

SAND AND GRAVEL MINING AGREEMENT AND PROPERTY LEASE

This SAND AND GRAVEL MINING and LEASE AGREEMENT (the "Lease") is made and entered into on this ____ day of _____, 2024, by and between the State of Alabama Department of Corrections (hereinafter referred to as "ADOC: or "Lessor") and _____ (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor is the record title owner of certain property (herein after referred to as "Premises") situated in Elmore County, Alabama, the location and description of which is set forth in ATTACHMENT A attached hereto;

WHEREAS, pursuant to Code of Alabama, 1975, Section 9-17-61, the Department of Conservation and Natural Resources issued an Invitation to Bid dated _____, to lease said Premises;

WHEREAS, Lessee submitted the highest qualified bid for production royalties in consideration for the Materials to be mined and sold.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and as further consideration of the payments to be made hereunder and the promises and undertakings hereinafter set forth, the Lessor and Lessee hereby enter into this Lease and agree to the following TERMS, CONDITIONS, and COVENANTS:

1. PREMISES

The Lessor hereby grants to Lessee a surface/mineral interest in the Premises to mine said lands for the purpose of removing and selling the sand, gravel, stone, metallurgical gravel, topsoil, clay, and clay gravel (hereinafter referred to as the "Materials") located therein.

2. TERM

The Lessor hereby grants to the Lessee a surface/mineral interest in the Premises for the term of four (4) years, beginning the ___ day of _____, 2024, and ending the ___ day of _____, 2028. At the conclusion of the initial lease period, the Lessor, at its sole discretion, may offer the Lessee an option to renew the Lease for three additional two (2) year periods at the same general terms and conditions as stated herein. Lessee shall notify Lessor in writing not less than one hundred and eighty (180) days prior to the expiration of the initial or extended term of Lessee's interest in extension of the Lease.

The parties hereto reserve the right to make mutually agreeable amendments necessary to, or which may be required, in order to comply with applicable state and/or federal law(s) which may be required or affect the rights and obligations hereunder or otherwise of the parties.

3. CONSIDERATION

- (a) Production royalties paid to the Lessor by the Lessee shall not be less than \$____ per ton for gravel and \$ ____ per ton for sand mined and sold from the Premises by the Lessee. In the event that any of the Materials are sold to any affiliate of Lessee (or to any affiliate of any owner of Lessee) at a price that is less than fair market value of said Material as reasonably determined by comparison to similar materials sold in Alabama, then the production royalty shall be increased to an amount that would yield to the Lessor the same amount of money as if the Materials had been sold at fair market value in Alabama. The minimum production royalty

rate of \$____ per ton for gravel shall increase by \$0.010 per ton every year the Lease remains in effect, including any extensions granted. The minimum production royalty rate of \$____ per ton for sand shall increase by \$0.005 per ton every year the Lease remains in effect, including any extensions granted. The increases specified shall become effective on the Lease anniversary date.

- (b) The balance of any fees due for the advertisement of the solicitation for this lease and its administration, above the \$3,000 bid deposit, shall be due and payable upon execution of this lease.
- (c) Notwithstanding subsection (a), Lessee shall pay to Lessor a minimum royalty of THIRTY-SIX THOUSAND DOLLARS (\$36,000.00) per year, payable monthly. Remittances in the form of minimum royalties shall be offset by production royalties paid each year of this Lease. While minimum royalties shall be cumulative and Lessee shall be entitled to credit when production royalties are paid, the sum total of all royalties paid annually to the Lessor shall not be less than THIRTY-SIX THOUSAND DOLLARS (\$36,000.00). Production royalties paid in excess of the minimum royalty due in any one year shall not be carried over to offset, in whole or in part, the minimum royalty due for any other year. Any obligation to pay minimum royalties shall cease if the lease is terminated by Lessee under Section 17.
- (d) The Lessee shall not be entitled, by reason of termination of this Lease, to any refund of all or any part of the advanced royalties or monthly royalties paid to the Lessor under this Lease.
- (e) The Lessee agrees to keep an accurate record of all Materials removed from said Premises and sold, as aforesaid, and said records shall be available to Lessor or its designated agent, at any and all reasonable times. Lessor, or its designated agent, shall have access to Lessee's books of account, mine reports, hauling tickets, shipping weights, and volume insofar as it is necessary or helpful to ascertain such weights and quantities of Materials processed and sold. Failure to maintain accurate records shall be deemed in the favor of Lessor, should any disputes arise therefrom. Lessee shall retain for not less than two (2) years a copy of all documents, records or reports confirming the gross production, disposition and gross sales values or proceeds received, and any other reports or records which the Lessor may require to verify said gross production, disposition and gross sales values or proceeds received, method used to determine net amount realized; and all such records shall at all times be subject to inspection and examination by the Commissioner or his duly authorized representative. Lessee agrees and acknowledges that Lessor shall be entitled to rely upon the accuracy of information, materials, reports, records, documents, or data provided by Lessee to Lessor in relation to production, or lack thereof, associated with the Premises.
- (f) Performance Bond. In addition to the minimum state and/or federal requirements for bonding, as a condition of entering the Lease, Lessee agrees to post and to maintain for the duration of the Lease, and any extensions thereof, a performance bond in the amount of One Million (\$1,000,000.00) Dollars to ensure Lessee's performance of any required term of the Lease, performance required by law, and/or required property reclamation and/or property restoration following completion of mining operations and/or expiration of the Lease, whichever occurs first.

