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AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE (the "Amendment") is made this 29th day of February, 1988, between The Jones Family Trust and the Eula Kathleen Jones Trust (such trusts hereinafter to be collectively referred to as "Lessor"), and Three Rivers Rock Co., an Illinois corporation (hereinafter referred to as "Lessee").

RECITALS

WHEREAS, Charles Raymond Jones and his wife, Eula Kathleen Jones were Lessors under that certain Lease dated May 1, 1962, as amended by that certain Addendum dated April 10, 1964, that certain Addendum No. 2 dated March 29, 1965, and that certain Ninety-Nine-Year Lease dated February 14, 1967, (such leases and addenda to be hereinafter collectively referred to as the "Lease");

WHEREAS, various disputes have arisen between Lessor and Lessee during the term of the Lease, all of which have been resolved and settled pursuant to that certain Settlement and Release of even date herewith between Lessee, Lessor, Cyprus Mines Corporation (an affiliate of Lessee), Citizens National Bank of Bowling Green, Kentucky, (the trustee of the above mentioned trusts), and all of the beneficiaries of Lessor in their individual and collective capacities (the "Beneficiaries");

WHEREAS, prior to the execution of the above-referenced Settlement and Release, Lessor and Lessee negotiated a good faith settlement with regard to the royalty payable pursuant to the terms and conditions of the Lease, and with regard to certain

other issues specifically addressed herein; and

WHEREAS, Lessor and Lessee have agreed to amend the Lease to reflect the terms and conditions of their negotiated settlement.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. Royalty. Paragraph 6 of the Ninety-Nine Year Lease shall be deleted in its entirety and replaced with the following language:

"6. Royalty.

(a) Base Rate Royalty. In consideration of the premises and pursuant to the Original Lease (as such term is defined in that certain Ninety-Nine Year Lease dated February 14, 1967) as well as this agreement, the Lessee agrees to pay to the Lessor as "earned royalty" the base rate sum of twelve and one-half cents (12.5 cents) for each of the first three million (3,000,000) tons of two thousand (2,000) pounds of limestone removed, marketed, shipped, sold and/or donated from → the Leased Lands, the Future Lands (or) from any lands lying within that area extending one mile from and beyond the perimeter of the Leased Lands (such lands hereinafter to be referred to as the "Perimeter Lands"), during each calendar year during the term hereof (the "Base Rate Royalty"). For the purpose of

→ Paragraphs 6 (a) and (b), the phrase "removed, marketed, shipped, sold and/or donated from Leased Lands, Future Lands and the Perimeter Lands" shall refer to the point in time when limestone departs said lands by truck, barge or any other means for the purposes of sale, marketing, shipping, donation, or storage for future sale, marketing, shipping or donation.

(b) Production Incentive Royalty. Lessee agrees to pay to the Lessor, as a production incentive royalty, the sum of ten cents (10 cents) for each ton of two thousand (2,000) pounds of limestone removed, marketed, shipped, sold and/or donated from the Leased Lands, the Future Lands, and the Perimeter Lands, in excess of the first three million (3,000,000) tons of two thousand (2,000) pounds removed, marketed, shipped, sold and/or donated from the Leased Lands, the Future Lands and the Perimeter Lands during each calendar year during the term of the Lease (the "Production Incentive Royalty").

(c) Floor Rates. Notwithstanding anything in this Amendment to Lease or the Lease to the contrary, Lessor and Lessee agree that the amount of Base Rate Royalty and Production Incentive Royalty paid by Lessee to Lessor during the term of the Lease shall not fall below twelve and one-half cents (12.5 cents) and ten cents (10 cents) per ton of two thousand (2,000)

pounds, respectively.

(d) Adjustments. The Base Rate Royalty shall be adjusted in accordance with the provisions of Paragraph 13 hereof.) The Production Incentive Royalty will be subject to adjustment in accordance with the provisions of Paragraph 13(c) hereof."

