

PRELIMINARY DRAFT

**MINING AGREEMENT BETWEEN THE TOWN OF HOWARD AND
NORTHERN SANDS WISCONSIN, LLC**

RECITALS

A. This Mining Agreement (“**Agreement**”) is by and between Northern Sands Wisconsin, LLC (“**NSW**”), and the Town of Howard, Wisconsin (“**Town**”), with an effective date of _____, 2018 (“**Effective Date**”). NSW and the Town are sometimes referred to individually as a “party” and collectively as the “parties.”

B. As used herein, the term “**Property**” refers to those certain parcels of land located in Chippewa County, Wisconsin and legally described on Exhibit A attached hereto.

C. NSW represents that it owns, leases, or has contractual rights over all of the land comprising the Property.

D. This Agreement is conditioned on NSW’s adherence to the plans, requirements, and obligations related to this project as described in the Non-Metallic Mining Reclamation Plan initially submitted by the predecessor in interest of NSW to Chippewa County in January of 2015, as supplemented and modified on November 17, 2015 (the “**Reclamation Plan**”), the County Nonmetallic Mining Reclamation Permit issued on November 18, 2015 to the predecessor in interest to NSW and transferred to NSW on May 18, 2018 (the “**Reclamation Permit**”), and the Nonmetallic Mine Operator’s License Application submitted to the Town on May 24, 2018, which includes any additional submittals from NSW to the Town or its consultants, SCS Engineers, between May 24, 2018, and the effective date of this Agreement (the “**License Application**”).

E. NSW desires certain approvals under, exceptions from, and modifications of the requirements of Chapter 17 of the Town’s code of ordinances, titled “Nonmetallic Mine Operators Licenses” (the “**Mine Ordinance**”), Chapter 15 of the Town’s code of ordinances, titled “The Town of Howard Blasting Ordinance” (the “**Blasting Ordinance**”), and Chapter 22 of the Town’s code of ordinances, titled “Nonmetallic Mine Exploration Licenses” (the “**Exploration Ordinance**”) by entering into this Agreement with the Town in accordance with Section 17.14 of the Mine Ordinance. The Town is willing to grant such approvals, exceptions, and modifications under the conditions set forth below.

F. The Town has reviewed the proposed NSW operation as set forth in the Reclamation Plan, the Reclamation Permit, and the License Application. The Town finds that the application requirements in the Mine Ordinance under Sections 17.05, 17.06, and 17.14 (3) are satisfied by the License Application. Pursuant to Section 17.14 of the Mine Ordinance, the Town finds that the alternative standards, requirements, levels of review, monitoring, and compliance mechanisms and measures to mitigate or compensate for impacts set forth in this Agreement will provide protections for the public equal or greater to the protections for the public under the Mine Ordinance.

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G. The Approval granted under this Agreement shall run for the term of this Agreement set forth in Section 3.2, and shall be subject to compliance by NSW with the terms of this Agreement and the provisions that remain applicable to this operation in the Mine Ordinance, the Exploration Ordinance, and the Blasting Ordinance.

H. The obligations of NSW and the Town's rights under this Agreement shall survive termination of the Agreement.

I. Capitalized terms not specifically defined in this Agreement shall have the meaning defined in the Mine Ordinance, the Exploration Ordinance, and the Blasting Ordinance.

AGREEMENT

THEREFORE, NSW and the Town agree as follows:

1. Approval

1.1 This Agreement is issued pursuant to Section 17.14 of the Mine Ordinance and grants and constitutes an approval ("**Approval**") authorizing NSW to conduct nonmetallic mining operations on the Property under the terms and conditions set forth herein.

1.2 This Agreement modifies certain provisions of the Mine Ordinance, the Exploration Ordinance, and the Blasting Ordinance. **Any sections of the Mine Ordinance, Exploration Ordinance, or Blasting Ordinance not specifically modified by this Agreement remain in effect and applicable under this Approval.** To the extent of any conflict between the terms of this Agreement and the Town's code of ordinances and other applicable laws that fall under the jurisdiction of the Town, whether in effect on the Effective Date or subsequently enacted, the parties agree that NSW's rights under this Agreement shall supersede such ordinances and laws and continue in effect for the duration of this Agreement.