4. PAYMENT

- (a) Minimum royalty payments shall commence on the twentieth (20th) day of the first (1st) calendar month after the date upon which the Lessee obtains all required permits necessary to begin mining the Materials. Copies of such permits shall be provided to the Lessor upon their receipt. Likewise, production royalty payments for the preceding month's sales shall also be

made on the twentieth (20th) of the month, and for each month thereafter during the term or extended term of the Lease.

- (b) Payments made pursuant to this Lease must bear “Draper Sand & Gravel Lease – Lessor Name” on the check, payment stub, or cover letter. Payments must be made by cashier’s check, money order, or other certified funds and made payable to the “Alabama Department of Corrections.” All checks shall be accompanied by Monthly Royalty Report as outlined in EXHIBIT C. Personal checks will not be accepted.
- (c) If payments are not received in the Lessor’s Accounts Receivable Office, located at 301 S. Ripley, Montgomery, AL 36104, by the last calendar day of each month during which the Lease or the extended Lease remains in effect, the Lessee shall be assessed a penalty of ONE HUNDRED DOLLARS (\$100.00).

5. USE OF PREMISES

The Lessee shall have the right to:

- (a) Mine, extract, and remove all of the Materials in and underlying the Premises, including the right to remove the overlying surface from said sand and gravel by means of power shovels or other machinery; and,
- (b) Possess the full right of ingress, egress, and regress to and from the Premises for the purpose of mining and removing said Materials with personnel, teams, trucks, tools, machinery, supplies, and all things necessary in the mining and removal of said Materials; and
- (c) Erect, install, construct, operate, and maintain a sand and gravel processing plant on the Premises, together with the right to procure, for Lessee's own account, all utility services necessary in connection with the operation of such plant; and,
- (d) Request easements for access to water necessary for screening operations from streams flowing through or lakes residing on Lessor’s adjacent property. Requests must be in writing and specifically identify the route of such easements and the waterbody being accessed. Approval of any easements by Lessor must be in writing.
- (e) Request negotiation by Lessor of adjacent riparian rights, which shall be at the option of the ADOC to negotiate.

The Premises shall be used and occupied solely for mining and processing of the Materials stated herein. Lessee shall not use or permit the same to be used for any other purpose or purposes whatsoever. Lessee will not occupy, or permit to be occupied, the Premises for any business, occupation, domicile, or other use whatsoever, other than that expressed in this Lease. Reclamation and bonding must be performed and provided in compliance with all federal, state, and local laws and regulations in effect at the time of mining.

6. EXAMINATION OF PREMISES, WARRANTY

Lessee acknowledges that the Lessor has provided to the Lessee an opportunity to examine said Premises and conduct borings, if warranted, to determine presence of marketable Materials. Lessee’s entry into possession shall constitute conclusive evidence that, as of the date thereof, the Premises is in good order and satisfactory condition. Nothing herein shall be construed as a warranty that the Premises is fit or suitable for the use and purpose for which it is leased. Lessor has made no representations with respect to the Premises except as herein expressly set forth.

Notwithstanding any provision to the contrary, this Lease is granted and accepted without any warranty of title and without any recourse against Lessor whatsoever, either express or implied, it being expressly agreed that the Lessor shall not be required to return any payments received hereunder or be otherwise responsible to Lessee therefore.

7. CARE OF PREMISES

Lessee shall not permit, allow, or cause any act, deed, or depredation to be performed or committed on the Premises, nor allow any practice to be adopted or followed in or about the Premises which shall cause, or be likely to cause, injury to any person or damage to the Premises or any property located thereon.