2. Minimum Royalty. Paragraph 7 of the Ninety-Nine Year Lease shall be deleted in its entirety and replaced with the following language:

"7. Minimum Payments and Credits. For so long as Lessee occupies the real property described herein, and the Exhibits attached hereto, Lessee agrees that its payment to Lessor under this agreement and the Original Lease shall together be not less than Two Thousand Five Hundred Dollars (\$2,500) per month or for any part of a month (the "Minimum Royalty"), during the term of the Lease. Such single monthly payment of Two Thousand Five Hundred Dollars (\$2,500) shall satisfy the Minimum Royalty requirements under both the Original Lease and under this instrument. In the event the payments of Base Rate Royalty and Production Incentive Royalty for any month do not amount to as much as Two Thousand Five Hundred Dollars (\$2,500), the Lessee shall have credit for the sum paid in excess of earned royalty during preceding or succeeding months as an advance of Base

Rate Royalty or Production Incentive Royalty. In no event, however, shall any credit on Base Rate Royalty or Production Incentive Royalty on account of said advance payments be carried over from one calendar year into another calendar year. For the purpose of this agreement, the term "occupies" shall mean possession by Lessee of any part of the Leased Lands and Future Lands for the uses and purposes set forth herein, including Lessee's right to remove its limestone and other personal property pursuant to Paragraphs 15 and 24 hereof."

3. Adjustment of Royalties. Paragraph 13 of the Ninety-Nine Year Lease shall be deleted in its entirety and replaced with the following language:

"13. Adjustment of Royalty.

(a) Base Rate Royalty. On March 1, 1989, and on the same month and day each year thereafter during the term hereof (each such date to be referred to as an "Annual Royalty Adjustment Date"), the Base Rate Royalty shall be increased or decreased from the existing royalty paid by an amount equal to the increase or decrease in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers-All Items (hereinafter referred to as the "CPI-U"), as published in the CPI Detailed Report, for

December of the year just ended; provided, however, that any single yearly increase or decrease shall not exceed two percent (2%) of the Base Rate Royalty paid for the year just ending. Provided, further, that the Base Rate Royalty shall not under any circumstances be decreased below the Floor Rates contained in Paragraph 6 c.

The new, adjusted Base Rate Royalty shall be determined as follows:

(i) Base Index. The "Base Index" is defined for the purpose of this agreement to be the "All Items" index figure as determined by the United States Department of Labor, Bureau of Labor Statistics. Such figure, as first reported for December 1987 was 345.7 using as a base figure 1967=100. In the event the Base Index is revised by the Bureau of Labor Statistics (or a successor agency to such Bureau), the revised Base Index shall be appropriately applied to make the adjustment herein provided. If such revised Base Index is not reasonably susceptible to such application, or if the said Consumer Price Index is discontinued entirely, then the parties shall in good faith attempt to agree on a suitable substitute Base Index.

(ii) New Index. The "New Index" is defined for the purpose of this agreement to be the "All Items" index figure as determined by the United States Department of Labor, Bureau of Labor Statistics, CPI-U for December of the year just ended. If such index is revised by the Bureau of Labor Statistics (or successor agency to such Bureau), the revised New Index shall be appropriately applied to make the adjustment herein provided. If such revised New Index is not reasonably susceptible to such application, or if the said Consumers Price Index is discontinued entirely, then the parties shall in good faith attempt to agree on a suitable substitute New Index.

(iii) Adjustment. The new, adjusted Base Rate Royalty shall be determined by dividing the product of: (A) the Base Rate Royalty in effect prior to the Annual Royalty Adjust Date and (B) the New Index, by the Base Index. The new, adjusted Base Rate Royalty shall be carried out to three (3) decimal points. The following mathematical equation describes the foregoing adjustment to Base Rate Royalty:

$$\frac{(\text{old Base Rate Royalty} \times \text{New Index})}{\text{Base Index}} = \text{new, adjusted Base Rate Royalty}$$

For this calculation, in each successive year the New Index will change as the CPI-U "All Items" index figures changes for December of the year just ended and the Base Index will also change annually to be equal to the prior year's New Index. Therefore, in March of 1989, when this escalation adjustment will first be put into effect, the Base Index will be equal to the December 1987 CPI-U "All Items" index and the New Index will be the December 1988 CPI-U "All Items" index. For the following year, March of 1990, the Base Index will be equal to the December 1988 CPI-U "All Items" index and the New Index will be the December 1989 CPI-U "All Items" index.