1.3 If NSW seeks to expand the mine site that is subject to this Approval to include additional property that is contiguous to the mine site, and the Town does not determine that the reasonably expected impacts associated with the proposed expansion area or associated with any proposal to expand the scale of operations are materially different from concerns addressed in this Approval for the Property, the Town shall approve the proposed expansion as a simple license amendment. If this Approval is amended to allow for such an expansion, all of the terms of this Agreement, including the property value guarantee under Section 7 and applicable provisions of the Town's code of ordinances, apply to the expansion area in the same manner as they apply to the previously-approved Property.

2. Town Costs

2.1 NSW agrees to pay the Town's costs during the term of this Agreement for reasonable staff time and retained experts and legal services to review reports submitted by NSW, assess issues that arise relating to the project, inspect the Property, evaluate compliance by NSW and enforce the terms of this Agreement and the applicable provisions of the Town ordinances, and report from time to time to the Town Board regarding these matters. Such costs

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shall be payable by NSW within 30 days of receipt of an invoice by NSW from the Town. The Town and NSW shall use best efforts to reach agreement on the people or firms retained to provide retained expert services and legal services to the Town under this section, to ensure that costs charged to NSW are reasonable, to ensure that the work performed is only conducted for the specific purposes for which these services may be retained under this section, and to ensure that the work is performed by people or firms that have the knowledge, skill, and expertise to perform the work in a cost-effective manner. If the Town and NSW cannot agree on the people or firms that will provide retained expert services, NSW shall not be required to pay more than \$20,000 annually under this section for these services.

3. Term

3.1 The term of this Agreement shall commence on the Effective Date.

3.2 Notwithstanding Section 17.04 (2) of the Mine Ordinance and subject to Section 3.3, the term of this Agreement shall end on the date NSW has notified the Town that it has completed all nonmetallic mining operations at the Mine Site governed by this Agreement, including reclamation, and provides the Town with evidence that Chippewa County has determined that reclamation is complete.

3.3 The term of this Agreement is subject to compliance by NSW with the requirements and conditions in this Agreement and the applicable provisions of the Town ordinances. Nothing in this Agreement should be interpreted as a limitation of the authority of the Town to revoke the license for violations of this Agreement or applicable provisions of the Town ordinances by NSW, including, without limitation, revocation of the license because operations have been abandoned pursuant to Section 17.09 (5) of the Mine Ordinance.

4. Hours of Operation

4.1 Notwithstanding Section 17.07 (2) (e) of the Mine Ordinance, NSW will be allowed, without limit on hours of operation, to conduct material processing at its processing facility located in Phase 1 of its operation as described in and depicted in maps submitted with the License Application.

4.2 Notwithstanding Section 17.07 (2) (e) of the Mine Ordinance, equipment maintenance and repair may be conducted without limit on hours of operation.

4.3 Notwithstanding Section 17.07 (2) (e) of the Mine Ordinance, NSW must use reasonable efforts to conduct transload operations, including loading, connecting, and moving railcars, only during daylight hours. Transload operations may only be conducted at times other than during daylight hours if the reasons for such operations are reasonably outside of the control of NSW, and only to the extent such operations must occur at these times.

5. Use of Town Highways

Pursuant to Section 17.10 (1) of the Mine Ordinance and Wis. Stat. §. 349.16 (1) (c), the parties agree to the following:

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5.1 Use of Town highways by vehicles with a gross vehicle weight rating of no more than 48,000 pounds is not restricted by this Agreement. No use of town highways by NSW or their agents, contractors, and employees by vehicles with a gross vehicle weight rating of more than 48,000 pounds is allowed except as specifically provided in this Agreement.

