

OPERATIONS AGREEMENT

This Operations Agreement (“Agreement”) is made this 1st day of April, 2013 (the “Effective Date”) by and between **Great Northern Sand LLC**, a Wisconsin limited liability company (“Great Northern”), and the **Town of Dovre**, a Wisconsin municipal corporation located in Barron County, Wisconsin (the “Town”).

W I T N E S E T H:

WHEREAS, Great Northern has developed and operates silica sand mining and processing facilities in the Town; and

WHEREAS, the Town adopted a nonmetallic mining ordinance effective on December 19, 2012 (the “Ordinance”) which provides that operators of silica sand mining and processing facilities in the Town may, in lieu of obtaining a license and otherwise being subject to the terms and conditions of the Ordinance, enter into an operations agreement with the Town which governs such activities; and

WHEREAS, Great Northern and the Town wish to enter into such an agreement and, after negotiations, have agreed on the terms and conditions of such an agreement; and

WHEREAS, Great Northern desires to maintain and foster a good working relationship with the Town and believes that entering into such an agreement promotes those desires; and

WHEREAS, the Town has determined that the terms and conditions of this Agreement promote the public interest.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual commitments made herein, the parties agree as follows:

ARTICLE 1 - SCOPE

This Agreement is an Operations Agreement as defined in the Ordinance. This Agreement applies to all of Great Northern’s Nonmetallic Mining Operations in the Town. The legal descriptions of the parcels now subject to this Agreement are set forth on Exhibit 1 attached hereto. Great Northern shall provide the Town with the legal descriptions of any additional lands that become subject to this Agreement.

ARTICLE 2 - TERM

The Initial Term of this Agreement shall commence on the Effective Date and shall continue until the earlier of: (a) the date Great Northern has notified the Town that it has completed all Nonmetallic Mining Operations in the Town; or (b) twenty five (25) years after the Effective Date. Unless Great Northern provides the Town with written notice of termination not less than ninety (90) days prior to the end of the Initial Term, the term of this Agreement shall automatically renew for an additional term (the “Renewal Term”) which shall commence on at

the end of the Initial Term and which shall continue until the earlier of: (a) the date Great Northern has notified the Town that it has completed all Nonmetallic Mining Operations in the Town; or (b) twenty five (25) years after the commencement date of the Renewal Term.

ARTICLE 3 - PAYMENTS TO TOWN

Section 3.1 General Provisions. Great Northern agrees to make annual royalty payments to the Town commencing January 1, 2014. The amount of each royalty payment shall be calculated based on the number of tons of sand dried, processed, loaded, and shipped from Great Northern's dry plant in the Town in the previous calendar year multiplied by \$.10/ton (example: 1,000,000 tons per year x ._____ = \$_____). Commencing on January 1, 2019, and continuing each and every fifth (5th) year thereafter, the Royalty shall be increased by \$0.015 as follows:

<u>Period</u>	<u>Royalty Amount</u>
1. 01/01/2019 - 12/31/2023	\$0.115
2. 01/01/2024 - 12/31/2028	\$0.13
3. 01/01/2029 - 12/31/2033	\$0.145
4. 01/01/2034 - 12/31/2038	\$0.16

[5-9 assumes extension of agreement term]

5. 01/01/2039 – 12/31/2043	\$0.175
6. 01/01/2044 – 12/31/2048	\$0.19
7. 01/01/2049 – 12/31/2053	\$0.205
8. 01/01/2054 – 12/31/2058	\$0.22
9. 01/01/2059 – 12/31/2063	\$0.235

The weight of the sand for the purposes of this Royalty payment shall be measured after completion of the drying process at the Mine Site.

Section 3.2 Weight Calculations; Records. Great Northern agrees that all sand shall be weighed before it is transported away from Great Northern's Mine Site and that weight slips shall be prepared and kept by it for a period of three (3) years and shall be provided to the Town after the end of each calendar month of operation.

Section 3.3 Due Date for Royalty Payments. Each royalty payment shall be made on an annual basis, no later than January 31st next following each calendar year or part thereof subject to this Agreement.