If, as a result of the foregoing calculation, the new, adjusted Base Rate Royalty would be more than two percent (2%) higher or lower than the Base Rate Royalty paid prior to the upcoming Annual Royalty Adjustment Date, then such adjustment to the Base Rate Royalty shall be limited to an increase or decrease of exactly two percent (2%). Furthermore, the foregoing calculation shall never be applied to reduce the Base Rate Royalty below twelve and one-half cents (12.5 cents) per ton of two thousand (2,000) pounds.



For example, if the CPI-U "All Items" index changes from a December 1987 value of 345.7 to 350.6 for December 1988 and 358.7 for December 1989, the Base Rate Royalty would be amended as follows:

$$\text{March 1, 1989 } \frac{(12.500 \text{ Cents} * 350.6)}{345.7} = \underline{\underline{12.677 \text{ Cents}}}$$

$$(12.500 \text{ Cents} * 1.02) = 12.750 \text{ Cents} ?$$

new adjusted Base Rate Royalty = 12.677 Cents

$$\text{March 1, 1990 } \frac{(12.677 \text{ Cents} * 358.7)}{350.6} = 12.970 \text{ Cents}$$

$$(12.677 \text{ Cents} * 1.02) = 12.931 \text{ Cents}$$

new adjusted Base Rate Royalty = 12.931 Cents

(b) Production Incentive Royalty. The amount paid hereunder by Lessee to Lessor as Production Incentive Royalty shall not escalate or de-escalate, but shall remain constant at ten cents (10 cents) per ton of two thousand (2,000) pounds until the Production Incentive Royalty is reopened as provided for in Paragraph 13(c) of this Lease.

→ (c) Reopener. On or about September 1, 2003, and September 1, 2013, and at like ten (10) year intervals thereafter for the remainder of the term hereof, Lessor and Lessee shall commence good faith negotiations to determine a proper and equitable increase or decrease of Base Rate Royalty and Production Incentive Royalty. Such Adjustments shall be effective on March 1, 2004, March 1, 2014, and at like ten (10) year intervals thereafter for the remainder of the term hereof (each such date hereinafter to be referred to as a

"Ten-Year Royalty Adjustment Date"). Lessor and Lessee shall attempt to negotiate an increase or decrease in the Base Rate Royalty and Production Incentive Royalty according to the then prevailing market conditions considering all relevant facts and circumstances including without limitation such market conditions with respect to limestone quarries located on the inland water system; provided, however, that any single adjustment occurring on any Ten-Year Royalty Adjustment Date shall never result in a newly adjusted (Base Rate Royalty) which is more than twenty percent (20%) higher or lower than the Base Rate Royalty paid by Lessee during the immediate year prior to the same Ten-Year Royalty Adjustment Date. Notwithstanding anything in the Original Lease or this Lease to the contrary, in no event shall the Base Rate Royalty and the Production Incentive Royalty paid by Lessee to Lessor after any Ten-Year Royalty Adjustment Date be less than twelve and one-half cents (12.5 cents) or ten cents (10 cents) per ton of two thousand (2,000) pounds, respectively.

(d) Arbitration. In the event that Lessor and Lessee shall fail to mutually agree upon an adjusted Base Rate Royalty and/or Production Incentive Royalty on or before the Ten-Year Royalty Adjustment Date, the parties agree to resolve any and all outstanding issues with respect to adjustment of the Base Rate Royalty and/or Production Incentive Royalty in accordance with the following provisions, which shall be

*The 20% was  
not clear about  
the adjustment  
incentive royalty  
to be paid  
to Lessee  
1971 12.5 cts  
retirement  
Base rate 20%  
continue - no cap*

*down*

*20% royalty*

considered the exclusive remedy for such disputes:

(i) Notice. Either party desiring arbitration shall give written notice of its desire to the other party, describing the dispute and setting forth the issue or issues to be arbitrated. Within fifteen (15) days after receipt of such written notice, the other party shall give written notice of its desire to submit additional issues to arbitration. Failure by either party to specify any issue related to the dispute, of which such party then has knowledge, within such fifteen (15) day time period shall constitute a waiver of any claim on such issue. The parties shall promptly exchange all documents and information relevant to the dispute and the issues presented. If no resolution of the dispute is reached within thirty (30) days following such exchange of issues, the parties shall proceed to arbitration. Except as otherwise provided herein, arbitration shall be held under the commercial Rules of the American Arbitration Association then in effect.