5.2 NSW will upgrade the highway segments in Sections 5.3 and 5.4 of this Agreement to the “Class A” standard at soon as is practicable, but no later than 6 months after beginning site preparation or construction of the processing facility, and maintain these highway segments in good repair during the term of the Agreement. At the time that the Agreement expires, NSW will leave these highway segments in new or equivalent condition and meeting a roadway class standard at least as high as the standard to which the road that exists on the Effective Date was built. NSW will coordinate with the Town regarding highway maintenance projects with respect to the scope of the work to be conducted, any required temporary highway closures, and other matters of public safety.

5.3 NSW may utilize the portion of Frazier Rd./13th St. from its intersection with County Highway N south and southeast to the primary and secondary access points into the processing area on the mine site for transporting equipment and construction materials to the processing site. The Town imposes no weight limits and waives any applicable vehicle weight permit requirement related to these transportation activities.

5.4 Subject to Section 5.6, NSW may utilize the portions of Frazier Rd./13th St. and Scenic Rd./20th St. proximate to where material will be conveyed over or under these highways from the proposed excavation area in Phase 1 to the processing facility and from the proposed excavation area in Phase 3 to Phase 2 to locate conveyance systems and to cross the highways at these locations with equipment or other vehicle traffic.

5.5 The Town waives any applicable road access and driveway permit requirements for the highway segments in Sections 5.3 and 5.4.

5.6 Prior to constructing conveyance systems over or under the highway segments in Section 5.4, NSW must provide specific details to the Town about the proposed conveyance systems to be used, a plan for construction, repair, and maintenance of those systems, including timing of any necessary road closures, and a public safety plan for vehicles and other equipment crossing these highways at these locations. Construction of these conveyance systems may not commence until the Town has approved these details and plans. Approval may not be unreasonably withheld by the Town.

5.7 If the highway segments in Sections 5.3 and 5.4 are temporarily unusable to NSW, including because of maintenance being conducted on these segments, or NSW experiences a disruption of rail service to transport material from the mine site, the Town will authorize use of alternate Town highway segments as necessary for NSW to conduct its operations pursuant to a subsequent agreement between the Town and NSW regarding maintenance costs and other relevant factors associated with the use of the alternate Town highway segments.

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5.8 The Town will continue to perform snow and ice removal and roadside mowing in the manner and on a schedule similar to the manner in which it has conducted these activities prior to the Effective Date. If NSW desires that these activities be conducted at a different time or more regularly, NSW may engage in those activities at its own cost, and in a manner not inconsistent with or detrimental to the Town's activities.

5.9 The Town will notify NSW if the Town concludes that maintenance that is the responsibility of NSW under this Agreement must be completed. If NSW fails to complete its required maintenance following notification by the Town, the Town will cause the maintenance to be conducted and charge those costs to NSW. If NSW does not pay these costs, the Town may recoup its costs in performing the maintenance under the financial assurance provision noted below, or may terminate the Approval.

5.10 The Town reserves the right to change the speed limit on the highways in Sections 5.3 and 5.4 to protect public safety.

5.11 NSW will make reasonable efforts to keep the highways in Sections 5.3 and 5.4 and any other highways maintained by another jurisdiction and used for mining-related purposes clean and clear of dust, sand, or other debris, and free from mud tracked onto these highway segments from operations areas.

5.12 NSW is specifically required by this Agreement to maintain the portion of Frazier Rd./13th St. that is within the railroad right of way if any part of this portion of the highway is not maintained by the railroad. NSW will conduct the work requested by the Town. Any such requested work is conditioned on the railroad approving the proposed activities.

5.13 NSW will pay for and construct any railroad crossing safety upgrades on Frazier Rd./13th St. that may be required of the Town pursuant to a county, state, or federal requirement during the term of this Agreement.

