

STATE OF ALABAMA     )  
                                  ) TO-WIT:  
COUNTY OF BULLOCK    )

**SUPPLEMENTAL AGREEMENT NUMBER TWO**

**THIS SUPPLEMENTAL AGREEMENT NUMBER TWO**, dated October 17<sup>th</sup>, 2008, by and between **TANYARD PROPERTIES, INC.**, an Alabama corporation, successor in interest to **MEADWESTVACO COATED BOARD, INC.**, hereinafter called "Lessor" and **U. S. SILICA COMPANY**, doing business in the State of Alabama as **U. S. SILICA COMPANY, INC.**, hereinafter called "Lessee".

That certain Mining Lease dated June 1, 2003 (hereinafter, "said Lease") between MeadWestvaco Coated Board, Inc. as Lessor and Lessee, providing for the lease of certain mineral interests in real estate in the County of Bullock, State of Alabama (the Leased Premises being described on Attachment "A" to said Mining Lease), by Lessor to Lessee for the mining, production, and sale of sand and silica sand, hereinafter called "Leased Minerals", as supplemented by that certain Supplemental Agreement Number One dated June 1, 2003, said Lease having been recorded in the Probate Office of Bullock County, Alabama in Deed Book MM-1 at pages 224-237, is hereby further supplemented as follows:

1. Annual Minimum Royalty: The Annual Minimum Royalty payable by Lessee under the provisions of Section 8(a) of said Lease shall be \$15,000.

2. Earned Royalty: Under the provisions of Section 8(b) of said Lease, Lessee shall pay to Lessor for each ton of 2,000 pounds of Leased Minerals removed from the Leased Premises (determined by provisions of 8(d) without deductions for reject or plant loss) an Earned Royalty equal to three percent (3.0 %) of the weighted average gross sales price per ton, F. O. B. Lessee's plant, received by Lessee for all sales of Leased Minerals shipped from Lessee's Hurtsboro plant during the preceding calendar month; provided however, that in no event shall the Earned Royalty per ton of 2,000 pounds of Leased Minerals removed from the Leased Premises be less than forty cents (\$0.40).

The weighted average gross sales price, as used herein, shall mean the proceeds received from the sale of non-bagged whole grained Leased Minerals after preparation and processing to the first purchaser not affiliated with Lessee without deduction of sales commissions or other costs or expenses. If any Leased Minerals are not sold at arm's length or if the sales price does not truly or accurately reflect the average gross sales price, the price on which the weighted average gross sales price is computed shall be the fair market value of such Leased Minerals whether sold, used or consumed on or off the Leased Premises. In the event, the quantity of bagged and/or ground Leased Minerals sold from Lessee's Hurtsboro operation ever exceeds 10% of the total annual sales by volume, Lessor and Lessee agree to cooperate in renegotiating new royalty rates commensurate with the changing product mix.

3. Escalator: The earned royalty of three percent (3.0 %) of the weighted average gross sales price per ton shall increase by 0.05 % at the end of each lease year during the term of said Lease, including any renewal terms.

4. Renewal Term: Lessor acknowledges and agrees that Lessee has commenced a five year Renewal Term as of June 1, 2008, that will run through May 31, 2013. However, Lessee shall have the right to terminate this Lease earlier than the expiration of the full five year Renewal Term so long as 1) Such termination is effective at the end of a lease year, and Lessee provides written notice to Lessor of its intent to so terminate at least six (6) months prior to the end of a lease year, *i. e.*, no later than November 30 to terminate by June 1; and 2) Lessee pays to Lessor the entire Annual Minimum Royalty due for the lease year, plus any production royalties as may be due over and above such Annual Minimum Royalty under the Lease. The first sentence of Section 25 of said Lease is hereby deleted and superseded by the terms of this paragraph 4.

5. Use of Leased Premises: The use by Lessee of the Leased Premises described in paragraphs 3 and 9 of said Lease is hereby amended to provide that Lessee's right to conduct mining activities shall be expressly limited to that portion of the Leased Premises on which there is located no (or minimal) standing timber; Lessee shall no longer have a right to mine timbered portions of the Leased Premises. However, in the event that Lessee is desirous of mining certain timbered portions of the Leased Premises, Lessee shall request such permission of Lessor, and Lessor may, in Lessor's sole discretion, permit or deny such mining by Lessee, subject to those timber rights and removal provisions contained in paragraph 9 of said Lease.

