

REED SMITH LLP

Edward J. Estrada
Sarah K. Kam
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 521-5400
Facsimile: (212) 521-5450

Objection Deadline: Dec. 10, 2012 at 4pm
Hearing Date: To Be Determined

Counsel for ICON Magnum, LLC

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No.: 12-12900 (SCC)

**OBJECTION OF ICON MAGNUM, LLC TO NOTICE OF REJECTION OF LEASE
AGREEMENT AND THE ABANDONMENT OF EXPENDABLE PROPERTY**

ICON Magnum, LLC (“ICON”), by and through its undersigned counsel, objects to the Notice of Rejection of Lease Agreement and the Abandonment of Expendable Property (Docket No. 1645) (the “Rejection Notice”) filed by the above-referenced debtors (the “Debtors”), and in support thereof, states as follows:

PRELIMINARY STATEMENT

1. ICON leases to the Debtors a dragline in Madison, WV, that cost approximately \$12.5 million, weighs approximately 4,075 tons, and has a length of 411 feet. The dragline is currently used within a mine and will cost millions of dollars to remove. Through the Rejection Notice, the Debtors seek to reject the lease and abandon the dragline, deemed “expendable property,” effective as of December 12, 2012, without setting forth a reasonable process or timeline for abandonment. In order to avoid additional claims against the Debtors’ estates, the effective date of rejection of the lease and the abandonment of the dragline should be extended to December 31, 2013.

BACKGROUND

2. On May 5, 2008, ICON, as lessor, and Magnum Coal Company (“Magnum Coal”) and 32 of its subsidiaries, entered into a Master Lease Agreement (as amended, the “Master Lease Agreement”) for the purpose of establishing the terms and conditions by which ICON would lease equipment from time to time to Lessees.

3. Also on May 5, 2008, pursuant to the Master Lease Agreement, ICON, as lessor, and Hobet Mining, LLC (“Lessee”), entered into Schedule 1 to the Master Lease Agreement (the “Schedule”) whereby ICON agreed to acquire at a cost of \$12.5 million a certain Bucyrus Erie model 1570 Dragline (the “Equipment”), as more fully described on Section 1-A attached thereto, that ICON would in turn lease to Lessee. All the terms and conditions of the Master Lease Agreement were incorporated and made a part of the Schedule. A copy of the Master Lease Agreement and Schedule is annexed as Exhibit A.¹

4. On November 21, 2008, the Master Lease Agreement was amended (the “Amendment”) to add Patriot Coal Corporation and the 46 entities listed (collectively, the “Patriot Group”) as signatories to the Master Lease Agreement. The Patriot Group was also incorporated within the definition of “Lessee” and “Lessees” as set forth in the Master Lease

¹ Also on May 5, 2008, Branch Banking & Trust Company, as owner trustee or seller, Lessee, Cypress Equipment Fund VI, LLC and Cypress Equipment Fund VII, LLC, as owner participant, and Icon, as purchaser, entered into an Equipment Purchase Agreement (the “Equipment Purchase Agreement”) concerning the purchase of the Equipment.

Also on May 5, 2008, Branch Banking & Trust Company, Cypress Equipment Fund VI, LLC, and Cypress Equipment Fund VII, LLC delivered a Bill of Sale (the “Bill of Sale”) in connection with the Equipment Purchase Agreement.

Also on May 5, 2008, Branch Banking & Trust Company, Cypress Equipment Fund VI, LLC, and Cypress Equipment Fund VII, LLC entered into a Pay Proceeds Letter (the “Pay Proceeds Letter”) authorizing Icon and Lessee to make disbursements in connection with the Equipment Purchase agreement. A copy of the Equipment Purchase Agreement, Bill of Sale, and Pay Proceeds letter is annexed as Exhibit B.

Agreement. Amendment, § 1. The Patriot Group, each by execution of the Amendment, affirmed it was a party to the Master Lease Agreement and explicitly assumed all obligations of a Lessee thereunder. Amendment, § 1. A copy of the Amendment is annexed as Exhibit C.

5. On July 9, 2012 (the "Petition Date"), Magnum Coal and the other Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code ("Bankruptcy Code"). Since the Petition Date, the Debtors have continued to operate their business and manage their property as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

6. On November 29, 2012, the Debtors filed the Rejection Notice. Pursuant to the Rejection Notice, the Debtors seek to reject the "Equipment Lease Agreement," which is comprised of the Master Lease Agreement, Schedule (including Schedule 1-A), Amendment, Equipment Purchase Agreement, Bill of Sale, and Pay Proceeds Letter.

7. The Debtors also seek to abandon the Equipment. However, the Debtors do not set forth a reasonable process or timeline for the abandonment of the Equipment.

8. The Debtors seek an effective date of December 12, 2012 (the "Effective Date") regarding rejection of the Equipment Lease Agreement and abandonment of the Equipment.

ARGUMENT

9. The Equipment, located in Madison, West, Virginia, consists of one of the world's largest draglines. The Equipment weighs approximately 4,075 tons and has a length of 411 feet. The Equipment is currently being used within a mine and will cost millions of dollars to remove.

10. Given the value and size of the Equipment, the Master Lease Agreement contains specific provisions governing the return of the Equipment. *See* Master Lease Agreement, § 10. Upon termination of the Master Lease Agreement, Section 10(a) of the Master Lease Agreement

requires the Debtors to, among other things, (i) provide ICON with a written, in depth condition/field service report confirming that the Equipment has been properly tested, inspected, and examined, (ii) make all repairs required to place the Equipment in operating order, repair, and condition, and (iii) provide a detailed inventory of all components of the Equipment.

11. Section 10(b) of the Master Lease Agreement further requires the Debtors to deliver the Equipment to a site directed by ICON. In addition, the Debtors are required to, upon request, store the Equipment for up to one year, with reasonable storage fees to be paid by ICON, during which time the Debtors, at the expense of ICON, shall maintain and insure the Equipment in accordance with the provisions of the Master Lease Agreement. *See* Master Lease Agreement, § 10(b).

12. The Rejection Notice does not ensure that the specific provisions in the Master Lease Agreement governing the return of the Equipment will be followed. In fact, the Rejection Notice does not set forth a reasonable process for the abandonment and return of the Equipment. The Rejection Notice merely states that the Debtors seek to abandon the Equipment “to the lessor or sublessor party to the Lease Agreement associated with such [Equipment].”

13. The Debtors seek an Effective Date that is only two days away. This proposed Effective Date gives ICON only two days to arrange for the retrieval, storage, insurance, and maintenance of the Equipment. This extremely short time frame is unreasonable, unworkable and should be extended to December 31, 2013. Failure to provide a reasonable timeline for the return of the Equipment will only increase the claims against the Debtors’ estates.

CONCLUSION

For the foregoing reasons, ICON respectfully requests that the Court (i) extend the Effective Date to December 31, 2013 or as otherwise agreed by the parties; and (ii) grant such other and further relief as is just and proper.

Dated: December 10, 2012
New York, NY

REED SMITH LLP

By: /s/ Sarah K. Kam
Edward J. Estrada
Sarah K. Kam
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 521-5400
Facsimile: (212) 521-5450
eestrada@reedsmith.com
skam@reedsmith.com

EXHIBIT A

EXECUTION VERSION

MASTER LEASE AGREEMENT

THIS MASTER LEASE AGREEMENT, dated as of May 5, 2008 (this "Agreement"), is by and among MAGNUM COAL COMPANY, a corporation organized under the laws of the State of Delaware, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301 ("Magnum"), and all of its subsidiary companies identified specifically by name, type of legal entity, jurisdiction of incorporation or organization, as applicable, and principal place of business on Exhibit D attached hereto and incorporated herein by reference (each, a "Lessee" and together the "Lessees") and ICON MAGNUM, LLC (together with its successors and assigns, if any, "Lessor"), a Delaware limited liability company with its principal place of business at 100 Fifth Avenue, 4th Floor, New York, NY 10011.

WHEREAS, Lessor (as defined below) and Lessee are entering into this Agreement for the purpose of establishing the terms and conditions by which Lessor shall lease equipment from time to time to Lessee;

WHEREAS, the leasing of equipment under this Agreement shall be governed by the following general terms and conditions, as well as the specific terms and conditions set forth in the schedule(s) executed by Lessor and Lessee from time to time pursuant to this Agreement and in the form attached hereto as Exhibit A (each, a "Schedule") and any related documentation; and

WHEREAS, capitalized terms used and not otherwise defined herein shall have the meanings given such terms on Appendix A attached hereto and the rules of usage set forth therein shall apply hereto.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee agree as follows:

1. LEASE OF EQUIPMENT:

(a) Subject to the terms and conditions of this Agreement and the applicable Schedule, Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the equipment as described in any Schedule executed by Lessor and Lessee (the "Equipment"); provided, however, that all Equipment must be satisfactory to Lessor in its absolute and sole discretion, such satisfaction to be conclusively established by Lessor's execution of the applicable Schedule.

(b) Lessor shall purchase the Equipment from the manufacturer or supplier (the "Supplier"), or the Lessee, as the case may be, and shall lease it to Lessee on a Schedule when Lessor receives from the Lessee named on the applicable Schedule (in form and substance satisfactory to Lessor):

- (i) executed originals of this Agreement and the Schedule(s) for the Equipment, together with Certificates of Acceptance (as defined below) and bills of sale, as applicable;
- (ii) evidence of insurance that complies with the requirements of Section 9;
- (iii) an officer's certificate from Lessee certifying that (A) no Event of Default has occurred, nor has any other event occurred that, with notice or lapse of time (or both) would become an Event of Default; (B) in the event Lessor purchases the Equipment from Lessee, no lien, claim, encumbrance or right of any third party arising by, through or under Lessee with respect to such Equipment shall be created or arise upon the purchase by Lessor and lease of such Equipment to Lessee and (C) all representations and warranties made by Lessee in favor of Lessor shall be true and correct in all material respects;

(iv) to the extent that Equipment is purchased by Lessor from Lessee, an executed purchase agreement with respect to the Equipment together with all documents and deliverables specified therein (which agreement shall govern the terms and conditions of the purchase and sale of the Equipment);

(v) if Lessor purchases the Equipment from a third party, Lessor shall obtain from such third party original or certified copies of the invoices from the Suppliers of Equipment to Lessor and further, if Lessee purchases the Equipment from the Supplier for sale to Lessor, then Lessee shall submit original or certified copies of any purchase orders and proof of payment from Lessee to the Suppliers of Equipment in respect of the Equipment purchased by Lessee in an amount equal to the amount for such Equipment set forth in the Schedule for the Equipment;

(vi) a copy, certified by a duly authorized officer of Lessee, of resolutions, duly adopted by the member of all Lessees except for Magnum authorizing such Lessee's performance of all of its agreements and obligations under this Agreement and the incurring of the payment obligations contemplated by this Agreement and each Schedule hereunder;

(vii) UCC, tax and judgment lien searches in the jurisdiction of Lessee's organization, and wherever else Lessor reasonably deems appropriate for the purpose of ascertaining any Liens on the Equipment;

(viii) as-filed UCC-3 termination statements terminating any Liens on the Equipment (but not terminating any existing liens of Lessee's creditors on the Equipment) and UCC-1 financing statements, which financing statements may be filed prior to the date of a Schedule for the purpose of protecting Lessor's interest in the Equipment (and, if required by Lessor, UCC fixture filings), necessary real property waivers, as applicable (including without limitation, landlord and mortgagee waivers, if any) and all other filings reasonably required by Lessor to protect Lessor's interest in the Equipment;

(ix) to the extent that any item of the Equipment has been in use for a period in excess of six months prior to the date of this Lease, an appraisal and/or inspection report, as determined by Lessor in its reasonable discretion, in form and substance reasonably satisfactory to Lessor with respect to such item of Equipment; and

(x) duly executed and delivered counterparts of such other documents as Lessor may reasonably request.