ARTICLE 4 - IMPACTS ON ADJOINING LANDOWNER'S PROPERTY VALUES

Section 4.1 Term. For a period of five (5) years from December 19, 2012 (the effective date of the Ordinance) as to lands now constituting Adjoining Property or five years from the date of approval of a Reclamation Plan as to lands that become Adjoining Property after the date of this

Agreement, Great Northern shall provide a Property Value Guarantee as set forth in this Article. Each owner of Adjoining Property who wishes to participate in the Property Value Guarantee shall sign up with the Town Clerk and provide written notice to Great Northern of the owner's election to participation in the Property Value Guarantee hereunder within one (1) year from the beginning of the applicable five (5) year period. Any owner that fails to sign up within the time provided is not eligible for the Property Value Guarantee. Further, only the owner of Adjoining Property on the beginning of the applicable five (5) year period is eligible for the Property Value Guarantee. Any owner meeting the requirements of this Section is referred to as an Eligible Owner.

Section 4.2 Sale Notice Also Required. An Eligible Owner desiring to sell his or her property and to take advantage of the Property Value Guarantee provided in this Article shall notify the Town Clerk and Great Northern of his or her intent not later than the earlier of: (1) December 18, 2017 as to lands now constituting Adjoining Property or the fifth anniversary of the date of approval of a Reclamation Plan as to lands that become Adjoining Property after the date of this Agreement, as applicable; or (2) the date Great Northern has completed all Nonmetallic Mining Operations in the Town under this Agreement.

Section 4.3 Appraisal by Agreement. After an Eligible Owner has provided a notice under Section 4.2, the Eligible Owner and Great Northern shall attempt to agree upon the Fair Market Value of the Adjoining Property. If they agree, they shall reduce such agreement to writing. If they cannot so agree, they will try to agree upon an appraiser who is licensed as a real estate appraiser in the State of Wisconsin to determine the Fair Market Value of the Adjoining Property, and if they agree the property shall be appraised by that appraiser at Great Northern's expense. As used herein, Fair Market Value means the full value which could ordinarily be obtained for the property at a private sale on an arm's length basis between a willing seller and a willing buyer, but assuming Great Northern's Nonmetallic Mining Operation did not exist, and taking into account all other factors affecting the value of the property, provided however, that no value shall be accorded to non-metallic minerals.

Section 4.4 Appraisal if No Agreement. In the event that the Eligible Owner and Great Northern are unable, within thirty (30) days after the Eligible Owner has provided a notice under Section 4.2, to agree upon either the Fair Market Value of the Adjoining Property or on an appraiser, the Eligible Owner shall select a financial institution in Barron County, Wisconsin, that makes residential real estate loans and with whom the Owner does not do business and request that such institution provide to the Eligible Owner and Great Northern the name of an appraiser it regularly employs to conduct residential appraisals. The identified appraiser shall be retained to conduct the appraisal at Great Northern's expense and shall determine the Fair Market Value of the property and shall provide the Eligible Owner and Great Northern with copies of the appraisal.

Section 4.5 Listing Contract Requirement. Thereafter, the Eligible Owner may then enter into a listing contract for the property with a Wisconsin licensed real estate broker, which contract shall have a term of at least six (6) months and not more than one (1) year. The listing contract shall name Great Northern as a potential buyer excluded from the listing, such that if Great Northern purchases the property during the term of the contract no commission shall be due to the broker.

Section 4.6 Option to Purchase. Before accepting any bona fide offer for the property received during the term of the listing contract at a price less than the Fair Market Value as determined by appraisal as provided in this Article, the Eligible Owner shall give Great Northern not less than five (5) business days' written notice by facsimile, e-mail, or personal delivery of the Eligible Owner's intention to accept the offer, which notice shall include a copy of the offer. If the notice is by facsimile or e-mail it shall also require confirmed receipt by Great Northern. Great Northern may, within two (2) business days of receipt of the notice and copy of the offer, notify the Eligible Owner by facsimile, e-mail, or personal delivery that it elects to purchase the property for its Fair Market Value, and if Great Northern makes such an election, the Owner shall sell the property to Great Northern at the Fair Market Value and upon the other terms contained within the offer (not including the purchase price, which shall be the Fair Market Value).

