

Lease Number
Field Unit

**LEASE FOR REMOVAL OF EARTH MATERIALS**

This lease, executed in duplicate by and between the STATE OF MINNESOTA, under authority and subject to the provisions of M.S. 92.50, acting by and through its Commissioner of Natural Resources hereinafter called the "LESSOR" and the "LESSEE", who is named below.

Lessee	Effective Date
Address (No. & Street, RFD, Box No., City, State, Zip)	Termination Date
Annual Advance Rental Payment or Rental Payment	Final Settlement Date
Material	Base Amount
Timber Damage	Flat Rate

**IT IS AGREED AS FOLLOWS:**

1. The LESSOR, in consideration of the covenants and agreements hereof, and the payment for herein, to be performed and paid by the LESSEE, hereby leases unto the LESSEE subject to the conditions hereinafter stated and subject at all times to sale, lease, and use for mineral or other purposes, the hereinafter described premises to-wit:

herein referred to as the "Premises".

2. The period of this lease shall begin on the EFFECTIVE DATE, as stated above, and end on the TERMINATION DATE, as stated above.

3. The LESSEE shall pay an ANNUAL ADVANCE RENTAL PAYMENT, hereinafter called RENTAL PAYMENT, upon execution of this lease with additional RENTAL PAYMENTS made thereafter on or before January 1st of each year until terminated. The RENTAL PAYMENT shall permit the LESSEE to remove MATERIAL, as described above, up to the BASE AMOUNT, as stated above, during the calendar year for which payment is made. The failure to remove such MATERIAL by the LESSEE during any calendar year for which said RENTAL PAYMENT is made, does not entitle the LESSEE to any credit, rebate, refund, or right to remove any MATERIAL in any other calendar year. The LESSEE further agrees to pay the LESSOR for any additional MATERIAL removed in excess of the BASE AMOUNT during any calendar year at the FLAT RATE, as stated above. The LESSEE further agrees to pay the LESSOR for TIMBER DAMAGE, as stated above, in the opening of the pit. The LESSEE shall file a written report on June 30 and December 31 of each year, with the LESSOR, stating the number of cubic yards of MATERIAL removed up to those dates and remit payment for amounts of MATERIAL removed in excess of the BASE AMOUNT. The LESSOR reserves the right to inspect the Premises at all times for any purpose. The LESSOR shall have the right to inspect all of the LESSEE'S records covering the removal of MATERIAL from that Premises.

4. It is agreed and understood that the purpose of this lease shall be limited to the removal of the above specified MATERIAL from said Premises and gravel and rock processing, storage and transportation related to the material removal. No MATERIAL shall be removed from said Premises by any person, agency or corporation other than the LESSEE, except with the written consent of the LESSOR specifying the quantity of the MATERIAL to be removed and the place from which and the manner in which it shall be removed, the LESSEE being responsible to the STATE OF MINNESOTA for all such MATERIAL removed by the third parties.

5. The LESSEE hereby expressly agrees to keep and leave the Premises neat, clean, and in safe condition, to remove therefrom all refuse and debris that may from time to time accumulate and dispose of the same in an approved landfill or to burn all refuse and debris as provided by law. No timber or trees shall be cut, used, removed, or destroyed by the LESSEE without first obtaining permission from the LESSOR.

6. Invasive Species

6A. The LESSEE shall inspect the Premises for the presence of invasive species and noxious weeds prior to commencing removal of any material and take action to prevent their spread. If invasive species are known to be present, the LESSOR shall identify on a map the known infested sites to be avoided.

6B. If the LESSOR or LESSEE discover additional invasive species infestation areas on the Premises during the term of this lease, the LESSEE shall immediately take action to prevent spread from the newly discovered infested area and then consult with the LESSOR on a resolution.

6C. The LESSEE shall prevent invasive species from entering into or spreading within the Premises by cleaning equipment and clothing prior to arriving at the Premises. The LESSEE shall legally dispose of material cleaned from equipment and clothing at a location offsite and the materials must be secured prior to transport to avoid dispersal.

6D. Whenever possible, parking, staging areas and travel routes shall not be within known infested sites. The LESSEE shall make every effort to schedule operations to avoid the spread of weed seed.