6. Mining Setbacks

6.1 Notwithstanding Section 17.07 (1) (f) of the Mine Ordinance, NSW is authorized to conduct mining activities closer than 800 feet from a residence if one of the following two conditions are met:

6.1.1 NSW obtains the approval of the owner of the residence to conduct nonmetallic mining activities closer to the residence (such as through a private agreement with the owner of the residence) and supplies the Town with information regarding such consent, OR

6.1.2 All of the following are met:

a. Nonmetallic mining does not occur within 400 feet of the residence.

b. A Payment is made to the owner of the residence for each year in which there is any nonmetallic mining activity, including reclamation, between 800 and 400 feet

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from the residence (the “Reduced Setback Area”). The payment amount is equal to the average full annual property tax bill for residential properties in the Town for that year (including all county, school district, technical college district, and town taxes). These payments shall be delivered within 90 days of commencement of activities in a Reduced Setback Area.

c. Nonmetallic mining activities, including the backfilling, regrading, and initial stabilization and establishment of vegetative cover required for reclamation, must be completed within 2 years after the commencement of these activities within a Reduced Setback Area. Activities necessary to correct issues that arise with reclamation and activities necessary to maintain compliance with reclamation requirements are allowed within the Reduced Setback Area at times outside of this 2-year period, without additional payment requirements.

7. Property Value Guarantee

7.1 NSW hereby grants certain residential property owners the property value guarantee set forth in the attached Exhibit B. To the extent any payment obligations arise under the property value guarantee prior to termination of this Agreement, such obligations shall survive this Agreement.

7.2 The property owners of property subject to the property value guarantee are third party beneficiaries of this Agreement as it pertains to the property value guarantee.

8. Exploration

8.1 Beginning on the Effective Date, NSW is issued an exploration license for use on the Property and other property in the Town for which NSW has or obtains rights to conduct exploration.

8.2 Notwithstanding Section 22.05 of the Exploration Ordinance, the term of NSW’s exploration license is same as the term of this Agreement as provided under Section 3.2.

8.3 NSW is not required to pay an application fee for the exploration license.

8.4 Prior to the first time that NSW conducts exploration activities under this license, NSW must submit to the Town the information required under Section 22.04 of the Exploration Ordinance.

8.5 All exploration activities conducted under this license are subject to the requirements of the Exploration Ordinance and other applicable Town ordinances, except as expressly provided in this Agreement.

9. Blasting

9.1 Beginning on the Effective Date, NSW is issued a blasting permit for use on the Property.

9.2 Notwithstanding Section 17.17 of the Blasting Ordinance, the term of NSW’s blasting permit is same as the term of this Agreement as provided under Section 3.2.

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9.3 Notwithstanding Section 15.17 of the Blasting Ordinance, NSW is not required to pay an application fee for the blasting permit.

9.4 Prior to the first time that NSW conducts blasting activities, NSW must submit to the Town the information required under Section 15.06 of the Blasting Ordinance and conduct pre-blasting surveys as required under Section 15.07 of the Blasting Ordinance. No blasting may occur unless a pre-blasting survey has been conducted within the five years preceding the blasting activity.

9.5 Blasting may only occur between the hours of 10:00 a.m. and 3:00 p.m., and only on weekdays, except that blasting may occur after 3:00 p.m. or on weekends if required for safety reasons beyond the reasonable control of NSW and its contractors.

9.6 All blasting activities conducted under this permit are subject to the requirements of the Blasting Ordinance and other applicable Town ordinances, except as expressly provided in this Agreement.

10. Other Requirements

10.1 Reclamation Materials Testing. Permit Condition 10. a. (i) in the Reclamation Permit applies to reject materials generated at on-site processing facilities.

10.2 Stockpile Management. Notwithstanding Section 17.07 (2) (j) of the Mine Ordinance, NSW is authorized to maintain unenclosed stockpiles of unprocessed and partially-processed materials and waste materials in the processing area of the mine site provided that NSW maintains substantial compliance with applicable restrictions related to air quality imposed under state law, the Mine Ordinance, and this Agreement, and provided that unenclosed stockpile height does not exceed 50 feet above the original grade.