Section 4.7 Sale Pursuant to Offer. If Great Northern does not so notify the Eligible Owner within said time, the Eligible Owner may then accept the offer and sell the property as provided in the offer. In such event, Great Northern shall make a payment to the Eligible Owner (the Property Value Guarantee). Unless the following two sentences apply, the amount of the Property Value Guarantee shall be equal to the difference between the selling price pursuant to the offer and the Fair Market Value determined as provided in this Article, less the amount of the commission that would have been payable pursuant to the listing contract on that difference; provided, however, that the maximum amount that Great Northern shall be obligated to pay to the Eligible Owner is Twenty Five Thousand Dollars (\$25,000). If Great Northern reasonably believes that as of the date of closing of the sale of the property by the Eligible Owner the Fair Market Value determined by appraisal pursuant to this Article no longer represents the actual Fair Market Value of the property due to changes in the market, Great Northern may elect to have appraisal updated, at its expense, by the same appraiser effective as of the date of closing. If the Fair Market Value, as determined by the updated appraisal, is less than the Fair Market Value as determined by the original appraisal, then the amount of the Property Value Guarantee shall be equal to the difference between the selling price pursuant to the offer and the Fair Market Value determined by the updated appraisal, less the amount of the commission that would have been payable pursuant to the listing contract on that difference; provided, however, that the maximum amount that Great Northern shall be obligated to pay to the Eligible Owner is Twenty Five Thousand Dollars (\$25,000). The Property Value Guarantee shall be paid by Great Northern within thirty (30) days of the later of (a) the closing of the sale of the property by the Eligible Owner; or (b) the date of the updated appraisal.

Section 4.8 Exclusions. The Property Value Guarantee shall apply only once for any Adjoining Property. Land now constituting Adjoining Property which was for sale prior to December 19, 2012 is not eligible for the Property Value Guarantee provided for in this Article. Land which becomes Adjoining Property after the date of this Agreement which is for sale prior to the date of approval of a Reclamation Plan for the land is not eligible for the Property Value Guarantee provided for in this Article. Adjoining Property shall not qualify for the Property Value Guarantee if the Eligible Owner sells or otherwise conveys the property to a third-party by a transaction which is not considered an arm's length transaction, such as a sale or gift to a relative; provided that such exclusion shall not apply with respect to transfers by will, descent, or survivorship upon the death of an Eligible Owner.

Section 4.9 Adjoining Property Eligible for more than one Guarantee. Notwithstanding any other provision of this Article, if an Adjoining Property is eligible for a Property Value Guarantee under this Agreement and is also eligible for a similar payment from one or more other Operators either under the Ordinance or under an operations agreement, the Property Value Guarantee and the cost of any appraisals shall be paid in equal shares by Great Northern and the other Operators.

ARTICLE 5 - OPERATING RESTRICTIONS

Great Northern's Nonmetallic Mining Operations shall be subject to the restrictions set forth in this Article.

Section 5.1 Applicable Laws. Great Northern will conduct its Nonmetallic Mining Operation in accordance with all applicable laws and regulations.

Section 5.2 Hours of Operation. Great Northern's Nonmetallic Mining Operations may be conducted on a 24 hours per day, 7 day per week basis (restrictions as to trucking activities, including days and hours of operation, are addressed in Article 6 of this Agreement).

Section 5.3 Requirements. Great Northern's Nonmetallic Mining Operations shall be conducted in such a manner as to meet or exceed the following minimum requirements:

(a) Buffers. Great Northern shall provide a buffer area around each Mine Site of a minimum of fifty (50) feet along bordering property lines and public highways. If a berm is placed within this fifty (50) foot buffer area and it lies along a public highway, the bottom edge of the berm shall be a minimum of ten (10) feet from the edge of the right-of-way and shall be seeded down and covered with erosion matting.