Reclamation: The Lessee agrees that no more than 60% of the Premises will be disturbed at any point in time during the term of the Lease without reclamation activities being completed to offset the disturbance of additional acres. Any and all costs associated with or incurred in connection with such reclamation, including the securing of bonds or permits, shall be the sole responsibility of the Lessee.

8. FIRE PREVENTION

Lessee will exert reasonable efforts to prevent fire on the Premises and will exercise due diligence in extinguishing any fire which might occur on said Premises. This provision shall not apply to the prescriptive silvicultural or agricultural burning practices performed or authorized by Lessor.

9. IMPROVEMENTS AND EQUIPMENT INSTALLATION

Lessee is authorized to make improvements to the Premises in support of activities stated in Section 5. Lessor shall not be responsible for, or otherwise liable for, any damage to any equipment or improvements. All improvements shall become the property of the State at termination of the Lease.

10. POSTING BOUNDARIES

Notwithstanding Section 9 of this Lease, Lessee shall have the right to enclose the property with a fence or fences, at its sole expense, without prior written permission from the Lessor. Provided, however, if Lessee removes any monument of any sort marking the boundary line of lands owned by the State, Lessee shall notify the Lessor prior to its removal and shall replace any such monument to the satisfaction of the Lessor as soon as reasonably possible. Lessee shall also permit Lessor reasonable access to the Leased Property.

11. PROPERTY SECURITY

Lessee is required to maintain property access restrictions established by Lessor through the locking of all gates that access the Premises. The Lessee, at his own expense, may acquire and install locks on gates accessing the Premises; provided, however, that personal locks must not interfere with Lessor's access to the Premises. Lessee's failure to comply with this provision shall constitute cause for immediate Lease termination.

12. COMPLIANCE WITH LAWS

Lessee agrees, in its operations on the Premises, to adhere to and comply fully with all laws, rules, and regulations of the county, state and federal government and all agencies and commissions of such governments now or at any time during the term of this Lease applicable or having jurisdiction. Lessee agrees to obtain, at its own expense and in its own name and not in the name of Lessor, all necessary permits under all applicable laws, rules, and regulations, to provide at its own expense any bonds that may be required and, on the request of Lessor, to furnish Lessor with written evidence that all such necessary permits and bonds have been obtained.

Lessee hereby expressly agrees to fully indemnify and hold harmless Lessor from any and all liability whatsoever arising out of or connected with Lessee's failure to comply with any applicable laws, rules, or regulations as contemplated within this Section, including all environmental laws whether state or federal.

Lessee further agrees to comply with all State and Federal laws which prohibit discrimination on the basis of race, color, religion, age, sex, national origin, or disability.

Reclamation and bonding shall be in accordance with federal, state, and local laws and regulations in effect at the time mining occurs, or otherwise applicable to Lessee and/or its activities under the Lease or on the Leased Property.

13. **HAZARDOUS MATERIALS**

a) **Definitions.**

"Environment" includes soils, land surface, or subsurface strata, surface waters, groundwaters, stream sediments, ambient and other air, atmosphere, plant and animal life, or other environmental medium or natural resource soils, land surface, or subsurface strata, surface waters, groundwaters, stream sediments, ambient, and other air, atmosphere, plant and animal life, or other environmental medium, or natural resource.

"Environmental Law" means any federal, state, and local law, common law, equitable doctrine, rule, regulation, statute, code, ordinance, directive, guidance document, cleanup, or other standard, and any other governmental requirement or standard currently in existence or hereafter enacted or rendered, whenever in effect concerning or relating to (i) protection of human health or the Environment or workplace safety or occupational health; (ii) liability for or costs of remedial work or prevention of Release of Hazardous Materials, (iii) liability for or costs of any other actual or future threat to human health or the Environment; (iv) the use, transportation, presence, storage, handling, management, disposal, recycling, treatment, generation, processing, labeling, production, Release, contamination, or exposure of or to Hazardous Materials; and (v) any other laws whose purpose is to conserve or protect human health or the Environment. Environmental Law includes but is not limited to the following Federal laws and their State equivalents: Clean Air Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Emergency Planning and Community Right-to-Know Act, the Federal Water Pollution Control Act, the Rivers and Harbors Appropriation Act, the Safe Drinking Water Act, the Superfund Amendments and Reauthorization Act, the Toxic Substance Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Resource Conservation and Recovery Act, the Solid Waste Disposal Act, the Hazardous Materials Transportation Act, the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Oil Pollution Act of 1990, and the Occupational Safety and Health Act.