(c) Each Schedule delivered by Lessee to Lessor shall be non-cancelable and for an aggregate amount not less than \$1,000,000, or such lesser amount as determined by Lessor, in its sole discretion.

2. OBLIGATION TO FUND; CONDITIONS PRECEDENT:

(a) Notwithstanding anything to the contrary in this Agreement or any other agreement, nothing herein shall be deemed to create any obligation on behalf of Lessor to enter into any Schedule or otherwise to lease any Equipment to Lessee. It is expressly understood that Lessor's entry into any Schedule is dependent upon its satisfactory business review of the equipment to be included on such Schedule, approval of Lessor's investment committee in its sole discretion, and satisfaction of the conditions precedent set forth in such Schedule. Prior to Lessee purchasing any Equipment from a Supplier for sale to Lessor to be incorporated into a Schedule, Lessor agrees to give written confirmation to Lessee that all conditions precedent set forth in this Agreement have been satisfied with respect to the Lessor's purchase of said Equipment from Lessee and the execution of the Schedule applicable to said Equipment.

(b) This Agreement shall become effective on the execution of this Agreement by Lessee; provided, however, that Lessor's agreement to execute this lease effective as of May 5, 2008 (the "Initial Closing Date") and obligation to purchase and lease any Equipment under a Schedule as of the Initial Closing Date is conditioned upon Lessor's determination that all of the following have been satisfied as of the Initial Closing Date, except for such conditions, the satisfaction of which have been waived by Lessor in its absolute and sole discretion:

- (i) receipt of fully executed originals of this Agreement and any Schedule(s), any Certificates of Acceptance, bills of sale, as applicable, and UCC financing statements;
- (ii) receipt of UCC lien searches, tax lien searches and judgment lien searches against Lessee to be conducted in such jurisdictions as determined by Lessor, the result of which shall demonstrate the absence of any liens or other encumbrances against Lessor's interest in the applicable Equipment;
- (iii) receipt of an officer's certificate of Lessee certifying that (A) no Event of Default has occurred, nor has any other event occurred that, with notice or lapse of time (or both) would become an Event of Default, (B) all third party approvals necessary for Lessee to enter into this Agreement and any Schedule(s) have been obtained, and (C) the incumbency signatures of the officers and directors of Lessee authorized to execute this Agreement and the transactions contemplated hereby on its behalf;
- (iv) receipt of a copy, certified by a duly authorized officer of Lessee, of resolutions, duly adopted by the member of all Lessees except Magnum authorizing such Lessee's performance of all of its agreements and obligations under this Agreement;
- (v) receipt of an Equipment appraisal, inspection and/or review by a certified appraiser or inspector satisfactory to ICON, in its absolute and sole discretion; and
- (vi) receipt of duly executed and delivered counterparts of such other documents related to the respective Equipment, this Agreement or the Schedule to be entered into as Lessor may reasonably request.

3. TERM, RENT AND PAYMENT:

(a) The term of this Agreement with respect to each Schedule shall consist of an interim term (the "Interim Term") and a base term (the "Base Term"). The Interim Term for each Schedule shall begin on the earlier of the date on which (i) Lessee executes such Schedule or (ii) Lessee has accepted the Equipment pursuant to a certificate of acceptance in the form attached hereto as Exhibit B (a "Certificate of Acceptance"). The Interim Term shall continue until the first day of the month following the date on which Lessee has accepted the last unit of Equipment described in the applicable Schedule and has executed and delivered to Lessor a Certificate of Acceptance to that effect (such date referred to herein as the "Base Term Commencement Date"). The Base Term shall begin on the Base Term Commencement Date and shall continue for the period specified in the applicable Schedule, unless such Base Term is renewed in accordance with the provisions of Section 17.

(b) During the Interim Term, if any, Lessee shall pay rent to Lessor ("Advance Rent") in the amount set forth on each Schedule, including any Additional Rent (as defined in Section 4). If the date on which the Interim Term commences (the "Interim Term Commencement Date") does not fall on the first day of a month, the Advance Rent for the period from the Interim Term Commencement Date until the next date on which Rent is due shall be an amount equal to the Advance Rent divided by thirty days and multiplied by the number of days from and including the Interim Term Commencement Date to the next date on which Rent is due and shall be paid to Lessor on the Interim Term Commencement Date. Rent payments (except as set forth in the preceding sentence) shall be paid to Lessor in advance and in the amount and at the times set forth on each Schedule. Rent payments for each Renewal Term, if any, shall be paid to Lessor in advance on the first day of each calendar month (or such other time as may be agreed by the parties pursuant to Section 17(c)) during such Renewal Term in the amount determined in accordance with Section 17.

(c) All Rent shall be payable by Lessee on or before the payment date provided in each Schedule at Lessor's address stated above (unless otherwise directed by Lessor in a written notice delivered to Lessee in accordance with this Agreement), in immediately available funds, without notice or demand and without abatement, set-off, deferment, reduction, counterclaim, recoupment or deduction of any amount whatsoever for any reason. In no event shall any Rent payments be refunded to Lessee. If any Rent payable pursuant to this Agreement or any Schedule is not paid within five (5) days of its due date, Lessee agrees to pay, from the date due until paid, interest at the Overdue Rate (or, if lower, the

maximum rate permitted by law) on the amount of such Rent that is due and payable, in addition to such Rent. Payments received shall be applied first to delinquent amounts due, including late charges and interest, then to current installments.

(d) On commencement of the Interim Term (or within 15 days of Lessee's receipt of any invoices submitted by Lessor thereafter) Lessee shall pay any and all reasonable out-of-pocket expenses incurred by Lessor in connection with the drafting and negotiation of this Agreement. These expenses shall include, but are not limited to: (i) costs relating to any due diligence credit review process, UCC Financing Statement(s) or equivalents, recording, appraisal(s), document preparation fees, registration fees attributable to the Equipment and (ii) Lessor's legal fees.

(e) If, after the date of this Agreement, any change of law or applicable governmental regulation, (i) shall subject Lessor to any tax, duty or other charge with respect to this Agreement, any Schedule, or any Rent, or shall change the basis of taxation of payments by Lessee to Lessor (except for Lessor Taxes (as defined in Section 4)) or (ii) shall impose on Lessor any other condition directly related to this Agreement or any Schedule or Rent; and the effect of any of the foregoing is to increase the cost to Lessor of making, issuing, creating, renewing, participating in or maintaining any such Schedule or to reduce any amount receivable by such Lessor hereunder; then Lessee shall from time to time, upon written demand by Lessor (accompanied by a certificate from Lessor setting forth and reasonably accounting for the incurred costs), pay to Lessor additional amounts sufficient to reimburse Lessor for such increased costs or to compensate Lessor for such reduced amounts, to the extent actually incurred by or suffered by Lessor, which shall be substantiated by Lessor to Lessee by reasonable documentation.

4. TAXES:

(a) Lessor shall report and file any and all tax returns or reports or similar items and shall invoice Lessee for any and all Taxes. Lessee shall inform Lessor of any returns or reports or similar items that may be due from Lessor with respect to Taxes and shall provide to Lessor all information and documents, certificates and other instruments requested by Lessor in relation thereto and shall cooperate in all reasonable respects with Lessor in order for Lessor to report and file tax returns and pay such Taxes. Lessee shall promptly reimburse Lessor on an after tax basis the amount of Taxes actually paid by Lessor (in no event less than thirty (30) days from the date Lessee receives an applicable invoice therefor from Lessor) for (or pay directly, but only if instructed by Lessor in a reasonable amount of time to allow Lessee to make such payment in a timely manner), and shall indemnify and hold Lessor harmless from and against, any and all taxes, fees, assessments or other charges, however designated, that may have been, now or hereafter be imposed, assessed or levied, including but not limited to (i) all sales, use, property and other taxes, licenses, tolls, inspection or other fees, bonds, permits or certificates that were or may be required to be paid or obtained in connection with the previous owner's initial acquisition of the Equipment or sale of the Equipment by the previous owner to Lessor, and (ii) all taxes that were or may be required to be paid in connection with Lessee's possession, use and operation of the Equipment during all periods prior to Lessor's ownership of the Equipment, by any governmental or taxing authority against any or all of the Equipment (or the ordering, purchase, ownership, shipping, delivery, installation, leasing, rental, possession, use, operation, return or other disposition thereof), this Agreement or any Schedule hereunder (or any rents or receipts hereunder), during or related to the term of this Agreement or any Schedule hereunder, including, without limitation, all license and registration fees, and all sales, use, personal property, excise, gross receipts, goods and services or other taxes, imposts, duties and charges, together with any penalties, fines, additions to tax or interest thereon (collectively, "Taxes"). Lessor shall, at no cost to Lessor, reasonably cooperate with Lessee in order for Lessee to minimize its obligations in relation to Taxes under this Agreement. Specifically, Lessee shall have no liability for Taxes imposed by the United States of America or any state or political subdivision thereof which are on or measured by the net income of Lessor, any franchise tax based on Lessor's income from this Agreement or any Schedule, which is substantively the functional equivalent of a tax on gross rents or leases but is called by another name, a tax on gross rents or leases, a tax on capital gains, any tax measured by the capital of the Lessor or any capital stock tax ("Lessor Taxes"). All amounts incurred or

expended by Lessor to satisfy the Taxes pursuant to this Section 4 shall be deemed "Additional Rent".