(ii) Appointment of Arbitrator. Within twenty (20) days following the expiration of the aforementioned thirty (30) day period, Lessor and Lessee shall agree on a single arbitrator (the "Arbitrator"). The Arbitrator shall be impartial and disinterested and

qualified by training and experience in the particular matter which is the subject of arbitration. In the event Lessor and Lessee do not agree upon the Arbitrator within such twenty (20) days, the parties shall jointly request, immediately upon expiration of such twenty (20) day period, that the Arbitrator be appointed by a Judge of the United States District Court for the Western District of Kentucky.

(iii) Rules of Procedure. Upon appointment the Arbitrator shall promptly proceed to investigate, hear, and arbitrate the issues raised by the parties under Paragraph 13(d)(i) hereof, completing the same within sixty (60) days after appointment. The Arbitrator may follow any rules of procedure which he deems appropriate, including the rules for discovery, pleadings and briefs. The Arbitrator may order reasonable discovery, including presentation of evidence and testimony by independent experts or witnesses, or establish any other procedure which will aid in the expedited resolution of the dispute.

(iv) Hearing and Award. The Arbitrator may, on reasonable notice to the parties, hold hearings of witnesses or arguments and copies of all documents to be considered by the Arbitrator shall be furnished to

each party; provided, however, that the other party may request that documents designated as confidential be viewed in camera by the Arbitrator and disclosed only as necessary to allow the other party full opportunity to respond. The Arbitrator may conduct the hearing or hearings in such manner as he deems necessary to hear and understand the dispute, and to ensure that each party is given equal opportunity to present evidence on the dispute. The Arbitrator may hear any witnesses and consider any exhibits presented by either of the parties or may call his own witnesses. A stenographic record of the hearing will be taken; and the Arbitrator shall base his decision upon the terms of the Lease, applicable law, and the testimony, briefs and documentation supplied by the parties. Each party shall, within twenty (20) days following receipt of the stenographic record, submit its post-hearing brief setting forth its proposed findings of fact and conclusion. The Arbitrator shall make a written award within fifteen (15) days after receipt of such briefs, setting forth in reasonable detail the Arbitrator's basis for his award. The Arbitrator must select the proposal of the party which he believes most accurately represents the correct finding(s) of fact, based upon the Lease and the evidence presented in such proceeding, and the Arbitrator may not effect a

compromise. The decision of the Arbitrator shall be  
conclusive and binding on each party and may be  
enforced by any court having jurisdiction thereof.

(v) Expense of Arbitration. All expenses incurred by the Arbitrator, including reasonable compensation to the Arbitrator, and the fees and expenses of attorneys or experts who may be retained by the Arbitrator, and any investigation which may be made by the Arbitrator, shall be borne equally by the parties hereto.

(vi) Continuation of Lease. The pendency of any such arbitration shall not in any manner or to any extent affect or abridge the respective rights and obligations of the parties under the Lease, including but not limited to the continued performance thereof. In the event that the foregoing arbitration procedure shall extend beyond the Ten-Year Royalty Adjustment Date, the decision of the Arbitrator shall be retroactive to such Ten-Year Royalty Adjustment Date."

4. Default. Paragraph 14 of the Ninety-Nine Year Lease shall be deleted in its entirety and replaced with the following language:

"14. Default. Should Lessee default in the payment of any sum hereunder when due, the Lessor immediately shall provide

notice of such default to Lessee. Lessee shall have five (5) business days from the receipt of such notice to cure any such default and the payment of any sum due hereunder. In the event that Lessee has not cured the default, then Lessor may at its option cancel and terminate this Lease and the Original Lease by giving written notice so to do and all rights of Lessee hereunder and under the Original Lease shall be terminated as of the mailing by United States Certified or Registered Mail of such notice of cancellation and termination. Should Lessee default in any other of its obligations hereunder or under the Original Lease, then Lessor shall by written notice advise Lessee specifying such other default and if such other default is not cured within thirty (30) days from the mailing by United States Certified or Registered Mail of such notice, then all rights of Lessee shall terminate hereunder and the Original Lease and this Lease shall be terminated. Failure of Lessor to exercise the option herein given it or any right hereunder at any time or times shall not preclude Lessor from the exercise thereof at any subsequent time or times for any subsequent default."