(b) Berms. Great Northern shall maintain existing berms now located on its Mining Sites until such time as they are replaced or removed pursuant to a Reclamation Plan or are replaced by other screening measures. With respect to houses situated on properties adjoining the mine site on December 19, 2012, to the extent that no berm exists, Great Northern shall make inquiry in writing of the Owner of each such house as to whether or not the Owner desires that a berm be constructed, and if not, Great Northern shall not be required to construct a berm in that location. Great Northern shall not be required to install berms opposite houses that are constructed after the Effective Date.

(c) Lighting. Great Northern shall minimize, to the extent reasonably possible, light pollution, glare, and light trespass from fixed light sources on its property, while maintaining night time safety, utility, security, and productivity in the course of its operations. Additionally:

(1) All lighting must be fully shielded in a manner that light rays emitted by the fixture, either directly from a lamp or indirectly from a fixture, are projected below a horizontal plan running through the lowest point on the fixture where the light is emitted.

(2) Lighting must be directed away from adjacent properties to prevent light from trespassing or spilling onto those properties.

(3) Except for lighting on vehicles or moving equipment, there shall be no flashing, revolving or intermittent lighting, which could be considered a nuisance or distraction to vehicular traffic.

(4) Search lights, laser source lights, or any similar high intensity light shall not be permitted, except in emergencies by police or fire personnel or at their discretion.

(5) All outdoor flood light projection above the horizontal is prohibited.

(6) Temporary lighting that does not conform to this Section may be allowed for a period of no longer than 30 total days within each year.

(d) Noise. Great Northern shall use best management practices to keep noise from its Nonmetallic Mining Operations at or below 80 dB at the Mine Site boundaries; provided that such limits shall not apply to blasting activities, haul trucks entering or leaving the Mine Site, site preparation work, construction of site improvements, repairs, or work pursuant to the Reclamation Plan.

(e) Dust. Great Northern will ensure the effects of dust from its mining and processing operations are minimized through the implementation of best management practices, new technology and industry standards that include:

(1) Watering of road and travel-ways;

(2) Use of dust collection/suppression and emission control equipment throughout mining and processing facilities;

(3) Use of berms and vegetative barriers along sensitive property boundaries; and

(4) Concurrent reclamation practices as mining progresses.

ARTICLE 6 - ANNUAL REPORT OF OPERATIONS.

Great Northern will, if requested to do so by the Town, provide the Town with an annual report and presentation at a scheduled Town board meeting, which shall report as to a summary of its Nonmetallic Mining Operations in the Town in the prior year and plans for the upcoming year.

ARTICLE 7 - BREACH OF AGREEMENT RESOLUTION PROCEDURE.

In the event the Town claims that Great Northern has breached this Agreement, the exclusive means of resolving the matter (the "Dispute"), shall be as follows:

(a) Mediation. The parties agree to negotiate in good faith regarding the Dispute. Any Dispute that cannot be resolved through good faith negotiations shall be subject to mediation. Mediation shall be conducted by one mediator who shall be selected by the Town within ten (10) days after notice of the request for mediation; provided that the mediator shall be a person knowledgeable in the general subject(s) of the dispute. The mediation shall be non-binding and shall commence within 30 days after the selection of the mediator. Each party shall attend the mediation personally and with any representatives they desire. The expenses of the mediator shall be shared equally by the parties. The mediation shall continue until the Dispute is settled or the mediator declares an impasse.

(b) Arbitration. If the mediator declares impasse or if the Dispute cannot be resolved through mediation, the remaining issue(s) shall be submitted to binding arbitration. Except as expressly provided otherwise in this Agreement, the arbitration shall be conducted in accordance with the rules for the resolution of commercial Dispute of the American Arbitration Association (“AAA”) but need not be conducted by the AAA or its arbitrators. The arbitrator shall be selected jointly by the parties within ten (10) days after notice of the submittal to arbitration, but if the parties cannot agree on an arbitrator, each party shall select one arbitrator within five (5) days after the parties’ failure to agree upon an arbitrator and the two arbitrators so selected shall jointly appoint a single arbitrator to conduct the mediation. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Arbitration shall take place in Barron County, Wisconsin, with the location of any such proceeding within such County shall be as selected by the arbitrator.