10.3 Processing Payments. Owners of a land parcel located at least in part within ½ mile of the processing facility complex, on which is located a residence, including properties in the Town or the Town of Colfax, shall be paid an annual "processing payment" from NSW equal to the average full annual property tax bill for residential properties in the Town for the preceding year (including all county, school district, technical college district, and town taxes). These payments are first due on January 1 following the year in which the first product is shipped from the mine site and shall be made on or before January 1 of each year thereafter for which any processing or transload activities occur at the processing facility complex in the previous year. This provision does not apply to residential property owned by or leased by NSW. This provision does not apply to a residential property owned by someone who was not the owner of record of the residential property on the effective date of this Agreement. "Owner of record" includes immediate family members and trusts, limited liability companies, and other entities wholly owned by or providing benefit solely to the Owners of record and their immediate family members.

The footprint of the processing facility complex will be defined by the final engineering layout as prescribed by the WDNR stormwater application. This will be limited to property owned or leased by NSW and will not include CN ROW, stormwater ponds, screening berms or other set

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back buffers. As plant configuration changes with time, the footprint of the processing facility complex may change with DNR-approved changes to the engineering of the complex stormwater site layout.

10.4 **Berm Height.** Under Section 17.07 (2) (d) of the Mine Ordinance, NSW shall construct berms that block the view of its excavation and processing operations up to the eave height of each residence within ¼ mile of the boundary of the mine site, from which these operations could otherwise be viewed.

10.5 **Conveyor Management.** NSW shall provide sides and covers for overland conveyor systems and a material collection system under the portions of conveyors that cross roadways to limit the amount of material blown off of conveyors and the amount of material deposited on roadways.

10.6 **Initial Well Testing.** Prior to the commencement of nonmetallic mining operations, the operator shall sample all private wells within ½ mile of the mine site. The wells shall be sampled for the potential contaminants listed in Section 17.07 (3) (a) (i) of the Mine Ordinance. Future testing of sentinel and private wells shall be conducted in conjunction with Section 17.07 (3) (a) (i) of the Mine Ordinance and the Chippewa County Reclamation Plan.

10.7 Initial Planning and Reporting

10.7.1 NSW shall submit to the Town plans for each of the following for each phase of the mining operation and the processing facilities, as applicable, before commencing extraction operations at a phase of the mining operations or commencing processing activities at the processing facilities:

- a. The design and installation of surface water management systems.
- b. The design of process flow and conveyance systems.
- c. The design of berms for screening of operations.
- d. The design of berms for control of lighting.
- e. A dust control plan and contingency plan describing the best management practices (BMPs) that will be employed if limits are exceeded.

10.7.2 NSW shall submit to the Town a plan, prepared under the supervision of a Professional Geologist who is a hydrogeologist, for groundwater monitoring and well installation that describes each of the following:

- a. Methods that will be used to determine the depth to groundwater/water table during the term of the mining operations.
- b. The directions of groundwater flow including the vertical components of flow in the area of the mine.
- c. Methods for evaluating groundwater quality in the sandstone unit being mined and in the aquifer being used for water supply.

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d. Procedure to be used to define the position of the groundwater divide.

10.7.3 To the extent that the following information is available or obtainable and not withheld as a trade secret, as defined under Wis. Stat. § 134.90, it shall be included in the report required under this provision:

a. Documentation for all wells installed by NSW, including well construction diagrams, well development forms, and basic geologic boring logs.

b. The placement of existing monitoring wells used to determine the evaluation of groundwater impacts from the mining activities, identifying which wells are up gradient and which wells are down gradient of areas to be excavated and sand processing areas.

c. Maps showing the groundwater contour, elevations of springs, seepage areas, streams, and intermittent streams, and surface topography, along with the location of areas to be excavated, areas in which processing activities will be conducted, and private wells.

d. Geologic cross-sections showing major geologic units, monitoring well locations and screened intervals, the position of the water table, the location of nearby private wells and their construction, the proposed limits of excavation, and the location of areas in which processing activities will be conducted. Show on a map the locations of these cross sections along with the location of areas to be excavated, the process areas, and private wells.

e. Proposed locations of wells to determine the depth to groundwater/water table in areas to be mined.

f. The location of any piezometers that are proposed to be installed adjacent to water table wells in areas to be mined.

g. Proposed locations for all water table sentinel wells.

h. Tabulated information on groundwater elevation and depth to groundwater for the seven installed monitoring wells, collected following their installation, and an explanation of observed trends in groundwater fluctuations.

i. Tabulated groundwater quality data from all monitoring wells and a description of general water quality.

j. Well construction forms, if available, for private wells within 200 feet of the mine site, and a discussion of the geologic units used as the local aquifer.

