**ROAD USE AGREEMENT**

This ROAD USE AGREEMENT ("Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2023 (“Effective Date”) by and between the Town of Dovre, a Wisconsin town ("Dovre"), and THEODORE STRZOK ("Strzok").

**RECITALS**

1. Dovre implements seasonal weight limits during the spring months so as to protect the investments it has made in its road infrastructure.
2. Strzok operates a logging company at 408 27th Street in the Town of Dovre that utilizes Dovre roads, specifically a portion of 27th Street.
3. Strzok desires to utilize 27th street for his logging business during the time period that Dovre imposes seasonal weight limits.
4. Dovre is willing to permit Strzok to use a portion of 27th Street so long as Strzok provides adequate protection to ensure Dovre will not have any financial responsibility for repairing damage done to 27th Street by Strzok.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises and covenants herein set forth, the Parties, intending to be legally bound, agree as follows:

Section 1. Strzok shall be permitted to operate vehicles that exceed Dovre seasonal weight limits on the portion of 27th Street beginning at the northern property line of 408 27th Street and extending to the intersection of 27th Street and County Highway SS (that portion shall hereinafter be referred to as “27th Street”). Any of Strzok’s trucks or vehicles, or companies associated with or contracting with Strzok, traveling on 27th Street may not exceed a gross vehicle weight rating of 80,000 pounds. This authorization only applies to 27th Street, and Strzok must comply with all other weight limits in Dovre.

Section 2. Strzok shall, at his sole cost and expense, remove any debris left from vehicles utilized by Strzok, or companies associated with or contracting with Strzok. Dovre shall repair any damage to 27th Street caused by vehicles utilized by Strzok, or any companies associated with or contracting with Strzok, traveling on 27th Street, and Strzok shall reimburse Dovre for the costs of repair. Strzok shall reimburse Dovre within 30 days of Dovre providing Strzok an invoice for the cost of repairs. In the event Strzok does not pay in full any invoice amounts within 30 days, then the authorization under Section 1 shall be revoked until Strzok has reimbursed Dovre for the full cost of repairs. Dovre shall have the sole discretion to determine when damage is caused by Strzok for purposes of this Section. Dovre shall repair any damage to a condition substantially similar to the condition that existed on 27th Street as of the effective date of this Agreement. The Town, the Town’s engineer, and Strzok will photograph the road condition within thirty days of executing this Agreement to document the road condition.

Section 3. Strzok shall provide Dovre with a $10,000 cash deposit to be held in a separate, designated Town account to secure payment of repairs to 27th Street. If Strzok does not reimburse the Town for the costs of repairs under Section 2 within thirty days, Dovre may draw upon the $10,000 deposit to perform the work and Strzok shall be prohibited from exceeding any weight limits on 27th Street until Strzok has fully replenished the $10,000 deposit. This Agreement shall not take effect, and Strzok shall not exceed seasonal weight limits imposed upon 27th Street, until Dovre has received the $10,000 deposit. Any interest earned on the $10,000 deposit shall belong to Dovre.

Section 4. Strzok shall provide Dovre with a bond, in a form acceptable to Dovre, in the amount of $200,000 to further secure his financial obligations to reimburse Dovre for repairing any damage caused by Strzok or any companies or entities associated with or contracting with Strzok, to 27th Street. This Agreement shall not take effect, and Strzok may not exceed any Dovre seasonal weight limits on 27th Street, until Strzok has provided an acceptable bond. The bond shall have a term of no less than three years and must include a provision that it will not expire without giving Dovre 60 days prior written notice. If the Agreement is renewed in accordance with Section 7, the amount of the bond shall be increased by a percentage equal to the latest inflationary figures according to the consumer price index. In the event the costs of repairs exceed $10,000, Dovre may use the bond provided under this Section to cause the work to be completed.

Section 5. Upon Dovre reconstructing 27th Street to a four-season road, the requirement for a bond under Section 4 shall no longer be in effect. Strzok shall be required to keep a $10,000 security deposit with the Town for the Town to use to repair any damage to 27th Street caused by Strzok or any companies or entities associated with or contracting with Strzok. The Town shall have sole discretion to determine when damage is caused by Strzok or any companies or entities associated with or contracting with Strzok. The Town shall repair 27th Street to a substantially similar condition that existed prior to any damage. Following reconstruction of 27th Street, the Town may bill Strzok for the cost of all routine maintenance on 27th Street, such as crack filling, seal coating, and chip sealing. If Strzok does not reimburse the Town for the costs of repairs or maintenance under this Section within thirty days of Dovre providing an invoice, Dovre may draw upon the $10,000 deposit to perform the work and Strzok shall be prohibited from exceeding any weight limits on 27th Street until Strzok has fully replenished the $10,000 deposit.