5. Paragraph 22 of the Original Lease shall be amended by adding the following language to the end of such paragraph:

"Lessor and Lessee hereby agree that such minerlike practices shall be accomplished to the extent that such are

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practical in keeping with geological, technical, and business considerations and conditions."

6. Additional Lease Provisions. In addition to the foregoing amendments, Lessor and Lessee hereby agree to add the following provisions to the Lease:

"25. Communications. It is expressly agreed that, in keeping with the desire of Lessor and Lessee, any and all communications from any beneficiary to the Lessee regarding Lessee's activities and the conduct of business hereunder or any other matter be transmitted in writing through and with the sanction of the then-designated trustee of Lessor.

26. Termination. In the event that Lessee shall decide to terminate its quarrying operations on the Leased Lands, the Future Lands, or any of them, Lessee shall provide Lessor with written notice of Lessee's intent to terminate the Lease as to the Leased Lands, or the Future Lands, or both. Such notice shall be given not less than six (6) months prior to the effective date of Lessee's termination of operations on the Leased Lands, or the Future Lands, or both.

27. Reclamation. Lessee, its successors and assigns, shall be responsible and pay for any and all reclamation fees, costs and expenses necessary to comply with all

*1 mi.  
Perimeter?*



applicable laws, rules, regulations and orders, which are currently in force or which may be hereafter enacted by the United States of America, the Commonwealth of Kentucky, or any other applicable governmental agency, and shall indemnify, hold harmless and defend the Lessors, their heirs and assigns, from all of same. Lessee shall comply with all applicable laws, rules, regulations, and orders which are currently in force or which may be hereafter enacted by the United States of America, the Commonwealth of Kentucky, or any other applicable governmental authority.

7. Effective Date. The amendments set forth herein shall become effective on March 1, 1988.

THE REST OF THIS PAGE OF THIS AGREEMENT IS LEFT  
INTENTIONALLY BLANK.

IN TESTIMONY WHEREOF, Lessor and Lessee, acting by their proper officers pursuant to authority vested in them, have each caused their names to be subscribed and their seals to be affixed hereto, this 29<sup>th</sup> day of February, 1988.

LESSOR:  
Citizen's National Bank of  
Bowling Green, Kentucky,  
Trustee for The Jones Family  
Trust and the Eula Kathleen  
Jones Trust

WITNESSES:

By: Robert R. Kirby  
Title: SVVP-SRTO

Mark A. [Signature]

STATE OF COLORADO

COUNTY OF Arapahoe

I, Robert K. Anderson, a Notary Public, in and for the state and county aforesaid, do hereby certify that before me personally appeared Robert R. Kirby, to me known, who being by me first duly sworn, did depose and say, that he is the Senior Vice President and Senior Trust Officer of Citizens National Bank of Bowling Green, Kentucky, which is the Trustee of The Jones Family Trust and the Eula Kathleen Jones Trust, and that he is duly authorized to execute this Amendment to Lease for and on behalf of said trusts and that it is the free act and deed of said Trustee on behalf of said trusts.

Given unto my hand on this the 29<sup>th</sup> day of February, 1988.

Robert K. Anderson  
NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: 6-10-90

LESSEE:  
Three Rivers Rock Co.,  
an Illinois corporation

WITNESSES:

By: [Signature]  
Title: PRESIDENT

[Signature]

STATE OF COLORADO  
COUNTY OF Arapahoe

I, Robert L. Anderson, a Notary Public, in and for the state and county aforesaid, do hereby certify that before me personally appeared P.C. Day, to me known, who being by me first duly sworn, did depose and say, that he/she is President, of Three Rivers Rock Co., an Illinois corporation, and that he/she is duly authorized to execute this Amendment to Lease for and on behalf of said corporation and that it is the free act and deed of said corporation.

Given unto my hand on this the 29<sup>th</sup> day of February, 1988.

[Signature]  
NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: 6-10-90

PREPARED BY:  
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