7. This lease is subject to all easements, right-of-ways, licenses, leases and other encumbrances upon the Premises.

8. The LESSEE shall have the right of ingress and egress to such Premises by a specified right-of-way over and across all other lands of the LESSOR lying between said Premises and the nearest public road. All damages resulting from the establishment of this ingress and egress shall be assessed to and paid by the LESSEE.

9. This lease may be terminated at any time by mutual agreement or for just cause by the LESSOR upon serving the LESSEE with a six (6) months written notice reciting the reason for termination. This lease is made pursuant to the authority of Minn. Stat. section 92.50. Written notice may be served either personally or by mail upon the other party. Service by mail shall be effective upon depositing it in the United States mail.

10. This lease shall not be construed as imposing any liability on the LESSOR for injury to persons or property to the LESSEE or any other persons or property, arising out of any use of the described premises hereunder or under any other license, lease, easement, or permit now or hereafter made. The LESSEE agrees to indemnify and hold harmless the LESSOR from all claims arising out of the Premises hereunder, whether such claims are asserted as civil action or otherwise.

11. The LESSEE hereby covenants and agrees to pay, when due, all taxes levied against the Premises and the improvements on the Premises during the continuance of this lease.

12. This lease is not to be construed to relieve the LESSEE of any obligations imposed by law.

13. The LESSEE shall install necessary culverts so that the natural flow of water is not impaired in any manner.

14. The LESSEE further agrees that no delay on the part of the LESSOR in enforcing any of the conditions of covenants hereof or in terminating or revoking said lease, shall be construed to be or operate as a waiver of any of rights of the LESSOR hereunder.

15. This lease shall extend to and bind the successors or heirs, legal representatives and assigns of the respective parties hereto. It is further agreed by said LESSEE that the lease hereby granted shall not be assigned by the LESSEE or the premises sublet without the written consent of the LESSOR.

16. The LESSEE shall not remove any MATERIAL from the Premises or do any work authorized by this lease until the lease meets all legal requirements, is signed by the LESSOR and delivered to the LESSEE.

17. Additional Terms:

See the attached Exhibit A (Map), Exhibit B (Additional Terms), Exhibit C (Invasive Species), and Exhibit D (Fee Schedule), which are made a part of this lease.

**TESTIMONY WHEREOF, the parties have set their hands in duplicate.**

**STATE OF MINNESOTA  
DEPARTMENT OF NATURAL RESOURCES**

Authorized Signature for Commissioner	Date
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**REGIONAL OPERATIONS SUPERVISOR  
DIVISION OF LAND AND MINERALS**

Lessee (Individual's Name or Name of Entity)	
Authorized Signatures & Title (If an Entity)	Date
Authorized Signatures & Title (If an Entity)	Date

## **Exhibit B**

### Additional Terms and Conditions

#### 1. *Mining Goal*

- A. The mining goal is to mine, with logical sequencing, all of the available aggregate within the Premises while maintaining appropriate buffers and sloping, consistent with reclamation goals, and current and future land-use plans for the Premises.

#### 2. *Site Preparation*

- A. The LESSOR, in coordination with the LESSEE, shall mark or designate the limits of each mining phase.
- B. The LESSOR shall mark the pit limits. LESSEE shall not disturb the land or vegetation beyond that boundary. Examples of a disturbance include the cutting or trampling of timber or brush.
- C. LESSEE shall, in a timely manner, install and maintain silt fences or utilize other best management practices on upland areas adjacent to wetlands, drainages, streams, bodies of water, and other non-mining areas at risk of receiving sediments due to disturbances from mining activities.
- D. Standing timber shall be removed prior to mining.
- E. LESSEE shall place brush, stumps, and other woody debris in a location as directed by the LESSOR. Woody debris shall be kept separate from topsoil, overburden, and other stockpiles. LESSEE shall make reasonable efforts to minimize the amount of topsoil and earth materials included in the woody debris piles. If the LESSOR directs the LESSEE to burn the woody debris, LESSEE shall do so with appropriate permits and add the resulting ash to the topsoil stockpiles.
- F. LESSEE shall set aside larger stumps and logs for eventual use in reclamation. These items may be positioned to create barriers to unauthorized motor vehicles in the interim.
- G. All topsoil or the top 5 inches of earth materials, whichever is greater, shall be salvaged off of areas scheduled for upcoming mining and reserved in a stockpile on the Premises for use in reclamation. LESSEE shall make reasonable efforts to minimize the amount of cobbles and boulders included in the topsoil stockpiles.
- H. If overburden is stripped, it shall be separately stockpiled. Overburden shall not be mixed with the topsoil.
- I. Topsoil, overburden, and other materials shall not be placed or stockpiled upon remaining aggregate resources without advance written approval of the LESSOR.

