

## ADDENDUM TO MINING LEASE

THIS ADDENDUM to the Mining Lease dated October 19, 2004 (“the Mining Lease”), is made this \_\_\_ day of \_\_\_\_\_, 2006, by and between the City of Wichita, Kansas, a municipal corporation (Lessor), and Quik Sand, Inc., a Kansas corporation (Lessee).

WHEREAS, the Mining Lease provides that all topsoil and overburden removed from the Lease Premises would remain the property of Lessor throughout the term of the Mining Lease, and,

WHEREAS, the Lessor has now determined that it would be in the best interest of the Lessor to allow the Lessee to sell a portion of the overburden as a part of Lessee’s business in exchange for the payment of an additional royalty to the Lessor, and,

WHEREAS, the Lessee is willing and able to undertake its best efforts to sell a portion of the overburden and to pay the Lessor an additional royalty payment for each ton of overburden material sold by Lessee,

NOW, THEREFORE, the parties agree as follows:

1. Subject to the requirements of Section 3 of the Mining Lease that Lessee shall deliver up to 25% of the overburden material to designated locations at the Brooks Landfill at the time of its initial excavation, and subject to the requirements of Section 9.E of the Mining Lease that sufficient topsoil and fill dirt shall be left upon the Leased Premises to allow the premises to be graded in accordance with the land use and development plan approved by the City Council, Lessee agrees to use its best efforts to sell, on the open market, excess overburden throughout the remainder of the term of the Mining Lease.

2. Lessee agrees to pay a royalty to the Lessor for each ton of overburden material removed from the premises and sold by Lessee in the amount of 7.5 cents per ton, commencing upon the execution of this Addendum. Said royalty rate shall increase as follows:

- A. On January 1, 2008, increasing to 7.725 cents per ton.
- B. On January 1, 2011, increasing to 7.957 cents per ton.
- C. On January 1, 2014, increasing to 8.195 cents per ton.
- D. On January 1, 2017, increasing to 8.441 cents per ton.
- E. On January 1, 2020, increasing to 8.695 cents per ton.
- F. On January 1, 2023, increasing to 8.951 cents per ton.
- G. On January 1, 2026, increasing to 9.219 cents per ton

3. Said royalties shall become due and payable on the 20<sup>th</sup> day of the first full month following the execution of this Addendum by the Lessor, and shall thereafter be paid monthly, by separate check, in accordance with the provisions of Section 5 of the

Mining Lease. Lessee shall account for all sales of overburden material from the Leased Premises in the same fashion as set forth for mining royalties in the approved "Kingsbury Operations Accounting Methods" dated May 17, 2005.

4. Royalty payments generated from the sale of overburden materials shall not be included in the calculation of the minimum annual royalty set forth in Section 5 of the Mining Lease.

5. Lessee's obligations hereunder are limited to accounting to the Lessor for all overburden removed from the premises and sold by Lessee, and the payment of the above required royalty payment to the Lessor. Lessee is not obligated to sell any minimum amount of overburden material, or to generate any minimum royalty amounts from the sale of overburden materials during any period of time or during the entirety of the Mining Lease term.

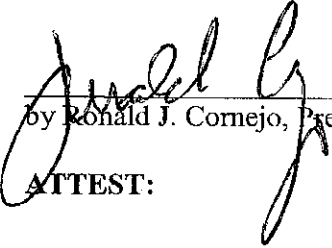
6. Except as modified herein by this Addendum, all other terms and conditions of the Mining Lease shall remain in full force and effect.

"Lessor"

**THE CITY OF WICHITA, KANSAS**

\_\_\_\_\_  
by Carlos Mayans, Mayor

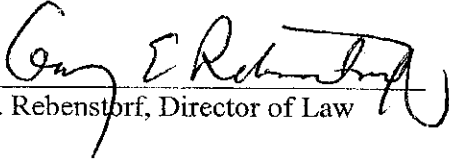
**QUIK SAND, INC., a Kansas Corporation**

  
\_\_\_\_\_  
by Ronald J. Comejo, President

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law