

Third Amendment of Agreement

This Third Amendment of Agreement ("Third Amendment") is made and entered into as of the 12th day of October, 2011 by and between Northern Utilities, Inc. ("Northern" or "Company") and National Gypsum Company ("National" or "Customer"), individually "a party" and collectively "the parties."

Whereas, the parties entered into a Special Firm Transportation Agreement dated August 2, 1999 ("the Agreement"), an Amendment of Agreement dated October 30, 1999 ("the First Amendment"), and a Second Amendment of Agreement dated October 16, 2009 ("the Second Amendment");

Whereas, the term of the Agreement as extended by the Second Amendment will expire on November 30, 2011; and

Whereas, the parties desire to extend the terms and conditions of the Agreement and to modify same to relieve the Customer of certain payment obligations in the event that its wallboard manufacturing plant in Portsmouth, New Hampshire closes.

Now Therefore, pursuant to Article 11 of the Agreement and in consideration of the exchange of mutual promises and mutual benefits to be derived from this Third Amendment, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Article 4: Term

Article 4 of the Agreement as amended by the First and Second Amendments is stricken and replaced with the following:

"This Agreement shall continue in full force and effect until November 30, 2016. Thereafter, this Agreement shall continue in full force and effect for up to three (3)

successive one-year periods, unless terminated by the Customer or the Company with at least (6) months written notice to the other party prior to the expiration of any applicable continuation period. Such written notice to terminate shall be addressed to (i) Northern at the address noted below, and (ii) the Customer at the National Facility, and mailed by U.S. certified mail, return receipt requested, first class postage pre-paid, or sent by nationally recognized delivery service (e.g. FedEx, UPS, etc.), and must be received by the other party no later than six (6) months prior to any applicable continuation period. Notices to the Company must be addressed to: Northern Utilities, 325 West Road, Portsmouth, NH 03801, Attention: Michael Smith.”

2. Commission Approval

The Company and Customer agree and acknowledge that to the extent that this Third Amendment purports to extend the term of the Agreement, it requires the approval of the New Hampshire Public Utilities Commission (“Commission”) in accordance with Order No. 23, 314 dated October 5, 1999 issued in Docket No. DG 99-123. Such approval must be in form and substance acceptable to the Company and Customer, each in its sole discretion.

3. Article 7: Termination/Acceleration

Article 7 of the Agreement is amended by adding the following language:

“Notwithstanding the foregoing provisions of this Article 7, in the event that the National Facility is permanently closed and ceases to operate, and so long as written notice is provided to Northern at least sixty (60) days prior to the Facility’s closure/permanent cessation of operations, the Customer shall not be liable for any

Minimum Annual Payment Obligation incurred during the year of said Facility closure/permanent cessation of operations.”

4. Other Provisions

All undefined capitalized terms included in this Third Amendment have the same meaning as assigned to them in the Agreement. The recitals set forth above are an integral part of this Third Amendment and shall have the same contractual significance as any other language.

This Third Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one instrument. This Third Amendment shall be effective upon its execution by both Northern and the Customer, provided however, that Northern shall be under no obligation to render service to the Customer under the Agreement as amended, and the Customer shall have no payment obligations under the Agreement as amended, until the Commission shall have issued a final and non-appealable order approving this Third Amendment in form and substance acceptable to Northern and the Customer, each in its sole discretion. Northern and the Customer agree to cooperate to obtain such an order as soon as practicable after the date hereof.

All other provisions of the Agreement as amended shall remain in full force and effect. The Agreement, as hereby amended, constitutes the entire agreement of the parties with respect to transportation service at the Special Rate to the Customer's Facility, and there are no other oral or written understandings or agreements between the parties relating thereto.

IN WITNESS WHEREOF, Northern and the Customer have caused this Third Amendment to be executed by their duly authorized officers as of the day and year first written above.

NATIONAL GYPSUM COMPANY

By: 

Name: JIM RUGGIERO

Title: DIRECTOR ENERGY PROCUREMENT

NORTHERN UTILITIES, INC.

By: 

By: MARK H. COLLINS

Title: TREASURER

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