(b) The parties acknowledge and agree that the Lessor is the owner of the Equipment, that this Agreement and each Schedule is intended to be a "true lease" of the Equipment by the Lessor to the Lessee and that the Lessor shall claim the tax benefits described below (the "Tax Benefits") in respect of such Equipment. The Lessor agrees to file all tax returns consistent with the immediately preceding sentence and to take no action that would be inconsistent therewith. Tax Benefits shall include, to the extent available with respect to the Equipment, cost recovery deductions under Section 168 of the Internal Revenue Code of 1986, as amended (the "Code"), using such method of depreciation as may be determined by Lessor in its sole discretion (and which may be changed from time to time at Lessor's sole discretion). Tax Benefits shall also include interest expense deductible under Section 162 of the Code and transaction expenses deductible under Section 162 of the Code or amortizable under Section 263 of the Code. Lessee acknowledges and agrees that Lessor has entered into this Agreement and each Schedule on the assumption that Lessor will be taxed throughout the term of this Agreement at certain federal, state and local corporate income tax rates. If there shall be a loss, disallowance, recapture or delay in claiming all or any portion of the Tax Benefits with respect to the Equipment that is caused by an act or omission of Lessee (other than acts required under this Agreement) or a breach of Lessee's representations, warranties or covenants, or there shall be included in Lessor's gross income for federal, state or local income tax purposes any amount on account of any such act or omission of Lessee or any addition, modification or improvement to or in respect of any of the Equipment made or paid for or consented to by Lessee (any loss, disallowance, recapture, delay, or inclusion being herein called a "Tax Loss"), then Lessee shall pay Lessor a lump sum amount that, after deduction of all Taxes required to be paid by Lessor with respect to the receipt of such amount, shall provide Lessor with an amount necessary to maintain Lessor's after-tax economic yield and overall net after-tax cash flows at the same level that would have been available if such Tax Loss had not occurred (taking into account all current and future reductions in income taxes as a result of such Tax Loss), plus any interest, penalties or additions to Tax that may be imposed in connection with such Tax Loss, minus the amount of any decrease in Lessor's federal, state and/or income taxes caused by any allowable deduction for interest, penalties or additions to Tax.

(c) Any amount payable to Lessor pursuant to this Section 4 shall be paid not later than fifteen (15) days after receipt of a written demand and a copy of the applicable tax bill or such other proof therefor from Lessor, but such payment shall not be due prior to the earlier of (a) the date Lessor is required to pay any additional Taxes (including payments of estimated Tax) as a result of such Tax Loss, or (b) the date Lessor shall suffer a reduction in the amount of any refund of Tax that Lessor would have been entitled to receive but for such Tax Loss.

(d) The foregoing indemnities and covenants set forth in this Section 4 and in Sections 14 and 15 of this Agreement shall continue in full force and effect and shall survive the expiration or termination of this Agreement.

5. REPORTING REQUIREMENTS:

(a) If any Tax or other lien or encumbrance shall attach to any Equipment, Lessee shall notify Lessor in writing, within ten (10) days after receiving actual written notice of the Tax, lien or encumbrance. The notice shall include the full particulars of the Tax, lien or encumbrance and the location of such Equipment on the date of the notice.

(b) During the term of this Agreement, Magnum Coal Company ("Magnum") shall deliver to Lessor (i) unaudited consolidated quarterly financial statements of Magnum within sixty days after the end of each quarter, certified to be true and correct by its chief financial officer, (ii) audited consolidated annual financial statements, certified by a recognized firm of certified public accountants, within ninety (90) days after the close of each fiscal year of Magnum and (iii) within sixty (60) days of the end of each quarter, a compliance certificate, in the form attached hereto as Exhibit C (a "Compliance Certificate"),

certified to be true and correct by Magnum's chief financial officer. Magnum shall deliver to Lessor all Forms 10-K and 10-Q, if any, filed by Magnum with the Securities and Exchange Commission within thirty days after the date on which they are filed. Upon Lessor's reasonable request but not more frequently than annually, Magnum shall promptly provide Lessor with its then current bank and other credit references; provided, however, that Magnum shall provide such information at any time and any number of times as Lessor shall request upon the occurrence of an Event of Default that has occurred and is continuing. Notwithstanding the foregoing, following the consummation of the contemplated merger of Magnum into a subsidiary of Patriot, as hereafter defined, the reporting requirements of this Section 5(b) shall no longer apply to Magnum, but shall thereafter apply solely to Patriot, such that the delivery of the unaudited quarterly financial statements, audited annual financial statements, Compliance Certificates, Forms 10-K and 10-Q and bank and other credit references referred to above shall be those of Patriot and not Magnum.

(c) If any Equipment is lost or damaged (where the estimated repair costs would exceed the greater of ten percent of the original Equipment Cost or one hundred thousand Dollars) or is otherwise involved in an accident causing personal injury or property damage, Lessee shall promptly and reasonably report the event to Lessor in writing with a full report to follow in no less than thirty (30) days.

(d) Within three (3) days of becoming aware of the existence of an Event of Default, or any event that, with notice or lapse of time (or both), would become an Event of Default, Lessee shall furnish Lessor a written notice specifying the nature of the Event of Default and what action Lessee is taking or proposes to take with respect thereto. To the extent that Lessor has knowledge of an Event of Default, Lessor shall provide notice of such Event of Default to Lessee; provided, however, that Lessor's failure to provide such notice shall not be deemed a waiver of the Event of Default or a release of Lessee's obligations as otherwise set forth herein.

(e) In conjunction with Magnum's delivery of its audited financial statements to Lessor each year, Magnum shall furnish to Lessor a certificate duly executed by an authorized officer of Lessee certifying that such officer is familiar with the terms of this Agreement and containing the following information: (i) a statement that there exists no Event of Default or event which with notice or lapse of time (or both) would become an Event of Default; (ii) the location, configuration, and condition of each item of the Equipment and a statement as to any loss or damage where the estimated repair costs would exceed the greater of ten percent of the original Equipment Cost or one hundred thousand Dollars; and (iii) the existence and status of any claims for damages (whether against the Equipment, or any part thereof, or against Lessor or Lessee) arising out of the use, operation or condition of the Equipment.

6. DELIVERY, USE AND OPERATION:

(a) Following the execution of a Schedule, Lessee acknowledges that, with respect to the Equipment that is subject to a Schedule, it has no title, right or interest in, to or under such Equipment other than in the capacity of Lessee hereunder and Lessee agrees that Lessor shall be the owner of, and shall hold all right, title and interest in, to or under, such Equipment for all purposes throughout the term of this Agreement.

(b) Lessee agrees that the Equipment shall be used by Lessee solely in the conduct of its business and Lessee shall not discontinue its use of the Equipment outside the ordinary course of its business. Lessee shall not use, operate or locate any item of Equipment in violation of any Applicable Law, in violation of any license or registration related to such item of Equipment issued by any Governmental Authority or in violation of any term of any insurance policy covering such item of

Equipment, or suffer or permit any item of Equipment to be used, operated or located outside of the United States or in any geographic area excluded from coverage by any insurance required pursuant to the terms and conditions of this Agreement. In no event shall Lessee permit any item of the Equipment to be used in any injurious manner.

(c) Lessee shall keep the Equipment at the Equipment Location and, subject to the terms and conditions of this Agreement, shall not move the Equipment to a new location without prior written notice to Lessor; provided, that, Lessee shall not move the Equipment in any manner outside the normal course of its business without Lessor's prior written consent. Except pursuant to a Merger Event (as defined below) effectuated in accordance with Section 18, Lessee shall not deliver, relinquish or transfer possession of any item of Equipment to any Person during the term of this Agreement; provided, however, that Lessee may, without the prior written consent of Lessor, deliver temporary possession of any item of Equipment or Part to the manufacturer, Supplier or other organization for testing, service, repair, maintenance or overhaul work on such item of Equipment or Part or for alterations or modifications in or additions to such item of Equipment or Part to the extent required and permitted by the terms of this Agreement; provided that Lessee's obligations and this Agreement shall continue in full force and effect notwithstanding any such delivery of temporary possession. No relinquishment or transfer of possession of any item of Equipment or Part shall in any way discharge or diminish Lessee's Obligations or constitute a waiver of, or inhibit in any way, Lessor's rights or remedies hereunder and Lessee shall remain primarily liable hereunder for the performance of all of the terms and conditions of this Agreement as if such relinquishment or transfer had not occurred.

(d) Lessee shall, upon Lessor's reasonable request of not less than five (5) days notice to Lessee, permit Lessor or its respective authorized technical representatives reasonable access to the Equipment or any part thereof during Lessee's normal business hours; provided, however, that Lessor shall not be required to provide Lessee with such five (5) day notice upon the occurrence and continuation of an uncured Event of Default. Lessee shall also make available at the time of any such inspection (i) technical personnel who are employees of Lessee and familiar with the historical operation, maintenance and upgrading of the items of Equipment, such technical personnel to reasonably assist Lessor or any representative thereof in ascertaining the status of the items of Equipment and (ii) all manuals, records, certificates, and documents regarding its use, maintenance, and repair, for such testing and inspection as Lessor may reasonably require. Lessor shall bear all costs and expenses of such inspections; provided, however, that upon the occurrence of an Event of Default that shall be continuing, Lessee shall promptly pay Lessor for all costs and expenses incurred by Lessor in connection with any inspections.

(e) Lessee shall not directly or indirectly create, incur, permit, assume or suffer to exist any Lien on or with respect to the Equipment, other than Permitted Liens. Lessee shall promptly, at its own cost and expense, take such action as may be necessary or desirable to duly discharge or eliminate any such Lien (other than Permitted Liens) if the same shall arise at any time.

(f) Lessor covenants that during the term of this Agreement, so long as no Event of Default shall have occurred and be continuing, Lessee's rights under this Agreement, including the possession, use or quiet enjoyment of the Equipment, shall not be interrupted by Lessor or any Person claiming any interest in such item of Equipment by, through or under Lessor.

7. MAINTENANCE:

(a) Lessee shall, at its sole cost and expense, maintain the Equipment in accordance with commercially reasonable standards such that the Equipment remains in good, operating condition and working order, ordinary wear and tear excepted. In fulfilling such obligation, Lessee shall cause the

Equipment to be serviced, repaired, maintained, and tested during the term of this Agreement (i) with at least the same standard of care that Lessee exercises in servicing, repairing, maintaining, and testing similar equipment owned, operated or leased by it or its Affiliates, in each case in a manner consistent with its historical maintenance procedures, (ii) in accordance with industry standards generally applicable to Lessee, (iii) so as to keep each item of Equipment or as any such item of Equipment has been modified in accordance with this Agreement, in good operating order, repair and condition, ordinary wear and tear excepted, and (iv) in compliance with the requirements of any maintenance contract, if applicable, and (v) in compliance with Applicable Laws. Lessee shall cause all service, repair, maintenance, reconfiguration and moving of each item of Equipment to be performed by qualified Persons (who may be Persons from time to time employed by Lessee) that are properly trained in the performance of such functions. Lessee shall maintain or cause to be maintained all records, logs and other materials required to be maintained by any applicable Governmental Authority or by good industry practice in respect of each item of Equipment to the same extent such materials are maintained by Lessee in connection with the maintenance of other similar equipment owned or operated by Lessee.

(b) Lessee shall, at its sole cost and expense, promptly replace all Parts that may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use for any reason whatsoever. In addition, in the course of maintenance, service, repair, or testing, Lessee, at its sole cost and expense, may for such purpose temporarily remove any Part, whether or not worn out, , lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use; provided that Lessee, at its sole cost and expense, shall replace such Parts as promptly as reasonably practicable with replacement Parts or temporary replacement parts as provided in Section 7(d). All replacement Parts shall be free and clear of all Liens except Permitted Liens and shall be in as good operating condition as, and shall have a value, utility, estimated residual value and remaining useful life at least equal to, the Parts replaced, assuming such replaced Parts were in the condition and repair required by the terms of this Section 7; provided that neither any replacement Part, whether permanent or temporary, nor the replacement of any Part pursuant to this Section 7(b) shall (i) change the item of Equipment such that it would not be commercially feasible for the item of Equipment to be used by Lessor or any third party upon return of the item of Equipment pursuant to this Agreement, (ii) diminish the value, utility (including the compatibility of such Part with other Parts of the item of Equipment taking into account industry standards generally applicable to systems comparable to the Equipment), estimated future fair market value and remaining useful life of the item of Equipment or (iii) alter any item of Equipment or any Part such that it would not be technologically feasible or commercially practicable for Lessee or its designee to comply with the return conditions under Section 10 hereof.