#### 3. *Operations*

- A. Mining shall follow a reasonable and prudent mining plan that avoids waste of the aggregate resource. One type of waste occurs when portions of the aggregate resource become unusable due to mining activities that cover, contaminate, or make portions of the resource inaccessible.
- B. The LESSOR and LESSEE shall meet on site annually prior to commencement of mining operations to review the past years activities and their mining and reclamation activities planned for the upcoming year.
- C. LESSEE shall notify the LESSOR prior to the start of mining operations and prior to the end of each significant mining event.
- D. The Premises shall be left at the conclusion of operations in a condition that is safe and stable. The LESSEE shall slope all working faces to a 1:1 or gentler slope at the completion of each significant mining event and at the end of the construction season. LESSEE shall round the upper slopes of pit walls to blend into existing contours for public safety. LESSEE shall not incorporate topsoil, overburden, vegetation or other deleterious materials into the slope. The LESSEE shall reestablish vegetation where needed to prevent erosion, and prevent the introduction of noxious weeds and other undesirable plants, or as directed by the LESSOR.
- E. LESSEE shall maintain a 50-foot no disturbance buffer from the property line of the Premises. LESSEE shall ensure that all required sloping occurs outside the setback.
- F. LESSEE shall place or maintain a barrier or barriers as necessary, or as directed by the LESSOR, to prevent unauthorized access of off-road vehicles. Examples of off-road vehicles include jeeps and 4-wheel drive trucks.
- G. LESSEE shall conduct their mining activities so that logging roads intersected by the pit remain accessible to highway vehicles. LESSEE shall also provide a ramp or other means of access from the pit to non-mining areas upon request of the LESSOR.
- H. The pit shall be mined so that storm water is contained within the pit and sediments do not wash onto non-mining areas. Natural berms and contouring of the pit floor shall be the preferred method of containing storm water and sediments within the disturbed area. For those locations or instances when this method is not practicable, other methods of containment are required. Other examples of storm water management include constructed berms, settling basins, check dams, or placement of silt fencing.
- I. LESSEE shall prevent the formation of pit walls that are greater than 20 feet high by establishing working benches.

- J. LESSEE shall seed all topsoil and overburden stockpiles within 60 days of their placement or disturbance to prevent erosion and the introduction of noxious and other undesirable weeds. Acceptable seed mixes for the temporary stabilization of stockpiles include Mn/DOT mixes #100 (winter wheat), #110 (oats), and #150.
- K. Mining shall stay 3 feet above the water table. An exception is allowed for contouring of the pit floor and creation of a low area, not to extend into the water table, to facilitate management of storm water in the pit. Prior to final reclamation, backfill is required to restore the pit floor to a level at least 3 feet above the water table, unless directed otherwise in writing by the LESSOR.
- L. Hours of operation shall be limited to 6:00 a.m. to 8:00 p.m. Monday through Saturday. Operations on legal holidays are not permitted.