"Hazardous Material" means any (i) petroleum, waste oil, crude oil, asbestos, urea formaldehyde, or polychlorinated biphenyl; (ii) waste, gas, or other substance or material that is explosive or radioactive; (iii) "hazardous substance", "pollutant", "contaminant", "hazardous waste", "regulated substance", "hazardous chemical", or "toxic chemical" as designated, listed, or defined (whether expressly or by reference) in any statute, regulation, Environmental Law (including CERCLA and any other so called "superfund" or "superlien" law and the respective regulations promulgated thereunder); (iv) other substance or material (regardless of physical form) that is subject to any Environmental Law that regulates or establishes standards of conduct in connection with, or that otherwise relates to, the protection of human health, plant life, animal life, natural resources, property, or the enjoyment of life or property from the presence in the Environment of any solid, liquid, gas, odor, noise, or form of energy; or (v)

compound, mixture, solution, product, or other substance or material that contains any substance or material referred to in clause (i), (ii), (iii), or (iv) above.

“Release” means any depositing, spilling, leaking, pumping, pouring, placing, emitting, discarding, abandoning, emptying, discharging, injecting, escaping, leaching, dumping, migrating, or disposing of any Hazardous Materials into the Environment.

(a) **Lessee’s Compliance with Environmental Laws.**

Lessee covenants, represents, and warrants that Lessee’s use of the Premises shall not and will not involve the use, storage, generation, or disposal of Hazardous Materials in violation of any Environmental Law, and that Lessee shall not cause or permit any Hazardous Materials to be brought, used, stored, generated, or disposed on or about the Premises in violation of any Environmental Law, and Lessee shall not cause or, as a result of Lessee’s operations, permit the Premises to be in violation of any Environmental Law.

(b) **Lessee’s Responsibility for Releases of Hazardous Materials.**

In the event of any Release of Hazardous Materials or violation of Environmental Law by Lessee or any of Lessee’s employees, agents, invitees, or contractors, Lessee shall at its sole expense promptly conduct all required remedial work in accordance with applicable Environmental Laws and promptly notify Lessor of any such Release or violation. Lessor may elect to test the Premises for the presence of Hazardous Materials at any time during the Lease term and after Lessor vacates the Premises. If any such testing indicates the presence of Hazardous Materials in violation of Environmental Law, and if Lessee brought Hazardous Materials of that type into the Premises at any time, whether before or during the Term, Lessee shall promptly conduct all required remedial work in accordance with applicable Environmental Laws.

14. **RESERVATION OF INTEREST**

(a) Lessor specifically reserves unto itself all rights and interests in the Premises not inconsistent with the restricted mining rights made the subject of this Lease. Lessor expressly reserves to himself and to the use and benefit of other lessees of the Premises all natural gas, oil, petroleum, coal, timber, and other products of the Premises not specifically granted to Lessee by this Lease, so long as such use is not materially inconsistent with or conflicting or interfering with, the use of the Premises by Lessee under the terms of this Lease. This Lease is conveyed subject to all other restrictions and reservations of record.

(b) The parties agree that during the term or any extended term of this Lease, Lessor may from time-to-time request Lessee to release from the operation of this Lease any parcel or portion of the Premises, provided such parcel or portion meets the criteria enumerated in items 1) through 6) below. Such requests by Lessor shall be presented in writing to Lessee and shall describe the parcel or portions requested to be released. Lessee shall release said parcel or portion, if in Lessee’s reasonable judgment, the parcel or portion sought to be released:

- 1) will not be required in Lessee’s operations for stockpiling, dumping, or for other activities described in this Lease at any time during its term or any extended term;
- 2) will not prohibit access or unreasonably restrict access to the remaining Premises under this Lease;
- 3) will not be subject to any use which is inconsistent with Lessee’s sand and gravel rights

and uses as specified in this Lease, nor interfere with Lessee's right to continue mining under this Lease;

- 4) will not be used for future commercial sale of sand and gravel or other materials covered by this Lease;
- 5) will not materially increase the cost of mining or sale or shipping by Lessee on or from the remaining Premises; and
- 6) will not increase the risk of public liability of Lessee in its mining on or other uses of the remaining Premises.