10.7.4 NSW shall submit a report to the Town on the implementation of the plan required in the previous section, for each phase of the mine operation, which shall include a groundwater monitoring report documenting the work.

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10.7.5 Upon request by the Town at any time, NSW shall provide to the Town revised maps and figures and other information consistent with the Mine Ordinance, as determined necessary by the Town.

10.7.6 Prior to commencement of any mining or construction activity, Certified Survey Maps for the properties in the mine site shall be provided to the Town.

11. Financial Assurance

11.1 Before beginning activities at the Mine Site, NSW will provide the Town with, and thereafter maintain, financial assurance in an amount sufficient to cover the cost of complete replacement of the highway segments under Sections 5.3 and 5.4 of this Agreement. The initial amount and form of this financial assurance will be established by agreement between the Town and NSW. The required amount of this financial assurance may change over the life of the mining operation, at the Town's discretion, and the amount of this financial assurance must be modified by NSW upon notification from the Town that modification is necessary.

11.2 NSW shall maintain commercial general liability insurance in the amount of no less than \$5,000,000 during the entire term of this Agreement and shall name the Town as an additional insured. The amount of commercial general liability insurance required to be maintained by NSW may be increased from time to time due to inflation, upon notice to NSW from the Town.

12. Compliance and Reporting

12.1 NSW shall at all times comply with all federal, state, county, and local laws, regulations, and ordinances applicable to NSW's operations on the Property which are in effect or which may become effective in the future.

12.2 In addition to any reporting required under the Town code of ordinances, NSW shall provide the Town with copies of all permits or licenses and all related application materials and reports submitted by or on behalf of NSW to county, state, or federal authorities and all documents and other materials provided to NSW by county, state, or federal authorities.

13. Indemnification

13.1 NSW will indemnify the Town against any claims that arise from the activities of NSW under this agreement or which are conducted on behalf of NSW by the Town under this agreement.

14. Violations

14.1 Upon notice from the Town and the passage of ten business days following such notice, during which NSW may cure the deficiency described in the notice, failure by NSW to maintain financial assurance as required under this Agreement or failure by NSW to fulfill its other responsibilities and obligations under this Agreement and applicable provisions of the Town code of ordinances will constitute a violation of this Approval subject to the procedures

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and remedies under Section 17.09 of the Mine Ordinance and other applicable provisions of the Town code of ordinances.

15. Warranties

15.1 NSW warrants that the owners of the Property have authorized NSW to engage in nonmetallic mining on the Property and to enter into this Agreement.

15.2 NSW warrants that NSW has full right and authority to enter into this Agreement.

15.3 The obligations of NSW under this Agreement shall be binding on NSW and its successors and assigns.

15.4 The Town may record this Agreement or a memorandum of this Agreement with the Register of Deeds, with respect to the Property and any property subject to the property value guarantee under Section 7. The cost of recording shall be paid by NSW.

16. Termination of Agreement.

16.1 This Agreement may be terminated by the Town (i) when, after inspection, monitoring or analysis, the Town determines that NSW is in violation of federal, state or local laws, or the Town code of ordinances, or (ii) NSW has otherwise defaulted under the terms and provisions of this Agreement. Termination of this Agreement constitutes termination of the Approval, the exploration license, and the blasting permit.

17. Miscellaneous Provisions

17.1 All parties participated in negotiating the terms of this Agreement. Neither party shall benefit from not having drafted this Agreement. If any term, section or other portion of this Agreement is reviewed by an administrative agency, court, mediator, arbitrator or other judicial or quasi-judicial entity, such entity shall treat this Agreement as having been jointly drafted by the parties.

17.2 No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor will it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the Town and NSW, nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement shall not constitute approval of any breach of this Agreement or wrongful act by NSW.