ARTICLE 8 - AMENDMENT OF ORDINANCE

Great Northern’s Nonmetallic Mining Operations shall not be subject to any provision of the Ordinance which is inconsistent with any term of this Agreement or which materially adds to Great Northern’s obligations or restrictions respecting its Nonmetallic Mining Operations.

ARTICLE 9 - BINDING EFFECT; TRANSFER.

This Agreement is binding on the parties’ successors and assigns. Great Northern may, without the consent of the Town, sell, transfer, or assign its obligations hereunder to a third party or parties; provided, however, that no such sale, transfer, or assignment shall relieve Great Northern of any liability to the Town arising prior to the date of such sale, transfer, or assignment. Even though the Town does not reserve the right to approve or reject a transfer of this Agreement by Great Northern to a third party, at its sole option, it may require successors to execute an agreement to subject itself to all obligations to the Town and its property owners under this Agreement.

ARTICLE 10 - SUBSTITUTE FOR LICENSE

Pursuant to Section 4.1 of the Ordinance, this Agreement is a complete substitute for a license granted under the Ordinance. In the event of a conflict between the provisions of this Agreement and the Ordinance, this Agreement shall control.

ARTICLE 11 - DEFINITIONS

The following definitions shall apply to and govern interpretation of the terms:

Section 11.1 “Adjoining Property” means all legally-described parcels of real estate that are situated within 1/4 mile of the border of a legally-described parcel on which Great Northern operates a Mine Site and upon which a single or multi-family residence is situated, but excluding any parcels of land situated across US Highway 53 when considered from the property in question. Parties agree that Exhibit 2 contains a complete listing of properties that meet this definition.

Section 11.2 “County” means Barron County, Wisconsin.

Section 11.3 “DNR” means the Wisconsin Department of Natural Resources.

Section 11.4 “Mine Site” means all contiguous areas of where mining is actually conducted, including the following:

- (a) The location where the extraction from the earth of nonmetallic minerals for sale is conducted;
- (b) Storage and processing areas whether contiguous or not to areas excavated for nonmetallic mining;
- (c) Areas where nonmetallic mining refuse is deposited;
- (d) Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining; and
- (e) Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.

Section 11.5 “Nonmetallic Minerals” means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, nonrenewable materials. Nonmetallic minerals include but are not limited to stone, rock, gravel, sand, asbestos, beryl, diamond, clay, coal, feldspar, silica, peat and talc.

Section 11.6 “Nonmetallic Mining Operations” means any or all of the activities, processes, methods of approach, applications and means utilized, both mechanically and otherwise, including but not limited to blasting, grading, crushing, screening and scalping to cause the occurrence of one or more of the following:

- (a) Extraction or excavation from the earth of nonmetallic minerals for off-site use or sale;

To Great Northern: Great Northern Sand LLC
Attn: Robbie N. Sage; President
W11632 Whalen Rd.
Ettrick, WI 54627

Section 12.4 Savings/Severability. In the event any provisions of this Agreement is determined by any court of law of competent jurisdiction to be unconstitutional, invalid, illegal or unenforceable in any respect, it is the intention of the parties that such unconstitutionality, invalidity, illegality or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such unconstitutionality, invalidity, illegality or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such unconstitutional, invalid, illegal or unenforceable provision has never been contained in this Agreement.

Section 12.5 Due Authorization. Great Northern represents that this Agreement has been duly authorized, executed and delivered on behalf of Great Northern. The Town represents that this Agreement has been duly authorized, executed and delivered on behalf of the Town.

Section 12.6 Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

Section 12.7 Applicability of Agreement to Operation of Multiple Mine Sites in Town. Should Great Northern, after the effective date of this Agreement, commence operations at multiple mine sites in the Town, the terms of this Agreement shall apply to the operation of each such site.

Section 12.8 Ordinance Identified. For purposes of this Agreement, "Ordinance" shall mean the Town of Dovre Nonmetallic Mining Permits; Nonmetallic Mine Operation Ordinance adopted on December 12, 2012.

Section 12.9 Applicability of Ordinance. In the event of any conflict between the terms of this Agreement and the Ordinance, the terms of this Agreement shall control.