(c) Any Part (except for a temporary replacement Part) at any time removed from any item of Equipment shall remain the property of Lessor and subject to this Agreement, no matter where located, until such time as such Part shall be replaced by a part or parts that have been incorporated or installed in or attached to such item of Equipment and that meets the requirements for replacement Parts specified in Section 7(b). Immediately upon any replacement Part (except for a temporary replacement Part) becoming incorporated or installed in or attached to an item of Equipment as provided in Section 7(b), without any further action, (i) ownership of the replaced part shall vest in Lessee, free and clear of all rights of Lessor and the replaced part shall no longer be deemed a Part hereunder; (ii) ownership of the replacement Part shall thereupon vest in Lessor, free and clear of all rights of Lessee; and (iii) such replacement Part shall become subject to the terms and conditions of this Agreement and be deemed part of such item of Equipment for all purposes hereof to the same extent as the Parts originally incorporated or installed in or attached to such item of Equipment.

(d) Lessee shall make, at its sole cost and expense, such alterations and modifications in and additions to each item of Equipment as may be required from time to time by Applicable Law. In addition, Lessee, at its sole cost and expense, may from time to time make such alterations and

modifications in and additions to each item of Equipment as Lessee reasonably may deem desirable, including upgrades and reconfigurations; provided that such alterations, modifications, additions, upgrades and reconfigurations do not (i) materially diminish the value, utility, remaining useful life or estimated residual value of such item of Equipment (assuming such item of Equipment was in the condition required by the terms and conditions of this Agreement) or otherwise change the functional nature or use of such item of Equipment, (ii) materially change any item of Equipment such that it would not be commercially feasible (considering such adjustments or reconfigurations that are customarily made by purchasers and lessees of similar equipment) for such item of Equipment to be used by Lessor or any third party other than Lessee or any party related to Lessee upon return of the item of Equipment to Lessor pursuant to the terms and conditions of this Agreement, (iii) materially alter any item of Equipment or any Part such that it would not be commercially practicable for Lessee or its designee to comply with the return conditions under Section 10 hereof, (iv) materially cause such item of Equipment to become an accession to any fixture or real estate or to be combined with property owned by Lessee or any person other than Lessor in such a way that the exclusive ownership of the Lessor of such item, free of all Liens other than Permitted Liens, could be questioned, or (v) materially cause such item of Equipment not to be readily recognizable as such. Title to any Part not required by Applicable Law to be incorporated or installed in or attached or added to any item of Equipment as the result of any such alteration, modification, addition, upgrade, reconfiguration or removal shall remain in Lessee, and such Part may be removed at any time during the term of this Agreement; provided that (i) such Part is in addition to, and not in replacement of, any Part originally incorporated or installed in or attached or added to such item of Equipment at the time of the delivery thereof hereunder or any Part in replacement of, any such Part, (ii) such Part is not otherwise required to be incorporated or installed in or attached to such item of Equipment pursuant to the terms and conditions of this Agreement, (iii) such Part can be removed from such item of Equipment without material damage and without diminishing the value, utility, remaining useful life or estimated residual value which such item of Equipment would have had at such time had such alteration, modification, removal, upgrade, reconfiguration or addition not occurred, assuming such item of Equipment was maintained in the condition required by the terms of this Section 7, and (iv) the cost of such Part was not paid by Lessor. Title to all other such Parts shall, without further act or payment, vest in Lessor. Upon termination of this Agreement, Lessee may at its option either remove any severable Part owned by Lessee or return the item of Equipment with such Part intact (and in the case of such a return, title to such Part shall, without further act or payment, vest in Lessor).

(e) If Lessor requests, Lessee shall affix one (1) plate, tag or other identifying label on the Equipment showing ownership thereof by Lessor. The tag or label shall be placed in a prominent position on each unit of Equipment.

8. LOSS AND DAMAGE:

(a) Lessee assumes and shall bear the entire risk of any loss, theft, damage to, or destruction of, each item of Equipment from any cause whatsoever, whether or not covered by insurance, from and after the time this Agreement is effective, and no such loss, theft, damage or destruction shall release Lessee from any of its obligations hereunder. Upon the occurrence of an Event of Loss, Lessee shall notify Lessor in writing within two days thereof (such notice to identify the items of Equipment suffering the Event of Loss). Lessee shall pay to Lessor on the first Termination Value Determination Date occurring after Lessee delivers such notice (in each case, the "Loss Payment Date"): (i) the Termination Value for the Loss Payment Date with respect to each item of Equipment suffering the Event of Loss, plus (ii) any Advance Rent or Basic Rent that was due and payable prior to such Loss Payment Date remaining unpaid, together with interest at the Overdue Rate for the period (if any) from the due date thereof to the date of payment, plus (iii) in the case of an Event of Loss with respect to all items of Equipment, all Additional Rent due and owing on the Loss Payment Date by Lessee to Lessor.

(b) Upon payment in full of all amounts payable pursuant to Section 8(a) with respect to any item of Equipment, (i) the obligation of Lessee to pay any further Advance Rent or Basic Rent with respect to such item of Equipment shall terminate as of the Loss Payment Date, (ii) the term of this Agreement with respect to such item of Equipment on such Schedule shall end, (iii) Lessor shall transfer to Lessee, without recourse or warranty (except as to the absence of Lessor's Liens), Lessor's interest in such item of Equipment, subject to any insurer's right of salvage, (iv) Lessor shall assign to, or as directed by, Lessee or its insurer all claims of Lessor against third Persons relating to such item of Equipment, and (v) Lessee's insurance and maintenance obligations with respect to any such item of Equipment shall terminate.

(c) Any payments on account of an Event of Loss (other than proceeds of insurance maintained or paid for by Lessee or Lessor, which proceeds, if any, shall be applied as provided in Section 9) with respect to any item of Equipment received at any time by Lessor, Lessee or any other Person from any Governmental Authority or other Person shall be applied as follows:

(i) if an Event of Default shall have occurred and be continuing, so much of such payments as shall not exceed the amounts required to be paid by Lessee pursuant to Section 8(a) shall be paid to Lessor in reduction of Lessee's Obligation to pay such amounts (net of any and all costs, losses and expenses incurred by Lessor in connection therewith) with all such remaining payments to be paid over to or retained by Lessee.

(d) Any amount referred to in this Section 8 or Section 9 that is payable to Lessee shall not be paid to Lessee, or, if it has been previously paid directly to Lessee, shall not be retained by Lessee, if at the time of such payment an Event of Default shall have occurred and be continuing, but shall be paid to and held by Lessor as security for Lessee's Obligations, and upon termination of this Agreement or the exercise of other remedies hereunder shall be applied towards payment of Lessee's Obligations, and at such time as there shall not be continuing any Event of Default such amount (to the extent not so applied) shall be paid over to Lessee.

9. INSURANCE:

(a) Commencing upon the delivery of the Equipment to the Lessee named in a Schedule and continuing thereafter, Lessee agrees, at its own expense, to keep all Equipment insured for such amounts and against such hazards as are customary for Equipment, leases and lessees of this type and as are acceptable to Lessor. Lessees not named as Lessee on any Schedule shall be exempt from the requirements of this Section 9. All such policies shall be with underwriters, and on terms (including deductible amounts), satisfactory to Lessor. The insurance shall include coverage for damage to or loss of the Equipment, liability for personal injuries, death or property damage and shall provide that no lapse, cancellation, reduction in amount or change in coverage pertaining to the Equipment shall be effective unless thirty (30) days' written notice has been given to the Lessor. Lessor shall be named as additional insured and shall be named on all policies providing coverage for damage to or loss of the Equipment as loss payee with respect to damage to or loss of the Equipment (but not with respect to any other assets of Lessee not financed under this Agreement or a Schedule) under a loss payable clause in favor of Lessor, as its interest may appear, irrespective of any breach of warranty or other act or omission of Lessee and shall apply as primary and non-contributing insurance before any other insurance or self insurance, including any deductible, maintained by or provided to, the additional insured. The insurance shall provide for liability coverage in an amount equal to at least TEN MILLION DOLLARS total liability per occurrence, unless otherwise stated in any Schedule. The casualty/property damage coverage shall always be in an amount equal to the Termination Value of the Equipment. No insurance shall be subject to any co-insurance clause. The insurance policies shall provide that the insurance may not be altered or canceled by the insurer without the delivery of prior written notice to the Lessor and proof that the terms and conditions of the new insurance are in conformity with the requirements of this

Agreement; provided, however, that in no event shall the specific terms and conditions of any insurance as set forth in this Agreement be modified or amended without the prior written consent of Lessor. Copies of certificates of insurance shall be delivered to Lessor by Lessee upon the issuance thereof. Any other evidence of insurance requested by Lessor shall be delivered to Lessor by Lessee upon request.

(b) Lessor shall not act as Lessee's attorney-in-fact unless Lessee is in Default under this Agreement. Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make proof of loss and claim for insurance, and to make adjustments with insurers and to receive payment of and execute or endorse all documents, checks or drafts in connection with insurance payments. Lessor shall not act as Lessee's attorney-in-fact unless Lessee is in Default under this Agreement. Lessee shall pay any reasonable expenses of Lessor incurred by it in adjusting or collecting insurance. Lessee shall not make adjustments with insurers except with respect to claims for damage to any item of Equipment where the repair costs are less than the lesser of ten percent of the original Equipment Cost or ten thousand Dollars. Lessor may, at its option, apply proceeds of insurance, in whole or in part, to (i) the costs of repair or replacement of Equipment or any portion thereof, or (ii) satisfy any obligation of Lessee to Lessor under this Agreement.

(c) Lessee shall not take any action or suffer or permit any action to be taken within its reasonable control whereby any insurance required under this Section 9 shall or may be suspended, impaired or defeated.

(d) In the event that Lessee should for any reason fail to renew or replace any policy or contract of insurance required under this Section 9 or fail to keep any such policy in full force and effect, Lessor may at its option pay the premiums on any such policy or contract of insurance or to take out new insurance in amount, type, coverage and terms satisfactory to Lessor. Any sums so paid by Lessor shall be immediately due and payable to Lessor by Lessee, together with interest at the Overdue Rate from the date upon which Lessor incurs the expense; provided that no exercise by Lessor of the option set forth in this Section 9(d) shall in any way affect the provisions of this Agreement, including the provisions that failure by Lessee to maintain the prescribed insurance shall constitute an Event of Default hereunder.

(e) Lessee shall notify Lessor in writing, as soon as possible under the circumstances, to the extent relating to an item of Equipment, of any material claim under any such insurance or of the occurrence of any event giving rise to any material potential claim thereunder.

