

APPENDIX A

**CUP APPLICATION for the MORGAN
FAMILY GRAVEL PIT**

Gallatin County

July 2008

Lease Agreement



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DEQ BILLINGS

TMC, INC. SAND & GRAVEL PIT LEASE AGREEMENT

LESSOR:

Morgan LLC
27600 Rocky Mtn. Road
Belgrade, MT 59714

LESSEE:

TMC, Inc.
P.O. Box 69
Belgrade, MT 59714

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TMC, INC.
SAND & GRAVEL LEASE AGREEMENT

THIS AGREEMENT, made and entered into this 28th day of August, 2007 by and between Morgan LLC, of Belgrade, Montana, hereinafter for convenience referred to as "Lessor," and TMC, Inc. of Belgrade, Montana, hereinafter for convenience referred to as "Lessee," is as follows:

WITNESSETH:

WHEREAS, Lessor is the owner of certain real property and improvements thereon located in the County of Gallatin, State of Montana, and more particularly described as follows, to wit:

AS DESCRIBED ON "EXHIBIT A", ATTACHED HERETO

WHEREAS, Lessor is desirous of leasing and letting the hereinabove-described real property to Lessee; and,

WHEREAS, Lessee is desirous of leasing and letting the hereinabove-described real property from Lessor.

NOW, THEREFORE, for and in consideration of the terms, covenants, and conditions herein set forth, reserved, and contained on the part of the parties hereto to be kept and performed, and further, in consideration of the rental rate to be paid by the Lessee unto the Lessor, the Lessor does hereby lease and let unto the Lessee the hereinabove-described real property and the improvements thereon.

PURPOSE

It is agreed and understood by and between the parties hereto that the purpose to which Lessee intends to put and use the leased premises is as follows, to wit:

For the construction and operation of a mining and crushing operation for sand and gravel and associated stockpiles, and for such other and further related business interests and activities as Lessee may deem appropriate.

In this connection, Lessee covenants and warrants unto Lessor that Lessee will not use the premises for any illegal or unlawful purpose or purposes.

It is the purpose of this lease to create a lease only and no other relationship is intended or created beyond that of Lessee and Lessor.

RENTAL AND ROYALTY RATE

It is agreed and understood by and between the parties hereto that the rental rate to be paid by the Lessee unto the Lessor for the leased premises is as follows:

(a) During the term of the Agreement, TMC, Inc. will pay Lessor, or its successors or assigns, in lawful money of the United States of America, a minimum fee of _____ for every scaled cubic yard of sand and gravel that is extracted and removed from the said premises covered by this Agreement. The fee set forth herein may be credited against the minimum royalty payments. The quantity in scaled tonnage of sand and gravel removed will be determined by scaled weight of all materials sold.

All materials mined, processed and stockpiled by Lessee shall be owned by and under the control of Lessee and Lessee shall have the option of selling such materials.

In this connection, Lessee covenants and agrees that the appropriate fees should be paid to the Lessor within 30 days of its removal from the site, as hereinabove set forth, is the essence of this agreement and in the event Lessee, for whatever reason, should fail, refuse, or neglect to pay the rental rate in a timely fashion, Lessor shall serve notice, in writing, upon Lessee, demanding payment of the same, and if in fact said rental payment or payments, as the case may be, are not paid within twenty (20) days of the receipt of said written notice by Lessee, Lessor may, at Lessor's option, terminate this lease and agreement and Lessee's rights hereunder and retake possession of the premises without further notice.

TERM

It is agreed and understood by and between the parties hereto that the term of this Commercial Lease Agreement shall commence on the __1st__ day of __September__, 2007 and continue thereafter, uninterrupted, for a period of __five__ (__5__) calendar years at which time this Lease Agreement shall terminate, be at an end, and of no further force and effect, if not sooner terminated or extended as hereinafter provided. In this connection, the term of this lease agreement, as hereinabove set forth, shall be considered to be, and is hereafter, referred to as the "primary term."