Section 12.10 Copy of Agreement May be Recorded. The parties agree that a memorandum of this agreement may be recorded against real estate on which mine operations are maintained by Great Northern.

Section 12.11 Indemnification; Insurance Coverage. Great Northern shall indemnify and hold the Town harmless from any personal injury or property damage sustained due to its use of Town highways or that of its contracted truck haulers and provide to the Town a Certificate of Insurance to this effect, naming the Town, in amounts and types of coverage as are provided by Great Northern to Barron County.

Section 12.12 Agreement Not Inclusive of Highway Maintenance or Use. The Town and Great Northern have entered into a separate agreement regarding the use of Town highways for sand hauling titled Town Roads upgrade and Maintenance Agreement dated April 10, 2012. The Town agrees that Section 15 of that agreement, Hours of Hauling Operations; shall be modified to allow for 12 hours of Haul Time on Saturdays specified as the hours from 6:00am to 6:00pm for the life of that agreement. All other conditions of that agreement shall continue in force with no further modifications from this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement.

GREAT NORTHERN SAND LLC

By: _____
Robbie Sage
Its: President

TOWN OF DOVRE

By: _____
Jim North
Its: Chairman

By: _____
Al Nyhagen
Its: Supervisor

By: _____
Bruce Tegels
Its: Supervisor

By: _____
Benn Malmanger
Its: Supervisor

By: _____
James Plummer
Its: Supervisor

EXHIBIT 1

022-2800-07-000	MEV LAND TRUST LLC	2639 2ND AVE	40.00
022-2800-10-000	MEV LAND TRUST LLC		40.00
022-2800-11-000	MEV LAND TRUST LLC		40.00
022-2800-13-000	MEV LAND TRUST LLC	2610 1ST AVE	20.00
022-2800-13-010	MEV LAND TRUST LLC		20.00
022-2900-02-000	MEV LAND TRUST LLC	194 26TH ST	40.00
022-2900-05-000	MEV LAND TRUST LLC		60.00
022-2900-21-000	MEV LAND TRUST LLC	2549 1 1/2 AVE	40.00
022-2900-26-000	MEV LAND TRUST LLC	2596 1ST AVE	9.00
022-2200-03-000	GREAT NORTHERN SAND LLC		35.04
022-2200-04-000	GREAT NORTHERN SAND LLC	275 CTH SS	2.84
022-2200-05-000	GREAT NORTHERN SAND LLC		24.43
022-2200-05-010	GREAT NORTHERN SAND LLC		4.10
022-2200-07-000	GREAT NORTHERN SAND LLC	276 CTH SS	27.92
022-2200-07-010	GREAT NORTHERN SAND LLC		0.87
022-2200-09-000	GREAT NORTHERN SAND LLC		2.74
022-2200-12-000	GREAT NORTHERN SAND LLC		2.90
022-2200-15-000	GREAT NORTHERN SAND LLC		35.80
022-2800-09-000	B&R SANDBOX LLC		40.53
022-2800-12-000	DEAN & LORI TROWBRIDGE		40.00
022-2900-20-000	DEAN & LORI TROWBRIDGE		40.00
022-2900-19-000	DEAN & LORI TROWBRIDGE		40.00
022-2900-23-000	DEAN & LORI TROWBRIDGE		40.00

EXHIBIT 2

Great Northern Sand Town of Dovre Property Value Guarantee

Affected Parcels with Dwellings - Dovre Operations Agreement

<u>Property Owner</u>	<u>Parcel #</u>	<u>Address</u>	<u>Acres</u>
Luke Davis	022-2900-04-000	153 25 ½ Street	20
Gail Mielcarek	022-2900-12-000	154 25 ½ Street	1
Kathy Franklin	022-2100-19-000	214 26 ¾ Street	17.5
Joseph Stevens	022-2800-14-000	2632 1st Avenue	20
Philip Nitek	022-2800-18-000	2654 1 st Avenue	20
Raymond Ellsworth	022-2900-25-000	2598 1 st Avenue	3
Barbara Siverling	022-2900-18-000	107 25 ½ Street	25.8
Kelly Coleman	022-2900-24-000	2588 1st Avenue	6.28