(f) Any insurance payments received under casualty/property damage policies that Lessee is required to maintain pursuant to this Section 9 shall be applied as follows:

(i) if such payments are received with respect to loss or damage not constituting an Event of Loss, such payments shall be paid to Lessee upon completion of repairs to the affected items of Equipment in accordance with the terms of this Agreement; or

(ii) if such payments are received with respect to an Event of Loss, so much of such payments remaining as shall not exceed the amounts required to be paid by Lessee pursuant to Section 8(a) shall be applied in reduction of Lessee's Obligation to pay such amounts if not already paid by Lessee, and to reimburse Lessee if such amounts shall have been paid, and the balance, if any, of such payments shall be promptly paid over to, or retained by, Lessee.

(g) During the term of this Agreement and concurrently with the renewal of each insurance policy (but in no event less frequently than (x) once each calendar year in the first quarter of such year beginning in 2008 and (y) within five (5) days of renewal of any policy), Lessee shall cause to be furnished to Lessor a certificate of a firm of insurance brokers or of an authorized representative of the insurers evidencing each policy of insurance carried in accordance with this Section 9.

(h) If requested by Lessor, Lessee shall cause copies of all applicable provisions of any insurance carried on the Equipment to be promptly delivered to Lessor. If requested by Lessor, Lessee shall promptly furnish to Lessor a certificate executed by an authorized officer of Lessee setting forth all insurance maintained by Lessee pursuant to this Section 9 and describing such policies, including the amounts of coverage, any deductible amounts, the names of the insurance providers and a general description of each such policy's terms and certifying as to the accuracy of the foregoing. Lessor shall have the right to carry insurance on the Equipment for its own benefit and at its own expense.

10. RETURN OF EQUIPMENT:

(a) Unless Lessee shall properly elect to purchase or renew all, but not less than all, of the Equipment set forth on a particular Schedule pursuant to Section 17 hereof, and subject to Section 10(b), (x) not later than the date that is sixty days (but in no event earlier than one hundred eighty days) prior to the expiration or termination of this Agreement or any Schedule, Lessee shall (i) provide to Lessor a written, in depth condition/field service report (including digital photos) confirming that the Equipment in any Schedule has been properly tested, inspected and examined, which testing, inspection, and examination was or is being performed in a manner as is reasonably satisfactory to Lessor and (ii) make all repairs required to place the Equipment in the same operating order, repair and condition required by Section 7 of this Agreement, with all Parts properly functional, in good working order and able to perform their intended functions, (y) not later than the date that is ninety days (but in no event earlier than one hundred twenty days) prior to the expiration or termination of this Agreement or any Schedule, Lessee shall provide to Lessor (i) a detailed inventory of all components of the Equipment including model and serial numbers, as more specifically set forth on Schedule 1-A of a particular Schedule; (ii) an up-to-date copy of all documentation pertaining to the Equipment; and (iii) as applicable, all service manuals, blue prints, process flow diagrams, operating manuals, manufacturers' warranties, and maintenance records pertaining to the Equipment, and (z) at least one hundred twenty days prior to and continuing up to the termination of this Agreement or any Schedule, as applicable, Lessee shall make the Equipment available for on-site operational inspections by potential purchasers and, if requested by Lessor, Lessee shall, at its sole cost and expense, provide personnel, power, and other requirements necessary to demonstrate electrical, hydraulic and mechanical systems for each unit of Equipment; provided, that Lessor shall provide Lessee with reasonable notice prior to any inspection. Lessee shall pay for all costs to comply with this Section 10(a).

(b) Unless Lessee shall properly elect to purchase or renew all, but not less than all, of the Equipment set forth on a particular Schedule pursuant to Section 17 hereof, Lessee shall, on the last day of the Base Term (or, if applicable, on the last day of the final Renewal Term), or if required upon the earlier termination of this Agreement pursuant to the terms hereof, return, at Lessee's sole risk, cost, and expense and in compliance with all of the terms and conditions of this Section 10, all, but not less than all, of the Equipment set forth on the particular Schedule (except any item of Equipment deemed to have suffered an Event of Loss), free and clear of any Liens upon the Equipment (except Permitted Liens), by delivering the same to such site or sites in the Central Appalachian Region as Lessor shall direct, together with all plans, specifications, operating manuals, software documentation, discs, warranties and other documents furnished by the manufacturer(s) of such Equipment in the possession of Lessee and all records, logs and other materials in the possession of Lessee or its agents necessary or useful to the use, operation, or maintenance of such item of Equipment. If requested by Lessor, Lessee shall provide storage for a period not exceeding one year, with reasonable storage fees to be paid by Lessor, during which time Lessee, at the expense of Lessor, shall maintain and insure the Equipment in accordance with the provisions of this Agreement.

(c) If the Equipment is to be returned pursuant to Section 10(b), (i) Lessee shall pay any costs necessary to bring the Equipment to the standard required by Section 7 of this Agreement; (ii) Lessee

shall, at no cost to Lessor, remove installed markings that are not necessary for the operation, maintenance or repair of the Equipment; (iii) Lessee shall, at no cost to Lessor, clean all Equipment and put such Equipment in such operating condition as would be appropriate for such Equipment to be immediately installed into use, such condition being the same as the maintenance standard required by Section 7 of this Agreement; (iv) Lessee shall, at no cost to Lessor, remove all waste material and fluid from the Equipment and dispose of such in accordance with then current waste disposal laws; (v) Lessee shall cause, at no cost to Lessor, the Equipment to be de-installed, disassembled and packed (including all wire, cable, software, mounting hardware, and other intangibles, if any) by an authorized manufacturer's representative or such other service person reasonably satisfactory to Lessor, in either case in accordance with the manufacturer's specifications; (vi) Lessee shall cause, at no cost to Lessor, the Equipment to be packed for shipping and labeled in such a manner so as to facilitate the efficient reinstallation of the Equipment by a potential purchaser or end-user; provided, however, that should Lessee return the Equipment following the expiry of any applicable Renewal Term as provided in a Schedule, Lessee shall only be responsible for all costs, fees and expenses attributable to the deinstallation, packaging and shipment of the Equipment up to a maximum aggregate amount of \$5,000,000; and, provided, further, that Lessee shall make available to Lessor, for a period of not less than thirty (30) business days, an experienced and technically proficient technician to assist Lessor, in its discretion, in facilitating the return of the Equipment; (vii) Lessee shall, at no cost to Lessor, sufficiently demonstrate to Lessor that such Equipment is in such operating condition as would be appropriate for such Equipment to be immediately installed into use, such condition being the same as the maintenance standard required by Section 7 of this Agreement; and (viii) Lessee shall obtain and pay for a policy of transit insurance for the redelivery period in an amount equal to the replacement value of the Equipment, which transit insurance must name Lessor as the loss payee.

(d) Once the Equipment shall have been fully prepared for shipment as required herein and shipped pursuant to Section 10(b), the risk of loss of the Equipment shall become the responsibility of Lessor (except for any loss caused by negligence of Lessee that would prevent Lessor from recovering under any policy of insurance maintained on the Equipment). Notwithstanding anything to the contrary herein, in the event the Equipment and other materials described above have not been dismantled, crated and otherwise fully prepared for shipment as directed (or to be directed) by Lessor on the last day of the Base Term (or of the final Renewal Term, if applicable), Lessee shall continue to be responsible for any loss of the Equipment.

(e) Each item of Equipment when delivered pursuant to Section 10(b) shall, except as otherwise required or permitted by this Agreement, be in such operating condition as would be appropriate for such Equipment to be immediately installed into use, such condition being the same as the maintenance standard required by Section 7 of this Agreement; provided, that, if any item of Equipment has been modified or reconfigured pursuant to the provisions of this Agreement, Lessee shall, unless otherwise requested by Lessor in writing, return the items of Equipment in the reconfigured form.

(f) Until Lessee has fully complied with the requirements of this Section 10, Lessee's Rent payment obligation and all other obligations under this Agreement shall continue from month to month notwithstanding any expiration or termination of the current term of this Agreement. During such period, Lessor may terminate Lessee's right to use the Equipment upon thirty (30) days' notice to Lessee.

11. DEFAULT AND REMEDIES:

(a) The following events occurring with respect to any Schedule shall constitute events of default (each an "Event of Default") (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) with respect to all Schedules:

- (i) Lessee shall fail to make any payment of Advance Rent, Basic Rent, Renewal Rent, Additional Rent, Termination Value, Purchase Option Price or any other amount payable by Lessee hereunder when due under any Schedule and such failure shall continue for a period of five days;
- (ii) Lessee shall be in breach of any of its obligations under Section 9 hereof;
- (iii) Lessee shall fail to perform or observe any other covenant to be performed or observed by it hereunder in any respect and such failure shall not have been cured by Lessee for a period of thirty (30) days after the earlier of (i) actual knowledge thereof by an officer of Lessee, and (ii) receipt by Lessee of a notice thereof;
- (iv) any representation or warranty made by Lessee herein or in any certificate, instrument or document delivered to Lessor in connection with this Lease shall prove to be incorrect or misleading in any material respect;
- (v) an Adverse Event shall have occurred;
- (vi) an "Event of Default" or similar event shall have occurred and be continuing, under the Credit Agreement, any subsequent loan agreement or other instrument of indebtedness under which Lessee is the obligor, for which Lessee has received prior notice and the applicable cure period under such agreement or instrument has lapsed;
- (vii) Lessee shall (x) file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy, insolvency or other similar laws (as now or hereafter in effect) or file an answer admitting the material allegations of a petition filed against Lessee in any such proceeding or fail to oppose in a timely manner the material allegations of such a petition, (y) by voluntary petition, answer or consent, seek relief under the provisions of any other now existing or future bankruptcy, insolvency, reorganization or other similar law providing for the reorganization or winding-up of corporations or for an agreement, composition, extension, assignment to or adjustment with its creditors, or (z) adopt a resolution of liquidation or shall admit in writing its inability to pay its debts generally as they become due or shall be unable to pay or shall be generally not paying its debts as they become due;
- (viii) an order, judgment or decree shall be entered in any proceeding by any court of competent jurisdiction appointing, without the consent of Lessee, a receiver, trustee, assignee or liquidator or similar official of Lessee, or of any substantial part of its property, or sequestering any substantial part of the property of Lessee, and any such order, judgment or decree or appointment or sequestration shall remain in force undismissed, unstayed or unvacated, for a period of five days; or
- (ix) a petition against Lessee in a proceeding under applicable bankruptcy, insolvency or similar laws as now or hereafter in effect shall be filed and shall not be withdrawn or dismissed within sixty (60) days thereafter (it being understood, however, that if such petition is withdrawn or dismissed because of a lack of assets, this shall constitute an Event of Default), or if, under the provisions of any law providing for insolvency reorganization or winding-up of corporations which may apply to Lessee, any court of competent jurisdiction shall assume jurisdiction, custody or control of Lessee or of any substantial part of its respective property and such jurisdiction, custody or control shall remain in force unrelinquished, unstayed or unvacated for a period of sixty (60) days.