17.3 Any notice required or permitted by this Agreement, except the notice required under the property value guarantee under Section 7, shall be deemed effective when personally delivered in writing, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, and addressed as follows:

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If to NSW: Robert F Koth
 6650 University Ave.
 Middleton, Wi. 53562

If to the Town: Town Clerk, Town of Howard
 4052 Co. Hwy B
 Colfax, WI 54730

Any party may change the address to which notices must be sent by giving notices as provided herein.

17.4 This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. All disputes arising under this Agreement shall be venued in a Wisconsin court of competent jurisdiction.

17.5 No changes, amendments, alterations or modifications to this Agreement shall be effective unless in writing and signed by both parties and, if required, upon approval by competent governing authorities of each party following notice and opportunity for hearing.

17.6 This Agreement is entered into by the parties for the purposes of approving the conducting by NSW of nonmetallic mining operations on the Property. NSW may not voluntarily assign or transfer its rights and obligations under this Agreement to any entity that succeeds, in whole or in part, to NSW's interest in the Property, without the prior written consent of the Town, and provided: (i) the Property will continue to be used for mining activities, (ii) that the assignee assumes in writing the obligations of NSW pursuant to this Agreement, and (iii) the assignee provides reasonable proof that the assignee has the ability to discharge its monetary obligations under this Agreement. In the event NSW transfers its rights and obligations for a purpose other than nonmetallic mining, or if a transfer is made without Town approval or involuntarily, this Agreement and the Approval are terminated.

17.7 NSW shall at all times have a designated agent, whose name, email address, and telephone numbers are made known to the Town Clerk, and who is available to respond to questions.

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EXHIBIT A

NSW Property

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EXHIBIT B

Property Value Guarantee

NSW will provide a property value guarantee (PVG) to any owner of a land parcel located at least in part within ¼ mile of the Property, or within ¼ mile of any additional parcels added to the mine site under Section 1.3 of this Agreement, on which is located a residence (Owner), subject to the following terms:

1. Eligibility will begin 6 months after the issuance of the nonmetallic mining license to NSW by the Town. Eligibility ceases at the end of the term of this Agreement under Section 3.2.
2. In any year, the NSW allocation to PVGs may not be required to exceed \$750,000. If more than \$750,000 in PVG payments accrue in a year, the payments will be accommodated on a "first in" basis and payments to Owners who do not receive payment in the year in which the right to the payment accrues carry over to the following year in the same order as the right to payment accrues. NSW may elect to allocate more than \$750,000 to PVG payments in calendar year at its sole discretion.
3. Owners desiring to avail themselves of this PVG shall notify NSW of that fact (Intent to Sell Notice) during the eligibility period under this PVG program. An Intent to Sell Notice shall be provided to NSW as follows:

Robert F Koth
6650 University Ave.
Middleton, Wi. 53562

4. Owner and NSW shall agree on a Wisconsin licensed real estate appraiser with demonstrated experience in appraising properties impacted by their proximity to industrial activities such as frac sand mining. If agreement cannot be reached, NSW shall ask the Town to identify an experienced appraiser to perform this function.
5. Appraiser shall provide Owner and NSW with an appraisal of the fair market value of the parcel, assuming NSW's development did not exist (FMV). Appraiser's fee will be paid by NSW.
6. Owner shall enter into a listing contract with a real estate broker licensed in the State of Wisconsin ("Broker"). The listing contract shall exclude NSW as a potential buyer so that if NSW purchases the property no commissions shall be paid to the Broker.
7. To be eligible for a PVG payment, the property must be listed for sale at the FMV identified by the appraiser above, or a different price by agreement of NSW and the property Owner, for at least 180 consecutive days (the "Sale Period") unless a shorter listing timeline results because NSW directs the Owner to accept an offer as provided below. During the Sale Period, the real estate broker must market the property in a

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manner at least consistent with standard industry practices. The Sale Period must begin within 90 days of the date of the appraisal.