Such release shall be conditioned upon observance by Lessor, its successors, and assigns of the conditions set forth in Section 14(b) 1) through 6). For the avoidance of doubt, should Lessor present Lessee a written request for release of any parcel or portion of the Premises as provided in this Section for the purpose of sale to others, any such sale shall be subject to the provisions of items (b) 1) through 6) within this section.

- (c) If it becomes necessary to remove or destroy crops on the Premises, Lessee shall bear full responsibility for such removal and destruction of such crops and shall fully compensate Lessor or its tenants for the sum of the full fair market value, less agreed upon costs for agricultural treatments and harvesting, of any such crops so removed or destroyed plus all costs actually incurred in connection with such crop removal and destruction including, but not limited to, any such costs actually incurred by Lessor with respect to any leases with any other farming tenants whose leased crops are destroyed or removed in connection with this Lease. The Lessee and Lessor agree that the intent of this Section is that Lessee shall make Lessor and any of Lessor's tenants whole in the event that any crops located on the Premises are removed or destroyed in connection with this Lease.
- (d) Lessor acknowledges that the removal of Materials from the Premises pursuant to this Lease may cause substantial damage to or destruction of timber and other vegetation growing on the surface of the Premises. In the event that Lessee determines that any timber or other vegetation must be removed or destroyed in connection with the removal of the Materials from the Premises, the Lessee shall give Lessor written notice adequately describing the timber or other vegetation due to be destroyed or removed. Lessor shall be given ninety (90) days after the date of delivery of such notice to remove any such timber or vegetation at Lessor's sole cost and for Lessor's sole benefit. After the expiration of such ninety (90) day period, Lessee shall be free to remove said timber and vegetation at Lessee's sole cost.

15. **ENTRY BY LESSOR**

Lessor reserves to itself, through its agents and employees, the right at all times to enter said Premises for any purpose.

16. **REMOVAL OF MATERIALS AND FACILITIES**

Lessee shall have the right at any time during the term of this Lease or any extended term thereof and for ninety (90) days after the expiration or termination of same to remove all of its properties and facilities from the Premises. It is understood that there is no obligation on Lessee to mine any of said materials to exhaustion during the term or any extended term of this Lease.

17. **TERMINATION RIGHTS**

Lessee has the right to terminate this Lease at any time upon giving Lessor one hundred eighty (180) days written notice of such termination, and Lessee's obligation to make advance royalty payments as provided herein shall cease upon the expiration of said one hundred eighty (180) days.

18. **CESSATION OF ROYALTY PAYMENTS**

Upon termination of this Lease by either party or upon termination of this Lease by expiration thereof, should it be reasonably necessary for Lessee to remain on the Premises to complete restoration requirements, Lessee shall not be required to pay minimum royalty during said restoration period.

19. **INDEPENDENT CONTRACTOR**

It is expressly understood that Lessee is an independent contractor, and Lessor shall have no right to exercise control under this Lease over the business operations of Lessee, Lessee's employees, successors or assignees. The Lessor and Lessee specifically agree that no partnership or joint venture is created, explicitly or implicitly, by virtue of this Lease. The right of inspection and the right to inspect Lessee's records herein reserved by Lessor are reserved solely for the purpose of enabling Lessor to verify the extent of royalties due to be paid hereunder and to ensure that Lessor's retained interests in the Premises are protected and preserved, and shall not give or be deemed to give Lessor the right to exercise control over Lessee, Lessee's employees, successors or assignees, or to advise or assist Lessee or Lessee's employees, successors or assignees in Lessee's mining operations authorized hereunder. Nothing herein shall grant to the Lessee, its employees, or agents, any right or privilege created by the State Merit System.

20. **INDEMINIFICATION**

Lessee shall indemnify, defend, and save harmless the Lessor of and from all suits, claims, demands, and actions of any kind or nature, by reason of any breach, violation, or nonperformance of any condition hereof on the part of Lessee. Lessee will indemnify, defend, protect, and save harmless Lessor from any loss, cost, damage, or expense including, but not limited to, attorney's fees, caused by injuries to persons or damage to property, while in, on, or about the Premises, including, without limitation, any injuries or damages related to the ADOC's operation of a shooting range on an adjacent property. Any and all property of Lessee or its agents which may be located or kept upon the Premises shall be at the sole risk of Lessee.