(b) Upon the occurrence and continuance of any Event of Default, Lessor may in its sole discretion do, and Lessee shall comply with, one or more of the following with respect to all or any items of Equipment included in any or all Schedules, to the extent permitted by, and subject to compliance with any mandatory requirements of, Applicable Law then in effect:

- (i) cause Lessee, upon the written demand of Lessor and at Lessee's sole cost and expense, to, and Lessee shall, with reasonable promptness, return any items of Equipment included in any or all Schedules as Lessor may demand in the manner and condition required by, and otherwise in accordance with all of the provisions of, Section 10 as if such items of Equipment were being returned at the expiration of this Agreement;
- (ii) cause, pursuant to Applicable Law, an appropriate officer of the law to enter upon the premises where any items of Equipment included in any or all Schedules are located and take immediate possession of and remove the same by summary proceedings or otherwise, and Lessee shall, at its sole

cost and expense, promptly execute and deliver to Lessor such instruments of title or other documents as Lessor may deem necessary or advisable to enable Lessor or its agent to obtain (by action of an appropriate officer of the law) possession of such items of Equipment, all without liability to Lessor for or by reason of such entry or taking possession, whether for the restoration of damage to property caused by such entry and taking or otherwise, unless such damage to property results from or arises out of the gross negligence or willful misconduct of Lessor or its agent(s); provided that if Lessee shall for any reason fail to execute and deliver such instruments and documents after such request, Lessor shall be entitled, in a proceeding to which Lessee shall be a necessary party, to institute proceedings to seek a judgment for specific performance, conferring the right to immediate possession (which possession shall be secured only by an appropriate officer of the law and not through the exercise of any self-help or similar remedy available under Applicable Law) upon Lessor and requiring Lessee to execute and deliver such instruments and documents to Lessor; by written notice to Lessee specifying a Termination Value Determination Date that shall not be earlier than thirty (30) days after the date of such notice, may demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Basic Rent due with respect to such items of Equipment after the Termination Value Determination Date specified in such notice), an amount equal to the Termination Value for such items of Equipment computed as of such Termination Value Determination Date; and upon such payment of liquidated damages and the payment of all other Rent that shall be due and payable on or prior to such Termination Value Determination Date remaining unpaid, together with interest at the Overdue Rate for the period from the due date thereof to the date of payment, Lessor shall transfer, on an "as-is, where-is basis" without recourse or warranty (except as to the absence of Lessor's Liens), such items of Equipment to Lessee (or such person as Lessee may direct), and Lessor shall execute and deliver such documents evidencing such transfer and take such further action as may be required to effect such transfer, all at Lessee's sole cost and expense;

(iii) terminate this Lease as to all of the Equipment included in any or all Schedules or any item of Equipment included in any or all Schedules, void any transfer of possession, or exercise any other right or remedy which may be available under any Applicable Law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof; and/or

(iv) for so long as an Event of Default continues, increase the Advance Rent or Basic Rent, as applicable, by an amount equal to the Overdue Rate (or, if lower, the maximum rate permitted by law).

(c) In addition, Lessee shall be liable for any Additional Rent due hereunder before or after any termination hereof and all reasonable costs and expenses (including attorneys' fees and disbursements) actually incurred by Lessor by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the retaking or return of any item of Equipment (or any damages suffered as a result thereof) in accordance with the terms of Section 10 or in maintaining any item of Equipment or any Part thereof or placing the same in the condition required by Section 10.

(d) The foregoing remedies are cumulative, but not exclusive, and any or all thereof may be exercised instead of or in addition to each other or any remedies under the UCC and other remedies at law or in equity against Lessee or any other person or property. Lessee waives notice of sale or other disposition (and the time and place thereof), and the manner and place of any advertising. Lessee shall pay Lessor's actual attorney's fees incurred in connection with the enforcement, assertion, defense or preservation of Lessor's rights and remedies under this Agreement, or if prohibited by law, such lesser sum as may be permitted. Waiver of any Event of Default shall not be a waiver of any other or subsequent Event of Default.

(e) If Lessee fails to make any payment of Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor, after reasonable written notice to Lessee, may itself make such payment or perform or comply with such agreement in a commercially reasonable manner, and the actual amount of such payment made by Lessor and the amount of the reasonable expenses of Lessor actually incurred in connection with such payment or the performance of

or compliance with such agreement, as the case may be, together with interest thereon at the Overdue Rate, shall be deemed Additional Rent, payable by Lessee to Lessor upon demand. No such payment or performance shall be deemed to waive any Event of Default or relieve Lessee of its obligations hereunder.

(f) Any default under the terms of this or any other agreement or Schedule(s) between Lessor and Lessee may be declared by Lessor an Event of Default under this and any such other agreement.

12. ASSIGNMENT:

(a) Lessee shall not, other than in accordance with Section 17, sell, convey, assign, encumber, sublease or otherwise transfer any Equipment or the interest of Lessee in the Equipment, this Agreement or any Schedule, whether by operation of law or otherwise, without the prior written consent of Lessor, which consent shall not be unreasonably withheld; provided, however, that Lessor hereby consents to the contemplated merger between Magnum and a subsidiary of Patriot Coal Corp. ("Patriot"), provided, further, however, that upon prior written notice to Lessor, Lessee may assign, sublease or otherwise transfer to a Subsidiary of Magnum (as the term "Subsidiary" is defined in the Credit Agreement) all of Lessee's right, title and interest in and to this Agreement and any Schedule to which it is a party, without obtaining Lessor's consent, , but such assignment, sublease or other transfer shall not discharge the Lessee assigning, subletting or otherwise transferring its right, title and interest in and to this Master Lease and the applicable Schedule from its obligations as a Lessee hereunder; provided, further, however, that with Lessor's prior written consent not to be unreasonably withheld, delayed or conditioned Lessee may assign, sublease or otherwise transfer to an affiliate of Patriot all of Lessee's right, title and interest in and to this Master Lease and any Schedule to which it is a party.

(b) Lessor may, at any time and without the consent of Lessee, assign this Agreement, any Schedule (including the right to enter into a Schedule), and its interest in any item of the Equipment to any Person, for security or outright. Lessee agrees that if Lessee receives written notice of an assignment from Lessor, Lessee shall pay all Rent and all other amounts payable under this Agreement to such assignee or as otherwise instructed by Lessor. Lessee also agrees to confirm in writing receipt of the notice of assignment as may be reasonably requested by assignee. Lessee hereby, without limitation of Section 12, waives and agrees not to assert against any such assignee any defense, set-off, recoupment claim or counterclaim which Lessee has or may at any time have against Lessor for any reason whatsoever.

13. NET LEASE:

(a) This Agreement is a net lease. Lessee acknowledges and agrees that its obligations to pay all Rent and all other all costs and expenses due and owing by Lessee in accordance with the terms hereof shall be absolute and unconditional (and that such agreement is for the benefit of Lessor and its assignees) and shall not be affected by any circumstance whatsoever, including (a) any setoff, counterclaim, recoupment, defense or other right which Lessee may have against Lessor, any manufacturer or any other Person for any reason whatsoever, (b) any defect in the title, condition, design, operation or fitness for use of, or any damage to or loss or theft or destruction of, any item of Equipment, or any interference, interruption or cessation in or prohibition of the use or possession thereof by Lessee or any other Person for any reason whatsoever, including any such interference, interruption, cessation or prohibition resulting from the act of any Governmental Authority, or as a result of war, riot, insurrection, act of terrorism or an act of God, (c) any Liens or rights of any Person with respect to the Equipment, (d) the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any lack of right, power or authority of Lessor or Lessee to enter into this Lease, (e) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee or any other Person, (f) Lessee's at any time having immunity from suit, prejudgment attachment, attachment in aid of execution or execution on the

grounds of sovereignty or otherwise, (g) the existence or exercise of rights with respect to any security for Lessee's Obligations, or (h) any other cause whether similar or dissimilar to the foregoing, any present or future law notwithstanding, it being the intention of the parties hereto that all Rent and other costs and expenses payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times provided herein. Such Rent and other costs and expenses shall not be subject to any abatement and the payments thereof shall not be subject to any setoff or reduction for any reason whatsoever, including any present or future claims of Lessee against Lessor or any other Person under this Agreement or otherwise. If for any reason whatsoever this Agreement shall be terminated in whole or in part by operation of law or otherwise except as specifically provided herein, Lessee nonetheless agrees to pay to Lessor an amount equal to each Advance Rent, Basic Rent, Renewal Rent, if applicable, and Additional Rent payment due under this Agreement at the time such payment would have become due and payable in accordance with the terms hereof had this Agreement not been terminated in whole or in part.

(b) Lessee hereby waives, to the extent permitted by Applicable Law, any and all rights that may have been conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Agreement except in accordance with the express terms hereof. Notwithstanding any other provision of this Section 13 to the contrary, Lessee shall not be impaired in the exercise of any right it may have to assert and sue upon any claim it may have against Lessor in a separate action.

(c) Lessor and Lessee agree that this Agreement is a "finance lease" as defined in Article 2A of the Uniform Commercial Code (the "UCC") and no filing made under the UCC or similar law in any jurisdiction shall be a factor in any determination as to whether this Agreement is a "finance lease" or a "security interest". Further, Lessee represents and warrants to Lessor that:

(i) Lessee has selected and shall select all of the Equipment without any assistance from Lessor, its agents or its employees;

(ii) Lessor is not and shall in no event be the manufacturer or the Supplier of the Equipment;

(iii) Lessor shall only acquire the Equipment, or the right to possess and use the Equipment, in connection with this Agreement or, in the case of Equipment leased previously by Lessor, in connection with another lease; and

(iv) As a condition to and evidenced by its execution of any Schedule, Lessee (i) has received a copy of the agreement by which Lessor acquired or will acquire the Equipment subject to such Schedule or the right to possess and use such Equipment, (ii) approves of the agreement or general contractual terms under which Lessor acquired or will acquire the Equipment or the right to possess and use the Equipment, (iii) has received an accurate and complete statement designating the promises and warranties, and any disclaimer of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the Equipment, provided to Lessor by the Supplier in connection with or as part of the agreement by which Lessor acquired or will acquire the Equipment or the right to possess and use the Equipment, or (iv) has received written notice from Lessor (x) of the identity of the Supplier, unless Lessee has selected the Supplier and directed Lessor to acquire the Equipment or the right to possess and use the Equipment from the Supplier, (y) that Lessee is entitled under the UCC to the promises and warranties, including those of any third party, provided to Lessor by the Supplier in connection with or as part of the agreement by which Lessor acquired or will acquire the Equipment or the right to possess and use the Equipment, and (z) that Lessee may communicate with the Supplier and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them, or a statement of remedies.

(d) Notwithstanding anything to the contrary in this Agreement, Lessee authorizes Lessor and its designees to cause any UCC financing statements and fixture filings to be filed or recorded for the purposes of showing Lessor's interest in the Equipment. Lessee agrees to execute any such documents or instruments as Lessor may request from time to time to effect the foregoing. To the extent that this

Agreement is or shall be construed as a "security interest", Lessee hereby grants to Lessor a security interest in and to the Equipment and any and all proceeds thereof (including insurance proceeds) as security for all of Lessee's obligations to Lessor of every kind and nature.