6. Leased Premises: The Leased Premises upon which Lessee may mine and remove all sand and silica sand, **subject to** those limitations set forth in the preceding paragraph 5 and in said Lease, including, but not limited to, Section 13 (b) of said Lease, are hereby amended so as to include those portions of Sections 26, 27, 34 and 35 of Township 14 North, Range 25 East of Bullock County, Alabama, contained within the boundary drawn in red on the topographical map attached hereto as Exhibit "A", containing approximately 915 acres, more or less, the Lessor hereby granting and conveying unto Lessee and its successors and assigns a leasehold interest in said Leased Premises, subject to the terms, conditions and limitations contained in said Lease, as supplemented and amended by that certain Supplemental Agreement Number One dated June 1, 2003 and this Supplemental Agreement Number Two.

7. Warranty of Title and Quiet Enjoyment: Lessor warrants and avers unto Lessee that Lessor has good title to the Leased Premises and that Lessor has the full legal right to grant to Lessee the mining rights granted herein on the Leased Premises. Lessor further covenants that Lessee shall be entitled to the quiet enjoyment of its mining rights hereunder, and Lessor shall indemnify and hold harmless Lessee from any claims and or actions of any person or entity, including, but not limited to, any mortgagee of Lessor, as the same may impede or diminish Lessee's ability to mine and extract silica sand from the Leased Premises. In the event that another person or entity, including Lessor's mortgagee, claims an interest in the Leased Premises or in royalties owed under this Lease, and such claim is adverse to Lessor and not consented to by Lessor, Lessee shall have the right to pay all royalties, both minimum annual and production, into escrow, or shall be entitled to terminate the Lease without further liability unto Lessor, other than to promptly pay for all earned production royalties.

The undersigned Tanyard Properties, Inc. is successor in interest to MeadWestvaco Coated Board, Inc. as Lessor under said Lease by virtue of those certain Deeds dated December 18, 2007 and recorded in the Probate Office of Bullock County on January 2, 2008 in Deed Book AA-2 at pages 27 and 41. Any and all notices to Lessor, and all royalties payable to Lessor, shall be sent by Lessee to Tanyard Properties, Inc. at 1442 St. Mark Church Road, Hurtsboro, AL 36860, unless Lessor hereafter directs otherwise.

The provisions of this Supplemental Agreement Number Two are hereby incorporated by reference in the above-mentioned Mining Lease with the same effect as if written therein.

IN WITNESS WHEREOF, the parties hereto acting by and through their duly authorized officers have duly executed this instrument, as of the day and year first above written, to duplicate originals hereof, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(LESSOR)

**TANYARD PROPERTIES, INC.**

By: 

Campbell B. Lanier, III  
President

(LESSEE)

**U. S. SILICA COMPANY**

(d/b/a in Alabama as U. S. Silica Company, Inc.)

By: 

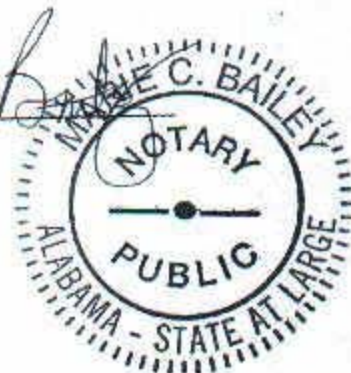
John A. Ulizio  
President

STATE OF GEORGIA )  
 ) SS.  
COUNTY OF TROUP )

I, the undersigned authority, a Notary Public in and for said County, in the said State, hereby certify that Campbell B. Lanier, III, whose name as President of TANYARD PROPERTIES, INC., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Mining Lease referenced herein, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation.

Given under my hand this 17th day of October, 2008.