#### 4. *Reclamation*

- A. The goal of reclamation is to create a natural-appearing and functioning landscape that is safe, stable and non-eroding, nonpolluting, and has value for timber production, recreation, and possible alternative future revenue options.
- B. The LESSEE shall implement progressive and staged reclamation. Mining shall progress in a logical manner enabling permanent reclamation of those portions of the pit that are depleted of gravel, even as mining continues in other parts of the pit. A maximum of 10 acres shall be in active mining at a given time. The LESSEE is responsible for shaping and vegetating the portions to be reclaimed.
- C. LESSEE shall reclaim all banks and other previously disturbed areas eligible for permanent reclamation (i.e. portions of the pit that are depleted of gravel) to a slope of 3 horizontal to 1 vertical (3:1) or gentler and spread subsoils and topsoil as directed by the LESSOR. LESSEE shall preferentially spread topsoil on slopes, areas within 100 feet of existing wetlands, and areas most susceptible to erosion if there is a shortage of topsoil. All slopes will be rounded to blend with existing contours. Reclamation will include reestablishing vegetation to stabilize the soils. Overburden subsoils not used in mining should be spread on the slopes prior to the spreading of topsoil for permanent reclamation. The spreading of reserved overburden subsoils will improve moisture and nutrient retention resulting in a better growing medium for vegetation.
- D. Overburden and unmarketable earth materials may be used to establish final 3:1 slopes.
- E. The LESSEE shall use specific plant species, seed mixes, fertilizer, and mulch rates as prescribed by the LESSOR when reestablishing vegetation.
- F. Access roads, haul roads, and ditch crossings are to be removed and rehabilitated, by the LESSEE, at the conclusion of mining or lease termination unless directed otherwise by the LESSOR.

#### 5. *Production and record keeping*

- A. A load ticket system will be used to determine the volumes of material removed from the Premises on a truckload basis unless another means of measurement is available and approved by the LESSOR. The LESSOR will provide load tickets. One ticket is to be completely filled out, including the top and bottom portions, for each load hauled and the box stub shall be placed in the provided lock box. The load ticket (top) portion remains in the book for record keeping. All books shall be returned to the LESSOR with the Removal of Earth Materials Report. Lost tickets will be charged double the stub ticket volume. Failure to use this ticket system properly may result in lease termination. New load tickets will be issued each year.
- B. Cubic yards of aggregate removed from the Premises, for which royalty payments are assessed, shall be based on a loose volume measurement. If scales are used to measure the amount of aggregate produced or removed, they shall be the primary measurement method. All scales used to measure the amount of aggregate mined shall be calibrated according to the National Institute of Standards and Technology (NIST) Handbook 44. The following conversion factors shall apply. One short ton = 0.7143 cubic yards loose volume. One cubic yard loose volume = 1.4 short tons. One cubic yard bank measure = 1.2 cubic yards loose volume. One short ton = 2,000 pounds.
- C. LESSEE shall keep a daily log of all material sales, which shall be available for inspection by the LESSOR.
- D. LESSOR reserves the right to determine quantities mined by void estimate methods, by other engineering methods, or by documentation from the end user.
- E. LESSEE shall promptly submit copies of all quality testing documents to the LESSOR annually or more often upon request.
- F. Processed materials remaining on the Premises at lease expiration, cancellation, or termination become the property of the State. No refunds will be issued.
- G. All uncrushed rock (such as coarse rejects and boulders) shall not be buried and shall be stockpiled on the Premises. Landscape rock and uncrushed rock removed from the Premises are subject to separate royalties. Boulders 2 feet in average diameter or larger that are crushed or removed from the Premises are subject to a separate royalty.

#### 6. *Gate clause*

- A. When mining activities commence, LESSEE shall, at its own expense, obtain and construct a permanent fixed gate on the access road to the Premises at a location and of a type approved by the LESSOR. Absolutely no chain, cable, or rope can be used in lieu of a gate. The gate shall be maintained by the LESSEE and locked at

all times when mining is not occurring on the Premises. The LESSEE shall provide a copy of the key to their lock to the LESSOR.

- B. If a gate exists on the access road to the Premises, it shall be maintained by the LESSEE and kept locked at all times when mining is not occurring on the Premises. The LESSEE shall provide a copy of the key to their lock to the LESSOR.