21. **DEFAULT**

If Lessee shall make default in payment of any minimum or production royalty to Lessor under this lease, and such default shall continue for a period of thirty (30) days after written notice thereof shall have been given by Lessor to Lessee, then Lessor shall have the right at any time after said thirty (30) days to terminate this Lease, and all rights of Lessee hereunder shall thereupon terminate, provided, however, in addition to any rights or remedies of the parties to this lease, in the event of a dispute as to the amount of royalty due, the disputed amounts may be placed in escrow with a mutually acceptable escrow agent and Lessee shall not be considered in default for nonpayment of royalties.

22. **FAILURE TO COMPLY**

- (a) If Lessee shall fail to comply with any or all of the covenants, terms, conditions, or limitations in this Lease, and Lessee fails to begin and continue good faith efforts to cure such a failure within a period of thirty (30) days after written notification of such failure has been given by Lessor to Lessee, then on the conclusion of such thirty (30) day period and for thirty (30) days thereafter, Lessor shall have the right to terminate this Lease by giving Lessee written notice of such termination, and, upon the giving of such notice, the Lease and the rights herein

granted to Lessee shall terminate. Upon Lease termination the property interest herein leased shall revert to the Lessor, Lessor shall take possession, and Lessee shall vacate same peaceably.

- (b) No action for possession or termination taken by Lessor shall preclude any claim by Lessor for damages either under the terms hereof or other such damages or other relief as may be provided by law.

23. CONSENT ORDERS

If Lessee shall (a) apply for or consent to the appointment of a receiver, trustee, or liquidator of itself or of all or a substantial part of its assets, or (b) be unable, or admit in writing, its inability to pay its debts as they mature, or (c) make a general assignment for the benefit of creditors, or (d) be adjudicated as bankrupt or insolvent or be dissolved, or (e) file a petition in bankruptcy or for reorganization or for an arrangement pursuant to the Federal Bankruptcy Act or similar federal or state law, now or hereafter in effect, or (f) file an answer admitting the material allegations, or consent to or default in answering, a petition filed against it in any bankruptcy, reorganization, or insolvency proceeding, or corporate action shall be taken by it for the purpose of effecting any of the foregoing an order, judgment, or decree shall be entered, without the application, approval, or consent of Lessee, by any court of competent jurisdiction, approving a petition seeking reorganization of Lessee or appointing a receiver, trustee, or liquidator of Lessee or of all or a substantial part of its assets, and such order, judgment, or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days; then Lessor shall have the right to terminate this Lease at any time thereafter by giving Lessee written notice of such termination, and upon the giving of such notice this Lease and the rights herein granted to Lessee shall terminate. Lessor understands that in the event Lessee files for bankruptcy, Lessor must file for relief from the stay in the applicable proceeding.

24. NOTIFICATIONS

Any notice which may be required or permitted under this Lease shall be sufficient if sent via certified mail, postage prepaid, to the parties at the following address:

Alabama Department of Corrections
Attn: John Q. Hamm, Commissioner
301 S. Ripley Street
Montgomery, AL 36104

Courtesy copy to: MaryColeman Roberts, General Counsel, and Andy Farquhar, Lands Management Director at the same address.

Notice shall be deemed given three (3) days upon receipt.

25. ASSIGNMENT OR SUBLETTING

Lessee shall not assign, nor in any manner transfer, this Lease or any estate, interest, or benefit therein, nor sublet said Premises, nor any part or parts thereof, nor permit the use of the same, or any part thereof, by any person other than Lessee. Any attempted assignment, sublet, or transfer of this Lease shall be null and void unless the written consent of Lessor be first obtained thereto. Consent to any assignment, sublet, or transfer of interest under this Lease shall not constitute a release, waiver, or consent to any other assignment, sublet, or transfer of interest. All of the terms, provisions, conditions, covenants, obligations, reservations, and restrictions in this Lease shall be binding upon any successors and assigns of Lessee.

26. **DISPOSITION OF TOPSOIL**

Notwithstanding any provision in this Lease to the contrary, it is agreed and understood between Lessor and Lessee that Lessee shall not disturb, sell, or ship any topsoil from the Premises except topsoil on areas actively being mined.

27. **NON-WAIVER**

The failure of Lessor to insist upon strict performance of any of the covenants or conditions of this Lease or to exercise any option herein conferred in any one or more instances shall not be construed as a waiver or relinquishment of any such covenants, conditions, or options, but the same shall be and remain in full force and effect. The receipt by Lessor of royalties, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Lessor of any provisions hereof shall be deemed to have been made unless expressed in writing.