Marie C. Bailey  
Notary Public



My Commission Expires Nov. 30, 2011

STATE OF WEST VIRGINIA )  
 ) SS.  
COUNTY OF MORGAN )

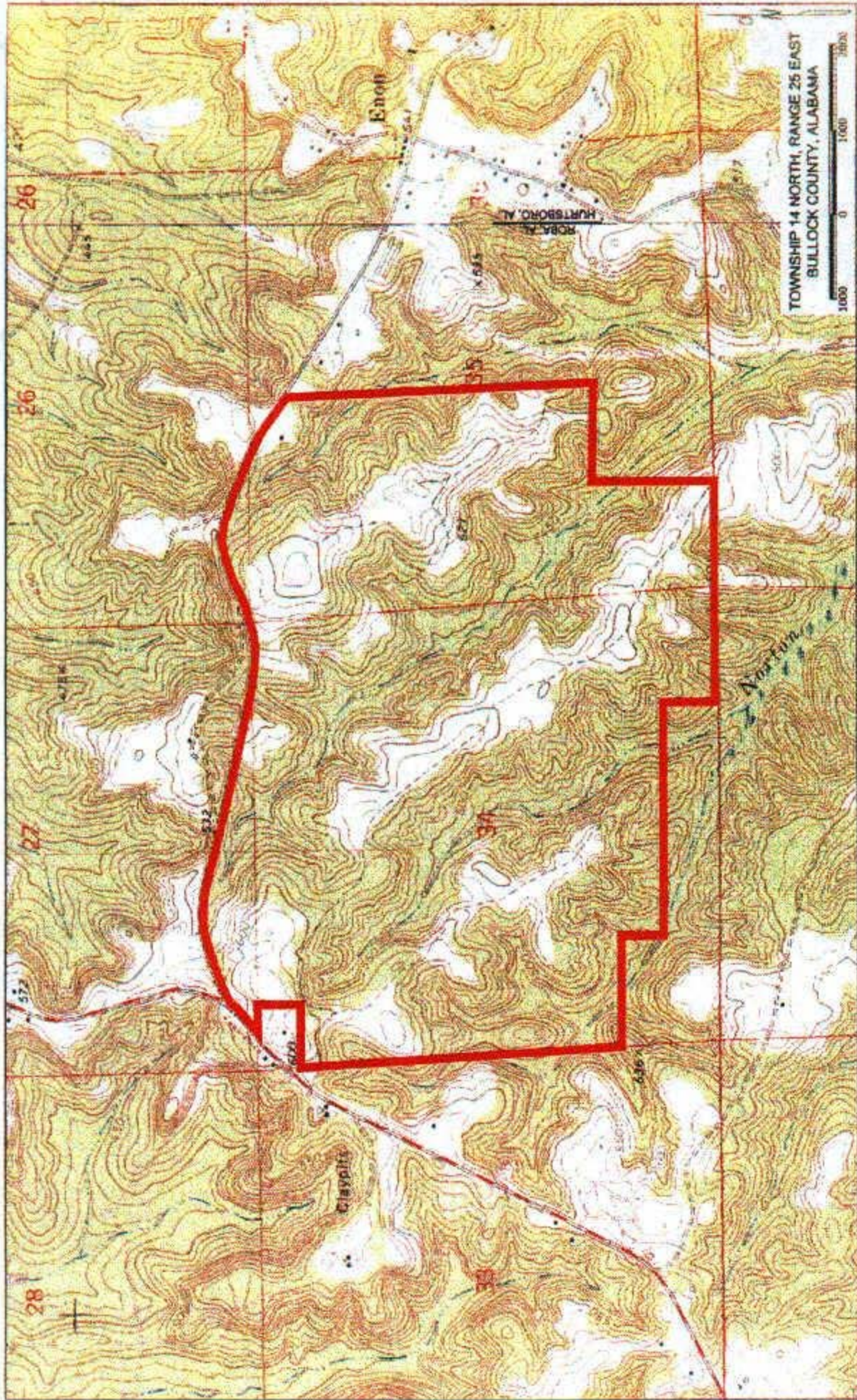
I, the undersigned authority, a Notary Public in and for said County, in the said State, hereby certify that John A. Ulizio, whose name as President of U. S. SILICA COMPANY is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Mining Lease referenced herein, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Company

Given under my hand this 21<sup>st</sup> day of October, 2008.



Karrie L. Loucks  
Notary Public

TO THE CLERK OF THE BULLOCK COUNTY PROBATE COURT: After recording, please mail to John Baggett, Statewide Title Services, Inc., 200 Office Park Drive, Suite 115, Birmingham, AL 35223 [Case # C-2705]



**EXHIBIT "A"**



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