknowledge that this Agreement is not intended to be a lease agreement and no Landlord/Tenant relationship is intended to be created hereby and this Agreement does not create any easement or type of estate in either the Licensor's Property, or the Licensed Area. Licensee agrees that it shall not have and hereby waives any rights that may otherwise be afforded to tenants under applicable law.

(h) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A counterpart of this Agreement signed by a party and sent to the other party through electronic mail transmission shall be considered to be a valid counterpart. This Agreement shall become binding upon the execution and exchange of counterparts by all of the parties.

(i) Time. Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day. Legal public holidays shall be deemed to include holidays on which the administrative offices of Licensee or Licensor are closed for business.

(j) Non-waiver. No waiver of any default of Licensee hereunder shall be implied from any omission by Licensor to take any action or account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Licensor shall not be construed as a waiver of subsequent breach of the same covenant, term, or condition. The consent to or approval by Licensor of any act by Licensee requiring Licensor's consent or approval shall not waive or render unnecessary Licensor's consent to or approval of any subsequent similar act by Licensee.

(k) Legal Construction. If any provision in this Agreement is for any reason held invalid, illegal, or unenforceable in any respect, to the extent such invalidity, illegality, or unenforceability does not destroy the basis of the bargain among the parties, the invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the invalid, illegal, or unenforceable provision had never been a part of the Agreement. Section headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Agreement.

(l) Consultation with an Attorney. This Agreement is a legal document. Each party acknowledges that it has consulted or had the opportunity to consult with counsel of choice prior to execution of this Agreement.

(m) Survival. The provisions of this Agreement which expressly state that they survive termination, or by reasonable implication are intended to survive termination, will survive termination of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement as of the date first above written.

**LICENSOR:**

**Heidelberg Materials Midwest Agg**, a  
Kentucky corporation

By: \_\_\_\_\_

James Bottom, VP/GM - Midwest

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LICENSEE:**

**Romeoville Fire Department**, a department  
within the Village of Romeoville, an Illinois  
municipal corporation

By: \_\_\_\_\_

**List of Exhibits:**

Exhibit "A"	Map of Licensed Area
Exhibit "B"	Non-Exclusive Access Route (if applicable)
Exhibit "C"	Insurance Requirements
Addendum	HMA Plant Addendum (if applicable)



**EXHIBIT “A”**  
**Map of Licensed Area**

**[to be attached]**

**EXHIBIT “B”**  
**Non-Exclusive Access Route**

**[to be attached]**

**EXHIBIT “C”**  
**Insurance Requirements**

(a) All policies of insurance provided for in this Agreement must be issued by insurance companies that have a financial rating of not less than “A- VII” as rated in the most current edition of Best’s Insurance Reports. During the Term of this Agreement, Licensee shall obtain and maintain, at Licensee’s expense, the following insurance coverage. The limits and coverage types below should be considered minimum requirements and in no way limit Licensee’s liability under this Agreement.

General Liability. Commercial General Liability insurance shall cover liability, including but not limited to, liability arising from premises, operations, independent contractors, products-completed operations, property damage, personal injury and Broad Form Contractual Liability specifically in support of, but not limited to, the indemnity section of this Agreement. Coverage shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent coverage.

With minimum limits of:

Commercial General Liability	\$5 Million (Each Occurrence) \$5 Million (General Aggregate) (including coverage for Contractual Indemnity, Broad Form Property, (Products and Completed Operations)
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Automobile Liability with minimum limits of:

Commercial Auto Liability	\$2 Million (Combined Single Limit)
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Workers Compensation limits:

(i) Worker’s Compensation	Statutory
(ii) Employer Liability	\$1 Million (Each Accident) \$1 Million policy limit \$1 Million bodily injury by disease

(b) Pollution Liability. Such insurance shall be maintained with limits of at least \$1 Million per claim. If Licensee is involved in the removal, handling, transportation, or disposal of hazardous materials, Licensee will obtain a pollution liability policy with limits not less than \$5 Million per occurrence.

(c) Primary and Non-Contributory. Licensee acknowledges the existence of liability and property damage insurance carried by Licensor, its shareholders, and their respective affiliates, and it is understood and agreed that the insurance provided in such policies, if any, shall not be applicable to Licensee’s insurance requirements under this Agreement. It is further understood that the insurance provided by such policies and such other insurance carried by Licensor, its shareholders and their affiliates, shall not be primary or called upon by Licensee’s

insurers for contributing, deficiency, concurrent or double insurance, or otherwise, and shall provide for a severability of interest or cross-liability clause. Any and all deductible or retention sums in Licensee's insurance policies shall be assumed by, for the account of, and at the sole risk of Licensee.

(d) Evidence of Insurance. Licensee shall, within ten (10) days after execution of this Agreement, but prior to entry upon the Licensor Property, furnish to Licensor a copy of the foregoing policies of insurance or a certificate of insurance showing the amounts of coverage set forth in this Agreement as well as provide copies of endorsements as stated in this Agreement, and shall be required to give at least thirty (30) days' notice to Licensor prior to cancellation, expiration, or modification thereof. Said Certificates, endorsements, and written notices, shall be directed to Licensor as set forth in the Notices Section of this Agreement.

(e) Additional Insured. For each such policy of insurance maintained by Licensee pursuant to this Agreement (except workers' compensation), the insurer shall name Licensor, its parents, affiliates, and subsidiaries (direct and indirect), and their respective directors, officers, and employees as an additional insured. Licensee shall obtain endorsements equivalent to CG 20 10 for ongoing operations and CG 20 37 for Completed Operations (CGL) and CG 20 15 04 13 for products and CA 20 48 (Auto) to effect this status. Licensee shall also obtain endorsement CG 20 26 04 13 designating Licensor, its parents, affiliates, and subsidiaries (direct and indirect), and their respective directors, officers, and employees as an additional insured.

(f) Waiver of Subrogation. Licensee waives all rights against Licensor, its affiliates, and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employer's liability or commercial liability insurance obtained by Licensee pursuant of this Agreement. Licensee shall obtain endorsements equivalent to WC 00 03 13 (Workers Compensation) and CG 24 04 05 09 (CGL) and CA 04 44 (Auto) to effect this waiver.

(g) Subcontractors. Licensee shall require all subcontractors, unless otherwise approved by Licensor, to also carry insurance equal in kind and amount to that required by this Insurance Section. Licensee shall require all subcontractors to furnish Licensee and Licensor Certificates of Insurance evidencing such coverage and shall expressly list Licensor and Licensee as additional