8. In the manner described in Section 3 of this property value guarantee, the Owner or the Broker shall provide NSW with a copy of each offer submitted on the property, and shall do so within ½ of the amount of time provided under the offer for the Owner to accept the offer. NSW shall have the option to require the Owner to accept any offer submitted during the Sale Period, and if so required, the Owner must accept the offer or the Owner's eligibility under this PVG program is terminated.
9. If an offer required by NSW to be accepted by an Owner as provided above also is contingent upon the transfer of specified personal property or fixtures that typically do not transfer as part of real estate sales for the type of property being sold, the value of the property or fixtures shall be included along with the FMV identified above for purposes of determining any payment made by NSW to the Owner.
10. An Owner is not eligible for a PVG payment if the Owner accepts any offer during the Sale Period other than an offer the Owner is directed to accept by NSW or if the accepted offer equals or exceeds the FMV for the parcel plus \$15,000.
11. Subject to the exception in Section 12 of this property value guarantee, if NSW does not direct the Owner to accept an offer during the Sale Period, or if sale under an offer accepted at the direction of NSW does not close despite reasonable efforts by the Owner to complete the sale, regardless of reason, within 120 days of the end of the Sale Period, NSW must purchase the parcel at FMV, plus \$15,000, minus any realtor's commission.
12. As an alternative to purchasing the property under the previous section, NSW may opt to pay 50% of the FMV of the property to the Owner, excluding any realtor commission, if NSW identifies significant contamination on the property, submits information to the Town about the contamination, and the Town determines that significant contamination is present on the property. Under this option, the property remains under the ownership of the Owner and the property is no longer eligible under this PVG program, subject to the recording requirements in Section 17 of this property value guarantee.
13. If NSW directs the Owner to accept an offer during the Sale Period, the sale of the property closes, and the selling price is less than FMV, plus \$15,000, NSW shall pay to the Owner the difference between the selling price and FMV, plus \$15,000, less the realtor's commission that would have been payable on that difference. NSW shall make payment within 30 days of the closing.
14. If the Owner elects to take the property off the real estate market during the Sale Period, the Owner's eligibility for a PVG payment related to that Sale Period ends and the Owner may not submit a subsequent Notice of Intent to Sell to NSW for three years following the date that the property was taken off the market.

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15. If NSW elects to or is required to purchase the property, it may hold the parcel for mine buffer, develop the parcel for mine expansion subject to approval of a revised reclamation plan by Chippewa County and approval by the Town, or otherwise liquidate.
16. Subject to Sections 17 and 18 of this property value guarantee, this property value guarantee shall apply only once for each identified parcel, and shall only apply to the Owners of record on the Effective Date. For purposes of this provision, “Owner of record” includes immediate family members and trusts, limited liability companies, and other entities wholly owned by or providing benefit solely to the Owners of record and their immediate family members.
17. The limitation in Section 16 of this property value guarantee does not apply to a property that is transferred pursuant to this property value guarantee unless NSW causes information to be recorded with the Register of Deeds for Chippewa County or Dunn County stating that the property is no longer eligible for this property value guarantee. A property shall not be considered to have been transferred pursuant to this property value guarantee if the Owner accepts an offer that meets or exceeds the FMV for the parcel plus \$15,000 under Section 10 of this property value guarantee, or if a property is transferred without the Owner availing himself or herself of this property value guarantee.
18. If this Agreement is amended to add additional property to the mine site pursuant to Section 1.3 of this Agreement, each property located at least in part within ¼ mile of the expansion area, on which is located a residence, is eligible under this property value guarantee regardless of whether the property value guarantee has already been applied to the property by virtue of its proximity to the original or previously-expanded mine site and regardless of whether the Owner of the property was not the Owner of record on the Effective Date of this Agreement or the effective date of a previous amendment to the mine site. For these properties, Section 16 of this property value guarantee applies to Owners of record on the effective date of the Agreement amendment and the property is only eligible for the property value guarantee once following that date.
19. Property which is for sale on the Effective Date shall not be eligible for this PVG unless the Intent to Sell Notice is provided to NSW no less than three years after that Effective Date.