OPTION TO EXTEND

It is agreed and understood by and between the parties hereto, and Lessor hereby gives and grants unto Lessee, the option to extend the primary term of this lease and agreement, as hereinabove set forth, from and after the termination date thereof and thereafter, as follows, to wit:

For one additional five (5) year period, under the same terms and conditions except that the "royalty rate" shall be no less than per cubic yard or Lessee has the first right of refusal of any other bids at the time of extension.

In this connection, and in the event Lessee should elect to exercise its option to extend the primary term of this lease and agreement, as hereinabove set forth, it shall be incumbent upon the Lessee to notify the Lessor, in writing, of its election to extend the primary term of this lease and agreement sixty (60) days prior to the termination of said primary term.

REAL ESTATE TAXES AND ASSESSMENTS

It is agreed and understood by and between the parties hereto that the real estate taxes and assessments levied or to be levied against the hereinabove-described real property and improvements thereon shall be paid by the Lessor. In this connection, Lessor covenants and agrees with Lessee that Lessor will keep the said real estate taxes and assessments paid in a timely fashion.

LIENS AND ENCUMBRANCES

It is agreed and understood by and between the parties hereto, and Lessee covenants and agrees with Lessor, that Lessee will, during the term of this lease and agreement, keep the real property thereon which is the subject of this agreement free and clear of any and all liens, mortgages, or other encumbrances.

However, Lessee shall have the right to pledge its leasehold interest as collateral for Lessee improvements loans and to grant purchase money security interests in Lessee's fixtures so long as such pledges and security interests are subject to the terms of this lease; provided however, that Lessee shall not pledge any improvements paid for by Lessor.

DEFAULT

It is agreed and understood by and between the parties hereto that Lessee shall not be considered in default under this lease unless or until (1) Lessor gives Lessee 20 days' written notice of default; and (2) Lessee must fail to cure default within the 20 day period.

In the event Lessee should fail, refuse, or neglect, for whatever reason, to pay the rental rate for the leased premises as hereinabove set forth, or should breach any one or more of the other terms, covenants, and conditions herein set forth, reserved, and contained on the part of the Lessee to be kept and performed, Lessor may, in addition to any rights and remedies available under law, have the right to terminate this lease after the expiration of the notice period specified above if Lessee has not cured such noticed default.

PERSONAL PROPERTY TAXES

It is agreed and understood by and between the parties hereto that Lessee shall be responsible for and pay all of the personal property taxes and assessments levied against the personal property of Lessee that is maintained and contained on the leased premises during the term of this lease and agreement.

INSURANCE

It is agreed and understood by and between the parties hereto that Lessee shall be responsible for and pay for a policy of insurance throughout the term of this lease for public liability covering the property in amounts of at least \$1,000,000.00 for injury or death of any one person, \$5,000,000.00 for injury or death of any number persons in one occurrence, and \$500,000.00 for property damage. Such insurance shall specifically insure both Lessee and Lessor as an additional insured. Proof of such insurance in the form of any insurance binder or certificate shall be provided by Lessee to Lessor at the commencement of this lease and annually thereafter. The insurance shall contain a provision that insurance may not be cancelled or terminated without 30 days prior written notice to Lessor. Lessee shall also carry insurance on any Lessee's improvements or personal property located on the property.

HOLD HARMLESS AND INDEMNIFY

It is agreed and understood by and between the parties hereto, and Lessee covenants and agrees with Lessor, to hold Lessor harmless and indemnify Lessor against any and all claims, actions, causes of action, liability, damages, or other losses (including attorneys fees) which may arise by virtue of Lessee's use of the leased premises during the term of this lease and agreement, including claims by third parties and governmental agencies.

RECLAMATION

Lessee shall restore the land as specified by the State of Montana and the specific reclamation plan on file therewith. Said reclamation shall be completed within one year of the termination of this lease. Reclamation shall be done to Lessor's approval, which shall not be unreasonably withheld. Lessee shall remove all equipment, machinery and fixtures not necessary for the reclamation process within six months of the termination of this agreement. Removal of equipment, machinery and fixtures shall be to Lessor's approval, which shall not be unreasonably withheld.

Lessee shall comply with all statutes, ordinances, regulations and requirements of all municipal, county, state and federal government authorities, including the Department of State Land's Mining Reclamation Laws, which have jurisdiction over the reclamation of the property.