#### 7. *Other Terms*

- A. LESSEE shall notify the appropriate local government unit or road authority prior to commencement of operations in a pit from which transport of aggregate materials may occur on or across roads for which they have jurisdiction.
- B. LESSEE shall, at its own expense, be responsible for the upgrading and maintenance of the existing access road leading to the Premises.
- C. LESSEE shall, if they plan to alter existing access roads or construct new ones, have those plans approved in advance by the LESSOR.
- D. LESSEE shall, at its own expense, be responsible for controlling dust on the Premises and on roads leading from the pit due to pit operations. Treatments such as water and liquid chlorides are permitted.
- E. LESSEE hereby expressly agrees to keep and leave the Premises neat, clean, and in a safe condition, and shall dispose in a lawful manner of all pollutants, contaminants, solid waste, hazardous waste, and other materials produced by activities under this lease. Leaks of fuel, oil, hydraulic fluid, and coolant from equipment on the Premises are to be avoided. Any leaks shall be contained and cleaned up promptly and properly by the LESSEE.
- F. LESSEE shall not store any pollutants, contaminants, solid waste, or hazardous waste on the Premises except that those materials that are permitted for use and normally associated with the operation of a mining plant and mining equipment may be stored on the Premises in quantities sufficient to allow efficient operation of a mining plant and mining equipment. No pollutants, contaminants, solid waste, or hazardous waste shall be disposed of on the Premises. LESSEE shall prevent pollution of the Premises.
- G. LESSEE shall remove concrete, asphalt, and similar materials, and scrap materials from the Premises from time to time as they accumulate and prior to expiration, cancellation, or termination of the lease.
- H. The LESSEE shall not bury anything on the Premises.
- I. The LESSEE shall not use or mix de-icing chemicals or similar chemicals alone or with aggregate on the Premises unless the LESSOR gives advance written approval.
- J. The LESSEE shall, at its own expense, construct fencing when necessary for safety reasons or when directed by the LESSOR. This could include fencing overly steep working faces, or other unsafe conditions.
- K. Mining in areas where the aggregate is less than 3 feet thick is permitted only if sufficient topsoil is preserved so that the impacted area can be covered with at least 5 inches of topsoil and reclaimed after mining, and with the advance written approval of the LESSOR.
- L. This lease is non-exclusive, meaning that other leases and special product permits may be issued.
- M. LESSEE shall make reasonable and prudent efforts to prevent the introduction, establishment, and spread of noxious weeds and other state prohibited, regulated, or restricted species on the Premises. Examples of prevention efforts include ensuring that all equipment is free of excess soil and all vegetation before moving onto the Premises, timely seeding or revegetation of disturbed soils, timely mowing, and application of herbicide. Mowing and herbicide applications require advance approval of the LESSOR.
- N. LESSEE shall not operate a bituminous plant on the Premises, unless the LESSOR gives advance written approval. If such approval is granted and LESSEE operates a bituminous plant on the Premises, the plant shall be temporary and comply with Minnesota Pollution Control Agency requirements. The LESSEE shall obtain all applicable permits. After the bituminous job is completed, the plant shall be removed expeditiously along with all evidence of the plant having been present.
- O. The LESSEE shall not use or store explosive materials on the Premises.
- P. OTHERS.
  - i.

#### 8. *Standard liability insurance clause*

- A. LESSEE shall procure liability insurance, naming the State as additional insured in the amount of at least \$500,000 per individual and \$1,500,000 per occurrence from an insurance carrier licensed to do business in Minnesota. Upon execution of this lease, the LESSEE shall provide the LESSOR with a certificate of insurance indicating the required coverage and the LESSEE shall periodically provide the LESSOR with evidence of insurance as the LESSOR may request. The policy shall provide that the LESSOR be notified ten days prior to the cancellation or termination of the policy. The LESSEE shall be required to maintain such insurance to the full extent of the amounts specified in Minnesota Statutes, section 3.736 which amounts shall be incorporated herein by reference. If those amounts are changed following execution of this lease, the LESSEE shall provide whatever amount of insurance is required by that change within 30 days after the LESSOR notifies the LESSEE of the change.