28. **BOYCOTT CERTIFICATE**

In compliance with Act 2016-312, as codified by Alabama Code Section 41-16-5, the Lessee hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

29. **DEBT TO STATE**

The terms and commitments contained in this Lease shall not be construed as a debt to the State of Alabama in violation of Article 1, Section 214 of the Constitution of Alabama of 1901, as amended by Amendment Number 26. It is further agreed that if any provision of the Lease shall contravene any statute of the Constitution provision or amendment, either now in effect or which may, during the course of this Lease, be enacted, then that conflicting provision in the Lease shall be deemed null and void. All other terms and conditions shall remain in full force and effect.

30. **ALTERNATIVE DISPUTE RESOLUTION**

In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment for the State of Alabama. For any and all other disputes arising under the terms of this Contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation, subject, however, at all times to the sovereign immunity of the State. Such dispute resolution shall occur in Montgomery, Alabama utilizing, where appropriate, mediators selected from the roster of mediators maintained by the Center For Dispute Resolution of the Alabama State Bar.

31. **INDEPENDENT CONTRACTOR**

It is understood that the Contractor and its agents and employees are independent contractors and will not be entitled to the benefits of the State Merit System under this Agreement.

32. **PRISON RAPE ELIMINATION ACT**

Pursuant to Alabama Code Section 14-11-31 as well as 28 C.F.R. Part 115, the Prison Rape Elimination Act ("PREA"), any type of sexual contact with or sexual harassment of an inmate in the custody of the ADOC by one who is responsible for the care, control, or supervision of inmates – with or without the consent of the inmate – is illegal. Under Alabama law, it constitutes a felony – custodial sexual misconduct. See also, ADOC Administrative Regulation 454, Inmate Sexual Assault and Harassment Awareness (Prison Rape Elimination

Act (PREA)). The ADOC has a Zero Tolerance Policy toward all forms of custodial sexual misconduct, sexual abuse, and sexual harassment. Any type of conduct – including suspected conduct – that falls within the context of custodial sexual misconduct/sexual abuse, as defined by either the State or Federal laws referenced above, shall be reported immediately to the Warden of the facility to which he or she is assigned, or the Warden’s designee.

33. IMMIGRATION

The Parties agree, and hereby acknowledge, that all terms, covenants, and conditions, or actions taken under this Agreement shall comply with all applicable state, federal, or local laws, including the Alabama Beason-Hammond Alabama Taxpayer and Citizen Protection Act as amended. By signing this contract, the contracting parties affirm, for the duration of this Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

34. MODIFICATIONS

It is understood that this Lease constitutes the entire agreement of the Parties. Any modifications, renewals, or extensions must be mutually agreed upon in writing by both Parties.

35. TERMINATION PRIVILEGE

The ADOC reserves the right to terminate this contract upon thirty (30) days written notice to the Contractor.

36. ECONOMIC BOYCOTT

In compliance with Ala. Act No.2023-409, by signing this contract, Contractor provides written verification that Contractor, without violating controlling law or regulation, does not and will not, during the term of the contact engage in economic boycotts as the term “economic boycott” is defined in Section 1 of the Act.

Signature Page to Follow.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the date of their respective acknowledgments thereto.

APPROVALS:

LESSOR:

LESSEE:

ALABAMA DEPARTMENT OF CORRECTIONS

BY: _____
John Q. Hamm, Commissioner

BY: _____

APPROVED AS TO LEGAL FORM

APPROVED:

ATTEST:

Kay Ivey
Governor of Alabama

Wes Allen
Secretary of State

EXHIBIT A

The tracts of land (Premises) upon which mining will be permitted are more particularly described as follows:

Parcel A - A tract of land depicted in aerial map below (Exhibit B) and lying in the SW $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 33 Township 19 North Range 17 East, the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ and the East $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 4 Township 18 North Range 17 East, the SW $\frac{1}{2}$ of the NW $\frac{1}{4}$ and the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 3 Township 18 North Range 17 East. Excepting established and recognized rights-of-way, Parcel A consists of 364 acres more or less.

Parcel B - All that unexcavated land lying between and due North of two points lying along a diagonal line running between the center of Section 33 Township 19 North Range 17 East and the SE corner of Section 33; the first point lying 1,280' from the center of Section 33, and the second point lying 3,590' from the center of Section 33. Said parcel is also depicted in Exhibit B and consists of 39 acres, more or less.