Section 6. Dovre shall reconstruct 27th Street to a condition that will permit Strzok to use it as a four-season road. Strzok shall pay Dovre an amount equal to the difference in price between constructing a 4.5” blacktop road and the cost of constructing a 2.5” blacktop road on 27th Street. Strzok shall pay the amount required under this Section prior to the date that Dovre publishes its first advertisement for bids to reconstruct 27th Street. In the event Strzok does not make timely payment under this Section, this Agreement shall terminate and the Town shall only be required to reconstruct 27th Street with a 2.5” blacktop. Additionally, if Strzok does not make timely payment, all permissions under this Agreement shall terminate upon the date of the Town awarding a contract to reconstruct 27th Street, and any remaining security deposit shall be refunded to Strzok, but Strzok shall not be permitted to exceed any weight limits on 27th Street.

Section 7. Term. This Agreement shall remain in effect until June 1, 2025. It shall automatically renew for additional three-year terms thereafter beginning on June 1, 2025, and on every 3 years on June 1st thereafter.

Section 8. Termination. Either party may terminate this Agreement by providing the other party written notice of intent to terminate 60 days prior to the proposed termination date. Upon termination, this Agreement shall become null and void, and any permissions or authorizations granted by Dovre to Strzok regarding use of 27th Street while seasonal weight limits are place shall be revoked upon termination. Upon termination, Dovre shall refund Strzok any unused deposit amounts under this Agreement

Section 9. Due Authorization.

Strzok hereby represents and warrants this Agreement has been duly authorized, executed and delivered on behalf of Strzok. Dovre hereby represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of Dovre.

Section 10. Savings/Severability.

In the event any provision 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 unconstitutional, invalid, illegal or unenforceable provision had never been contained in this Agreement.

Section 11. Entire Agreement.

This Agreement constitutes the entire agreement among the Parties hereto with respect to the subject matter hereof, and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter of this Agreement. No amendment, modification, cancellation or alteration of the terms of this Agreement shall he binding on any party hereto unless the same, is in writing, dated subsequent to the date hereof and is duly authorized and executed by the Parties hereto.

Section 12. Notices.

All notices to be given under the terms of this Agreement shall be in writing and signed by the person serving the notice and shall be sent via registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below. Notice shall be deemed to have been received on the date of receipt as shown on the return receipt or other written evidence of receipt.

FOR TOWN: Town Clerk

 Town of Dovre

 304 25 ½ Street

Chetek, WI 54728

FOR STRZOK:

Section 13. Assignments/Consent.

This Agreement shall be binding on the Parties hereto, their respective heirs, devisees, successors and assigns. Strzok cannot assign his rights under this Agreement without the express written consent of Dovre.

Section 14. Modification.

No modification of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by both Parties. No evidence of any modification shall be offered or received in evidence in any proceeding arising between the Parties hereto out of or affecting this Agreement, or the rights or obligations of the Parties hereunder, unless such modification is in writing and duly executed. The parties further agree that the provisions of this Section will not be waived unless herein set forth.

Section 15. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Delivery of an executed counterpart of a signature page to this Agreement by telecopy shall be as effective as delivery of a manually signed counterpart to this Agreement.

Section 16. Choice of Law and Forum Selection.

This Agreement shall be governed by, and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The Parties agree, for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, the venue shall be in the Circuit Court of Barron County, a court of competent jurisdiction within the State of Wisconsin, and the parties further agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.

Section 17. Default Termination.

In the event Strzok shall default in any of the covenants, agreements, commitments, conditions or obligations herein contained, and any such default shall continue without remedy for a period of thirty (30) calendar days or other reasonable time, whichever is longer, after written notice thereof to Strzok, Dovre may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Strzok, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Agreement and all rights of Strzok under this Agreement.

Section 18. Waiver of Terms and Conditions.

The failure of Dovre to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terns or conditions, but the same shall be and remain at all times in full force and effect.

Section 19. Compliance with Applicable Laws.

Strzok shall become familiar with, and shall at all times comply with and observe all federal, state and local laws, ordinances and regulations which in any manner affect the conduct or performance of Strzok and its agents and employees of the terms and obligations under this Agreement.

Section 20. Captions.

The captions contained in this Agreement are for informational purposes only and shall not in any way affect the substantive terms or conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

**TOWN OF DOVRE**

—————————— ————————

Dean Trowbridge Date

Town Chair

**THEODORE STRZOK**

**—————————— ————————**

Theodore Strzok Date