## Exhibit C

### Invasive Species

Check all that apply	
<input type="checkbox"/>	<b>Mandatory</b> - (1) Before entering and leaving the site, check clothing, gear, vehicle and equipment (including timber mats) and remove caked mud, dirt clods, and reproductive plant parts (seeds, berries, fruit, cones, flowers or seed stalks, and roots). <b>Using either a power washer or an air compressor is an effective means of cleaning equipment, but is not required unless stated below.</b>
<input type="checkbox"/>	(2) This site is infested with <input type="checkbox"/> gypsy moth, <input type="checkbox"/> emerald ash borer, <input type="checkbox"/> Asian long horned beetle, <input type="checkbox"/> other invasive disease or insect _____. Obtain a compliance agreement from USDA APHIS or Minnesota Dept. of Agriculture prior to hauling wood or woody debris off this site. For more information visit <a href="http://www.mda.state.mn.us/en/plants/pestmanagement/eab/regulatoryinfo.aspx">http://www.mda.state.mn.us/en/plants/pestmanagement/eab/regulatoryinfo.aspx</a>
<input type="checkbox"/>	(4a) This site is infested with <input type="checkbox"/> buckthorn, <input type="checkbox"/> garlic mustard, <input type="checkbox"/> other invasive plant, <input type="checkbox"/> exotic earthworms. Before starting work, review known infestations with the site administrator. Avoid traveling through or parking in infested areas. Time operations and organize routes of travel to avoid spreading weed seed or infested soil. If mowing hay, be aware of any chemical applications and honor wait times before mowing. Some herbicides are passed through manure into sensitive crop fields. See other restrictions below.
<input type="checkbox"/>	(3) This site is infested with <input type="checkbox"/> oak wilt, <input type="checkbox"/> Dutch elm disease, <input type="checkbox"/> sirex wood wasp, <input type="checkbox"/> other invasive plant disease or non-regulated insect _____. <input type="checkbox"/> Girdle the marked trees and leave them on site. <input type="checkbox"/> Do not haul infested trees between April 1st and Nov 1st. <input type="checkbox"/> Other _____.
<input type="checkbox"/>	(4b) This site is infested with <input type="checkbox"/> buckthorn, <input type="checkbox"/> amur or Norway maple, <input type="checkbox"/> peashrub, <input type="checkbox"/> honeysuckle, <input type="checkbox"/> multiflora rose, <input type="checkbox"/> Russian olive, <input type="checkbox"/> other: _____. When cutting: <input type="checkbox"/> chip, <input type="checkbox"/> pile and burn rather than scattering the tops of invasive species.
<input type="checkbox"/>	(5) Using a power washer or air compressor, <input type="checkbox"/> daily, <input type="checkbox"/> weekly, <input type="checkbox"/> monthly; clean all vehicles, equipment and trailers taken on and off site during the snow-free season. Washing may be done at an approved location on site or off site at an appropriate cleaning facility. Avoid letting rinse water run into open bodies of water or native plant communities. Cleaning is not required during frozen conditions.
<input type="checkbox"/>	(6a) All materials (gravel, fill, mulch, chips, sand, etc.) brought to the site are to be weed and pest free. Sources are to be approved prior to purchase or acquisition.
<input type="checkbox"/>	(6b) Before utilizing the underlying gravel or other earth materials, scrape off the top 6-12" and segregate in an on-site location designated by the site administrator.
<input type="checkbox"/>	(7) Plant or reclaim site within: <input type="checkbox"/> one month, <input type="checkbox"/> three months, <input type="checkbox"/> six months of end of lease or project. Use weed and pest free native plant and seed mixes. Where available, use certified or local sources. Sources are to be approved prior to purchase and acquisition.
<input type="checkbox"/>	(8) Upon completion of the project or operation, close, obstruct or gate all access routes. If project is inactive for longer than <input type="checkbox"/> one month, <input type="checkbox"/> three months, <input type="checkbox"/> six months close, obstruct or gate all access routes until project resumes.
<input type="checkbox"/>	When collecting field material (seed, I&D samples, berries, mushrooms, special wood products, etc) use new clean bags or baskets.
<input type="checkbox"/>	In the case invasive plants become an issue during operations (to be determined by the site administrator), the LESSEE agrees to stop operations and gate or otherwise close the site until the infestation can be controlled.
<input type="checkbox"/>	The LESSEE is responsible for controlling noxious weeds on the site. Contact the site administrator and county agricultural inspector for details.
<input type="checkbox"/>	Follow other actions as directed by the site administrator to minimize the introduction and/or spread of invasive species.
<input type="checkbox"/>	Before starting work, review known infestations with site administrator(s). When traveling between multiple sites a day, be sure to start at the site with the fewest number of invasive plants, leaving the most heavily infested site to last. Time operations and site visits to avoid the spread of weed seed.

Last updated in 2012