EXHIBIT B

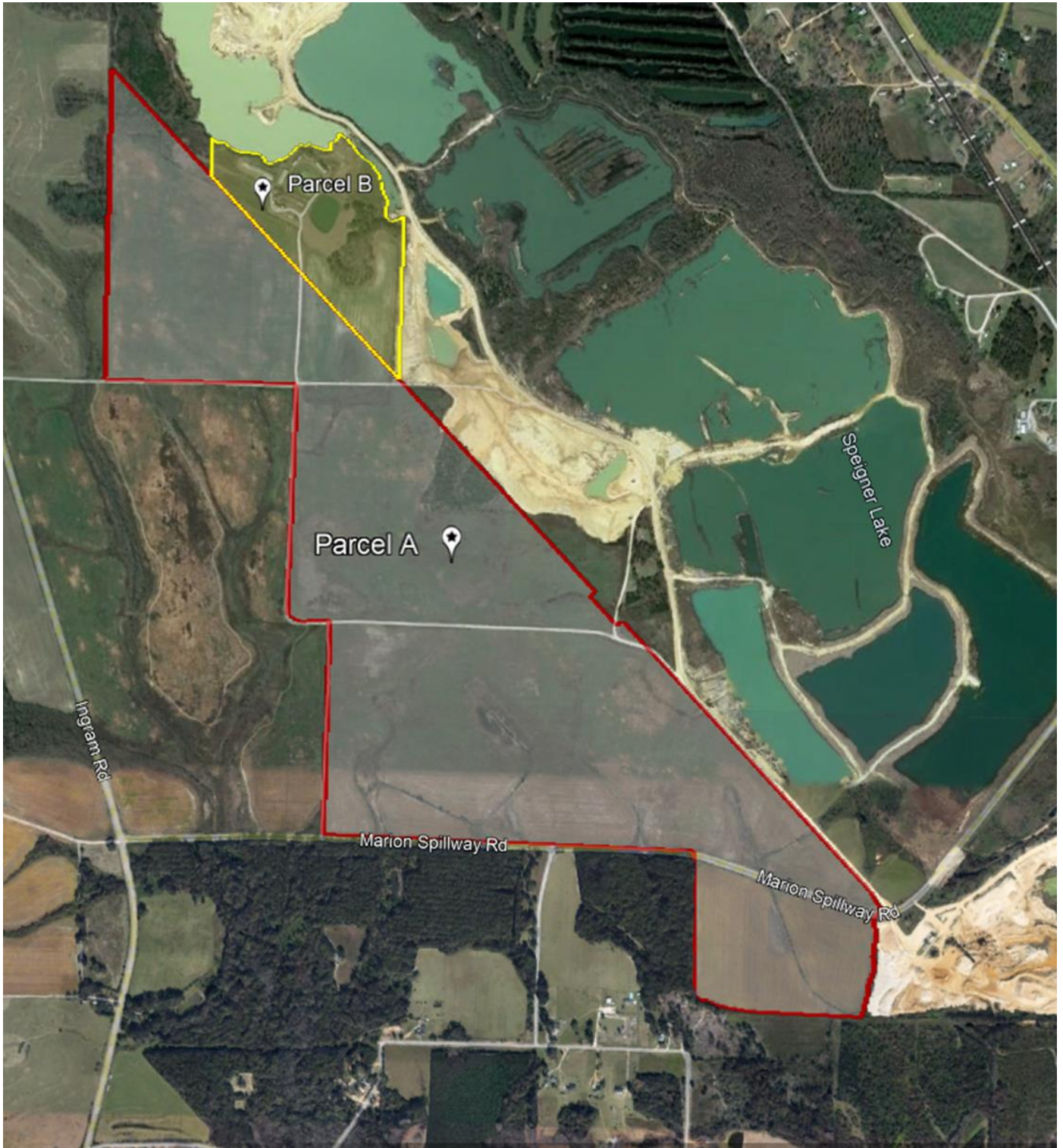


EXHIBIT C

MONTHLY ROYALTY REPORT

Month of _____, _____

Gravel

Gravel Mined _____ x \$ _____ = \$ _____
[tons] [royalty] [calculated gravel royalty]

Sand

Sand Mined _____ x \$ _____ = \$ _____
[tons] [royalty] [calculated sand royalty]

Total Owed

_____ + _____ = _____
[gravel royalty owed] [sand royalty owed] [total owed]

Gravel and Sand royalty calculated due for this month as per Lease: \$ _____

Minimum Royalty is \$3,000

Royalty owed (the larger of calculated versus minimum royalty): \$ _____

Date Submitted: _____

For Lessee: _____
[Signature]