Lessee shall have the option to bring outside materials back to the property so long as such materials are suitable for reclamation of the pit.

UTILITIES

It is agreed and understood by and between the parties hereto, that Lessee, at Lessee's sole cost and expense, may bring to, unto and through the property, hookup to and service any utility services it requires. Lessee covenants and agrees with Lessor, that during the term of this lease and agreement Lessee shall be responsible for and pay all utilities assessed by virtue of Lessee's use of the leased premises. At the end of the lease, said utilities shall revert to the Lessor for Lessor's use and ownership unless Lessor notifies Lessee otherwise within six months prior to the termination of this lease.

FULL DISCLOSURE AND KNOWLEDGE OF THE PREMISES AND OPERATION

It is agreed and understood by and between the parties hereto, and Lessor covenants and agrees with Lessee, that Lessor has disclosed unto Lessee all of the pertinent facts and information relative to the leased premises and has not withheld from the Lessee any facts or information which may be detrimental to Lessee's interest and Lessee's use of the leased premises.

It is further agreed and understood by and between the parties, and Lessee covenants and agrees with Lessor, that Lessee has disclosed unto Lessor all of the facts and information of the Lessee's use of the premises, and further, that Lessee has inspected the leased premises and is entering into this lease and agreement based on said inspection and the knowledge and facts furnished Lessee by Lessor.

It is further agreed and understood by and between the parties, and Lessor acknowledges that Lessee will be constructing and operating a sand and gravel mining operation. In that regard, Lessor acknowledges that such activities and operations may include, but are not limited to the following: dust, noise, lights, vibrations, increase in traffic and parked vehicles and the pit may fill with ground water.

NOTICE TO PARTIES

It is agreed and understood by and between the parties hereto that any notice to be given under the terms of this lease and agreement may be served upon a party personally, or served by certified mail, return receipt requested, addressed to the parties at their last known address. Notice served by certified mail, return receipt requested, shall be deemed complete when sender receives the official receipt from the United States Post Office that notice has been received by the addressee, which notice from the United States Post Office shall be prima facie evidence of such receipt.

COVENANT FOR FURTHER ASSURANCE

It is agreed and understood by and between the parties hereto, and the Lessor and the Lessee covenant, each with the other, their respective heirs, personal representatives, and successors-in-interest, that when and so often as may be necessary, the parties, their heirs, personal representatives, and successors-in-interest will execute, do such reasonable things, and give such assurances as may be reasonably required to perfect the implied and expressed covenants, warranties, and

conditions herein set forth, reserved, and contained to be kept and performed on the part of the parties hereto.

SEVERABILITY

It is agreed and understood by and between the parties hereto that in the event any one or more of the provisions of this lease and agreement as herein set forth, reserved, and contained are found and determined to be unenforceable by a court of competent jurisdiction, or through the act or actions of the Legislature of this State, the remaining provisions of this agreement shall nevertheless continue in full force and effect and be binding on the parties hereto, their heirs, personal representatives, and successors-in-interest until such time as Lessee has fully paid the total amount of the rental payments due hereunder, together with any assessments due therewith, as hereinabove set forth.

ATTORNEY'S FEES

It is agreed and understood by and between the parties hereto that in the event that any of the parties hereto, their heirs, personal representatives, or successors-in-interest bring an action to enforce the terms, covenants, and conditions herein set forth, reserved, and contained on the part of the parties to be kept and performed, it is agreed that the prevailing party shall be entitled to a reasonable attorney's fee as found and determined by the court. In this connection, the parties hereto agree that any action instituted, at law or in equity, to enforce the terms, covenants, and conditions of this agreement as herein set forth, reserved, and contained, shall be instituted in a district court having jurisdiction over the county in which the real property which is the subject of this lease and agreement is located.

SPECIAL CONDITIONS

It is agreed and understood by and between the parties hereto, and the parties hereto covenant, warrant, and agree, each with the other, that the following special conditions shall apply to this Commercial Lease Agreement, to wit

1. **Government Regulations**

(A) Lessee shall comply with all statutes, ordinances, regulations and requirements of all municipal, county, state and federal government authorities

which have jurisdiction over the property or the use and operation of the property by Lessee.