14. INDEMNIFICATION AND LIABILITY:

(a) Lessee hereby agrees to indemnify Lessor and its agents, employees, successors and assigns (on an after tax basis) from and against any and all losses (including loss of business and other special, incidental and consequential damages), costs, damages, liabilities, penalties, injuries, claims, actions, and suits, including legal expenses, of whatsoever kind and nature arising out of or relating to the Equipment or this Agreement, except to the extent the said losses, costs, damages, liabilities, penalties, injuries, claims, actions, suits or expenses result from Lessor's gross negligence or willful misconduct ("Claim"). This indemnity shall include, but is not limited to, Lessor's strict liability in tort and Claims arising out of:

- (i) the selection, manufacture, purchase, acceptance or rejection of Equipment;
- (ii) the ownership of, use, operation and condition of, the Equipment during the term of this Agreement (including with respect to any Environmental Liabilities relating to the Equipment whether arising prior to or during the term of this Agreement); and
- (iii) the delivery, lease, possession, maintenance, uses, condition, return or operation of Equipment (including, without limitation, latent and other defects, whether or not discoverable by Lessor or Lessee and any claim for patent, trademark or copyright infringement or environmental damage); provided, however, that Lessee shall have no obligations to indemnify Lessor under this Section 14(a)(iii) insofar as the Equipment is returned in the condition required by Section 10 of this Agreement. Lessee shall, upon request, defend any actions based on, or arising out of, any of the foregoing.

(b) Lessee hereby agrees to indemnify Lessor and its Affiliates, agents, employees, successors and assigns from and against any and all claims, actions, suits, losses, costs, expenses and damages, including legal expenses, of whatsoever kind and nature, arising out of or relating to that certain Bucyrus-Erie Model 1570-W Electric Powered Walking Dragline Serial No. 126504, to the extent that Lessor did not receive title thereto free and clear of all Liens and encumbrances (except Liens or encumbrances in favor of Lessor) under that certain Equipment Purchase Agreement dated as of May 5, 2008 between Branch Banking & Trust Company, as seller, Lessor, as purchaser, and such other parties as identified therein.

(c) All references to Lessor in this Section 14 include Lessor and its members and the consolidated taxpayer group of which Lessor and each such member is a member. All of Lessor's rights, privileges and indemnities contained in this Section 14 shall survive the expiration or other termination of this Agreement. The rights, privileges and indemnities contained herein are expressly made for the benefit of, and shall be enforceable by Lessor, its successors and assigns.

(d) EACH LESSEE HERETO, INCLUDING FUTURE LESSEES THAT BECOME A PARTY TO THIS AGREEMENT BY VIRTUE OF ENTRY INTO A SCHEDULE HERETO OR THE ASSIGNMENT, SUBLEASE OR TRANSFER OF A SCHEDULE AGREES THAT IT IS JOINTLY AND SEVERALLY LIABLE FOR THE REPRESENTATIONS, WARRANTIES AND OBLIGATIONS OF ALL LESSEES PURSUANT TO THIS AGREEMENT AND EACH SCHEDULE HERETO, WHETHER ENTERED INTO PRIOR TO, CONTEMPORANEOUSLY WITH, OR SUBSEQUENT TO, SUCH LESSEE BECOMING A PARTY TO THIS AGREEMENT.

15. DISCLAIMER:

LESSOR LEASES AND LESSEE TAKES THE EQUIPMENT AND EACH PART THEREOF "AS-IS" AND "WHERE-IS" AND LESSOR DOES NOT MAKE, HAS NOT MADE, NOR SHALL BE

DEEMED TO MAKE OR HAVE MADE, ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO THE EQUIPMENT LEASED UNDER THIS AGREEMENT OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AS TO THE TITLE, CONDITION, VALUE, DESIGN, OPERATION, COMPLIANCE WITH SPECIFICATIONS, CONSTRUCTION, PERFORMANCE OR MERCHANTABILITY, FITNESS OR SUITABILITY FOR OR OF THE USE OR PURPOSE OF THE EQUIPMENT OR ANY PART THEREOF, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, SAFETY, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATIONS BASED ON STRICT LIABILITY IN TORT, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR ANY PART THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT OR ANY PART THEREOF. All such risks, as between Lessor and Lessee, are to be borne by Lessee. Without limiting the foregoing, Lessor shall have no responsibility or liability to Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Equipment, any inadequacy thereof, any deficiency (or defect (latent or otherwise) of the Equipment. or any other circumstance in connection with the Equipment; (ii) the use, operation or performance of any Equipment or any risks relating to it; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Equipment. If, and so long as, no Event of Default is continuing, Lessee shall be, and hereby is, authorized during the term of this Agreement to assert and enforce whatever claims and rights Lessor may have against any Supplier of the Equipment at Lessee's sole cost and expense, in the name of and for the account of Lessor and/or Lessee, as their interests may appear; but in no event shall Lessee waive or compromise any claims against any Supplier arising out of any item of Equipment without the Lessor's prior written consent.

16. REPRESENTATIONS, WARRANTIES AND COVENANTS:

(a) Lessee hereby represents and warrants to Lessor that, on the date hereof and on the date of execution of each Schedule:

(i) Lessee is a limited liability company or corporation, as applicable and as identified on Exhibit D attached hereto, duly organized and validly existing under the laws of the State of its organization, and has the full power, authority and legal right under the laws of the State of its organization to conduct its business as presently conducted, to own or hold under lease its properties, to lease and sublease the Equipment and to execute, deliver, enter into and perform its obligations under this Agreement and all related documents;

(ii) Lessee is duly qualified to do business wherever necessary to carry on its present business and operations, including the jurisdiction(s) where the Equipment is or is to be located;

(iii) The execution and delivery of and performance by Lessee of its obligations under this Agreement and any documents contemplated hereby have been duly authorized by all necessary action on the part of Lessee, do not require any consent or approval of, or the giving of notice to, or the taking of any other action in respect of, any trustee or holder of any indebtedness or obligations of Lessee or any other Person and do not and will not contravene any Applicable Law or any provision of Lessee's organizational documents, or contravene the provisions of, or constitute a default under, or result in the creation of any Lien upon the property of Lessee under, any agreement or instrument to which Lessee is a party or by which it or any of its properties is bound or affected;

(iv) Neither the execution and delivery by Lessee of this Agreement nor the consummation by Lessee of any of the transactions contemplated hereby nor the performance by Lessee of any of its obligations hereunder requires the consent or approval of, the giving of notice to, or the registering with, or the taking of any other action in respect of, any Governmental Authority;

(v) This Lease constitutes the legal, valid and binding obligation of Lessee, enforceable

against Lessee in accordance with the terms hereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors', secured parties' or lessors' rights in general;

(vi) There are no pending or, to the knowledge of Lessee, threatened actions, suits or proceedings (whether or not purportedly on behalf of Lessee) against or affecting Lessee or any of its properties by or before any court or administrative agency in respect of this Agreement or the transactions contemplated hereby or that, if adversely determined, are reasonably likely to adversely affect Lessee's financial condition or the ability of Lessee to perform Lessee's Obligations;

(vii) Lessees are in material compliance with all Environmental Laws, have received no communication from any Person alleging non-compliance with Environmental Laws that could give rise to a material Environmental Liability that would constitute an Adverse Event, have not engaged in any action, activity or circumstance that could give rise to a material Environmental Liability that would constitute an Adverse Event, and are not subject to any pending or potential Environmental Liabilities;

(viii) Lessee possesses all necessary and material certificates, franchises, licenses, permits, authorizations, rights and concessions and consents of or from all Governmental Authorities and all other applicable authorities or agencies, which are required for the sole purpose of the leasing and commercial operation of the Equipment. Lessee agrees to cooperate in good faith with Lessor in its efforts to transfer such material certificates, licenses, permits, authorizations, rights and concessions and consents, if permissible, to any Person to whom an interest in the items of Equipment is leased or sold or otherwise granted after the termination of this Agreement;

(ix) No action, including any filings, registration or notice to any Governmental Authority is necessary (a) to establish or protect Lessor's ownership interest in the Equipment, (b) to ensure the legality, validity, enforceability, priority, perfection or admissibility in evidence of this Agreement or (c) to avoid having the transactions contemplated hereby being presumed or held to be fraudulent or void as against Lessee's creditors;

(x) No condition or event exists, or would result from the transactions contemplated hereby, which constitutes an Event of Default;

(xi) All sales, use or transfer taxes and all other governmental fees or charges in respect of the Equipment due and payable as of the date hereof or upon the execution of a Schedule, as the case may be, upon or in any way arising out of the leasing or financing of the Equipment pursuant to this Agreement or the transactions contemplated hereunder shall have been paid or duly provided for or such transactions shall be exempt from such taxes;

(xii) The audited financial statements of Lessee dated as of December 31 from the immediately preceding year and unaudited financial statements of Lessee dated as of the last day of the immediately preceding quarter (copies of which shall be furnished to Lessor upon request therefor) fairly present the financial position of Lessee as of the date thereof and, since the date hereof, there has been no Adverse Change nor any material adverse change in the financial condition or operations of Lessee and its respective consolidated subsidiaries from that set forth in such financial statements or its business or prospects;

(xiii) Lessee's Obligations under this Agreement rank at least pari passu in right of payment with all other unsecured claims against the general credit of Lessee;

(xiv) Lessee is not in default under any Manufacturer's Purchase Agreement related to the Equipment or any agreement related thereto or under any mortgage, pledge, deed of trust, indenture or any other instrument or agreement to which it is a party or by which it may be bound or in violation of any Applicable Law, which default or violation would materially adversely affect the items of Equipment, the use or operation thereof, or the transactions contemplated by this Agreement or the ability of Lessee to perform Lessee's Obligations;

(xv) Each of the Manufacturer's Purchase Agreements constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with the terms thereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors', secured parties' or lessors' rights in general;

(xvi) Lessee is not obligated to pay any broker's or finder's fee with respect to this Agreement

or the Equipment;

(xvii) Prior to an assignment, sublease or other transfer to a Subsidiary of Magnum permitted by Section 12(a) of this Agreement, Lessee shall deliver written notice to Lessor of its intent to assign, sublease or otherwise transfer its right, title and interest in and to this Agreement and any Schedule to a Subsidiary of Magnum and, following such assignment, sublease or other transfer, Lessee shall promptly provide Lessor a copy of the written instrument effectuating such assignment, sublease or other transfer;

(xviii) With respect to all Equipment acquired by Lessor from Lessee, Lessor shall have received good title to such Equipment, free and clear of all Liens;

(xix) With respect to all Equipment acquired by Lessor from Supplier, if any, Lessor shall have received such title thereto as was conveyed by the Supplier and no Liens shall have attached to such Equipment arising by, through or under Lessee;

(xx) Supplier is not an Affiliate of Lessee;

(xxi) Lessee is not in default under the Credit Agreement or any other loan document or instrument of indebtedness, in either case in an amount in excess of \$100,000, for which Lessee has received prior notice and the applicable cure period under such agreement or instrument has lapsed; and

(xxii) The Equipment shall at all times be used for commercial or business purposes.