(B) All proper and applicable permits, licences and regulatory compliance necessary for Lessee's desired use of the property shall be the responsibility of Lessee to obtain and keep current.

2. Hazardous Materials

Lessee shall not store, place or deposit onto the property any hazardous or toxic substances as defined by any state or federal law except for motor vehicle fuel which shall at all times be properly contained. Lessee shall not use the premises in any way which will cause an environmental hazard or incur environmental liability, as defined by state and federal laws.

3. Cost of Constructing/Opening Pit

Lessee shall be responsible for all costs in regards to constructing and opening the pit, unless otherwise agreed upon in writing by both parties. Opening of pit shall be done in accordance with best industry standards.

4. Subcontractors

Lessor shall not be responsible for any subcontractors, employees, materialmen, suppliers or agents for work done by them for Lessee on Lessor's property.

5. Stockpiles

Lessee shall have twelve (12) months after the termination of this lease in which to remove any stockpiled materials that existed at time of termination. However, in no event shall additional mining of materials occur after the termination of this lease.

6. Access/Fencing

Lessee shall have access for egress, ingress and utilities to pit. Lessee may construct access road to Lessee's standards and discretion and at Lessee's cost. Lessee may construct, at Lessee's discretion and cost, fencing and gates around the pit area and may control and limit access to the same.

ASSIGNMENT OF INTEREST

It is agreed and understood by and between the parties hereto that Lessee's interest in and to this lease and agreement, and the real property and improvements which are the subject of this lease and agreement, may be assigned to an individual or

entity that is as financially responsible as Lessee. The transfer of all or part of the stock of Lessee's company shall not be considered an assignment.

INTEGRATION

It is agreed and understood by and between the parties hereto that this agreement constitutes the entire agreement and understanding by and between the parties hereto insofar as the real property and the improvements thereon which are the subject of this agreement and the subject matter herein contained, and that this lease and agreement supersedes all prior and/or contemporaneous oral or written agreements and understandings of the parties which may conflict with the expressed terms, covenants, and conditions herein set forth, reserved, and contained on the part of the parties to be kept and performed. In this connection, no assertion, allegation, representation, covenant, or condition not expressed in this agreement shall affect, or be effective, to interpret the intent of the parties, modify or change this agreement, or restrict the expressed provisions contained herein.

COUNTERPARTS

It is agreed and understood by and between the parties hereto that this Commercial Lease Agreement may be executed in one or more counterparts, each of which shall be deemed an original document, but all of which together shall constitute one and the same instrument, provided that each such counterpart must be signed by all of the parties hereto.

WAIVER

It is agreed and understood by and between the parties hereto that a waiver by the Lessor of any breach of any term, covenant, or condition herein set forth, reserved, and contained to be kept and performed on the part of the Lessee shall not act as a bar, or a precedent, nor shall it foreclose Lessor from enforcing, at law or in equity, any of the other terms, covenants, and conditions herein set forth, reserved, and contained.

TIME IS OF THE ESSENCE

It is agreed and understood by and between the parties hereto that time is of the essence of this Lease and each and every one of its terms, conditions and provisions.

CAPTION HEADINGS

It is agreed and understood by and between the parties hereto that the caption headings in this lease and agreement are for convenience only, and do not apply to, or affect, the construction or interpretation of any of the terms thereof.

BINDING EFFECT

It is agreed and understood by and between the parties hereto that all of the terms, covenants, and conditions herein set forth, reserved, and contained on the part of the parties to be kept and performed shall be binding upon and inure to the benefit of, and be enforceable by, the heirs, assigns, personal representatives, and successors-in-interest of the parties hereto.

ADDITIONAL SPECIAL CONDITIONS

IN WITNESS WHEREOF, the parties hereto have hereunto executed this
Commercial Lease Agreement as of the day and year first above written.

LESSOR: Craig Morgan
Maxille Canham
BY: Wade Morgan PTNRS.
ITS: _____

LESSEE: TMC, INC.
BY: Scott R. Linn
ITS: PRESIDENT

"EXHIBIT A"

LEGAL DESCRIPTION OF PROPERTY:

SE 1/4, Section 35, T2S, R4E, Gallatin County, Montana