(b) In addition to the other covenants contained in this Agreement, Lessee covenants to Lessor that, during the effectiveness of this Agreement:

(i) Lessee shall conduct its business in the ordinary course of business consistent with past practice and shall not materially alter or amend any material agreements (including, without limitation, leases or mortgages with respect to any real property at which the Equipment is located) in such a manner that, following such alteration or amendment, Lessee will be unable to meet its obligations under this Agreement;

(ii) Lessee shall not suffer to exist any Liens against the Equipment;

(iii) Lessee shall provide written notice to Lessor: (i) thirty days prior to any change in Lessee's name or jurisdiction or form of organization or (ii) promptly upon the sooner to occur of Lessee (i) becoming aware of or (ii) receiving actual written notice of any alleged violation of applicable law relating to the Equipment or this Lease;

(iv) Lessee shall (i) ensure that no person who owns a controlling interest in or otherwise controls Lessee is or shall be (A) listed on the Specially Designated Nationals and Blocked Person List maintained by the Office of Foreign Assets Control ("OFAC"), Department of Treasury, and/or any other similar lists maintained by OFAC pursuant to any authorizing statute, Executive order or registration, or (B) a person designated under 1(b), (c) or (d) of Executive Order No. 132224 (September 23, 2001), any related enabling legislation or any other similar Executive Orders, (ii) comply in all material respects with all applicable Bank Secrecy Act ("BSA") laws, regulations and government guidance on BSA compliance and on the prevention and detection of money laundering violations and (iii) from time to time, duly execute and deliver to Lessor, such further documents and assurances or take further actions as Lessor may reasonably request to effectuate clauses (i) and (ii).

(c) Magnum represents and warrants to Lessor that, on the date hereof and on the date of execution of each Schedule:

(i) Magnum is able to meet its obligations as they become due at all times during the Base Term and any Renewal Term and does not have unreasonably small capital or assets with which to conduct its business as historically conducted;

(ii) Magnum will cause any newly-formed Subsidiary of Magnum to join this Agreement, as Lessee, upon the earlier to occur of: (A) an assignment, sublease or other transfer of Lessee's right, title and interest in and to this Agreement and any Schedule or (B) sixty (60) days following its incorporation or organization, as the case may be;

(iii) Magnum shall substantially maintain its corporate structure and shall cause each of its

Subsidiaries to be duly qualified to do business wherever necessary to carry on its respective business and operations; provided, however, that any change in Magnum's corporate structure shall not constitute an Adverse Event; and

(iv) The assets and results of operations of all Subsidiaries of Magnum are consolidated for financial reporting purposes in accordance with Generally Accepted Accounting Principles and reported on a consolidated basis by Magnum.

17. PURCHASE AND RENEWAL OPTIONS:

(a) Subject to the terms and conditions set forth in this Section 17, Lessee shall, if no Event of Default shall have occurred and be continuing, on the last day of the Current Term have the option, but not the obligation to (x) purchase all, but not less than all, of the Equipment set forth on a particular Schedule in accordance with Section 17(b) (the "Purchase Option"), or (y) renew this Agreement with respect to all, but not less than all, of the Equipment set forth on a particular Schedule in accordance with Section 17(c) (the "Renewal Option"). In order to exercise the Purchase Option and/or the Renewal Option, Lessee must notify Lessor in writing, not more than twelve (12) months nor less than one hundred eighty (180) days prior to the expiration of the Base Term or six months prior to the expiration of any Renewal Term (such notices, collectively, the "Election Notice"), as the case may be, that Lessee desires a determination of the Fair Market Sales Value of all (but not less than all) of the Equipment set forth on a particular Schedule as of the end of such term and/or the Fair Market Rental Value of all (but not less than all) of the Equipment set forth on a particular Schedule for a permitted Renewal Term, and Lessee acknowledges and agrees that such Fair Market Sales Value and/or Fair Market Renewal Value shall be based on all (but not less than all) of the Equipment's functional useful life. Lessee must give notice of its election to exercise the Purchase Option or the Renewal Option to Lessor not less than six months, nor more than one year, prior to the last day of the Base Term or not less than three months nor more than six months prior to the last day of any Renewal Term.

(b) (i) If Lessee shall have elected the Purchase Option, Lessee shall purchase from Lessor on the last day of the Current Term all, but not less than all, of the Equipment set forth on a particular Schedule for a price equal to the Fair Market Sales Value exclusive of all applicable sales taxes, however designated, which shall be payable by Lessee (the "Purchase Option Price") and, upon payment of such amount in immediately available funds, Lessor shall convey to Lessee or its designee free and clear of any Lessor's Liens, Lessor's interest in and to the Equipment set forth on the Schedule(s), "as-is, where-is" without any recourse or warranty, express or implied. Lessor shall, at its sole cost and expense, execute and deliver to Lessee a bill of sale conveying Lessor's interest in and to all of the Equipment set forth on the applicable Schedule(s) to Lessee or its designee and Lessor shall not be required to make any representation or warranty as to the condition of the Equipment set forth on all of the Schedule(s) or any other matters.

(ii) If Lessee elects to purchase the Equipment set forth on a particular Schedule pursuant to Section 17(a)(i), upon payment to Lessor of the Purchase Option Price in immediately available funds, provided, that as a condition to the consummation of any purchase under Section 17(a), Lessee shall cure any payment default and in the event that Lessee is then in bankruptcy, Lessor shall have been provided with a final order of the court having jurisdiction approving payment of each installment of the Purchase Option Price, plus, in each case, any Advance Rent or Basic Rent that was due and payable prior to the date on which the Purchase Option Price is payable and all Additional Rent that was due and owing on such date, Lessor's interest in the Equipment (including any rights under any Manufacturer's Purchase Agreements or any third-party maintenance contracts) shall be deemed automatically to have been transferred by Lessor to Lessee or its designee, "as-is, where-is" without recourse or warranty of any kind, except with respect to the absence of Lessor's Liens thereon. In connection with such transfer of Lessor's interest, Lessee shall prepare and Lessor shall execute such documents as Lessee may reasonably request, all at the sole cost and expense of Lessee; provided that Lessor shall not be required to make any

representation or warranty as to the condition of the Equipment set forth on the applicable Schedule(s) or any other matters. Upon satisfaction of the requirements of this Section 17(b)(ii), Lessor shall, if requested in writing by Lessee, transfer Lessor's interest in the Equipment set forth on the applicable Schedule(s) directly to such Person as Lessee may designate in writing. Upon compliance by Lessee with the provisions of this Section 17(b)(ii), this Agreement shall terminate except (x) for the obligation of Lessee to pay Additional Rent, (y) Lessee's obligations surviving pursuant to Section 14, and (z) in respect of liabilities and obligations of Lessee that have accrued, but not been paid, or that are in dispute as of the date of such transfer.

(c) If Lessee shall have elected the Renewal Option with respect to all, but not less than all, of the Equipment set forth on a particular Schedule, the Lease shall on the last day of the Current Term be renewed for one or more Renewal Terms of a duration agreed to by Lessor and Lessee. During each Renewal Term, Lessee shall pay to Lessor Renewal Rent in an amount equal to the Fair Market Rental Value of the Equipment set forth on the applicable Schedule(s) as determined with respect to the relevant Renewal Term and otherwise in accordance with Section 3.

(d) In the event that the Current Term expires prior to the consummation of a sale of the Equipment set forth on a particular Schedule to Lessee pursuant to Section 17(b), or the commencement of a Renewal Term pursuant to Section 17(c), Lessee shall continue to pay all Rent (including Additional Rent) at the then current amount up to and including the date such sale is consummated or Renewal Term commences, as applicable. In the event that Lessee fails to provide notice of its election pursuant to Sections 17(b) or 17(c), then Section 17(c) shall automatically apply for a one year Renewal Term. At the conclusion of the Renewal Term, this Agreement shall continue for successive six month renewals at the Fair Market Rental Value until either Lessee or Lessor provides the other party with at least ninety days prior written notice of its desire to terminate this Agreement.

(e) In determining the Fair Market Sales Value or Fair Market Rental Value of the Equipment for purposes of this Section 17, the Equipment shall be assumed to be in the condition in which it is required to be maintained and returned under this Agreement. If the Equipment is installed it shall be valued on an installed basis. The costs of removal from the current location shall not be a deduction from the value of the Equipment. If Lessor and Lessee are unable to agree on the Fair Market Sales Value or the Fair Market Rental Value, such values shall be determined as follows (the "Appraisal Procedure"): as applicable, at least ninety days before the expiration of the applicable period in which Lessee may exercise the Purchase Option or Renewal Option, as applicable, Lessor and Lessee shall consult for the purpose of appointing by mutual agreement a recognized independent certified appraiser of favorable reputation and having substantial experience in appraising equipment similar to the Equipment (in each case, a "Certified Appraiser"). If no such Certified Appraiser is appointed within ten (10) business days after the Election Notice is given, each party shall appoint a Certified Appraiser within fifteen (15) business days after the Election Notice is given, and the two Certified Appraisers so appointed shall, within twenty (20) business days after the Election Notice is given, appoint a third Certified Appraiser. Each Certified Appraiser appointed pursuant to the foregoing procedure shall be instructed to determine, within forty-five (45) days after appointment, the Fair Market Sales Value or Fair Market Rental Value, as the case may be, of the Equipment. If the parties shall have appointed a single Certified Appraiser, the determination of such Certified Appraiser shall be final. If three Certified Appraisers shall be appointed, the appraisal values determined by such three Certified Appraisers shall be averaged, such average being determinative of such value and absolute and final. Lessee and Lessor shall equally bear all costs associated with any such appraisal given in accordance with the Appraisal Procedure.

18. LESSEE MERGERS:

Magnum shall not be the subject of a Change of Control (as defined in the Credit Agreement);

provided, however, that Lessor agrees to the contemplated merger of Magnum into a subsidiary of Patriot, with Magnum being the surviving entity, and, therefore, Lessor agrees that, for purposes of applying this Section 18, immediately prior to the consummation of the merger transaction involving Patriot and at all times thereafter, Patriot and all Control Investment Affiliates of Patriot shall be deemed to constitute Permitted Investors, as that term is defined in the Credit Agreement.

19. [INTENTIONALLY LEFT BLANK]

20. MISCELLANEOUS:

(a) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) The Equipment shall remain Lessor's property unless and until Lessee purchases the Equipment from Lessor pursuant to the terms and conditions of this Agreement and, until such time, Lessee shall only have the right to use the Equipment as a lessee. Any cancellation or termination by Lessor of this Agreement, any Schedule, supplement or amendment hereto, or the lease of any Equipment hereunder shall not release Lessee from any then outstanding obligations to Lessor hereunder. All Equipment shall at all times remain personal property of Lessor even though it may be attached to real property. The Equipment shall not become part of any other property by reason of any installation in, or attachment to, other real or personal property.

(c) Time is of the essence of this Agreement. Lessor's failure at any time to require strict performance by Lessee of any of the provisions hereof shall not waive or diminish Lessor's right at any other time to demand strict compliance with the provisions of this Agreement. Lessee agrees, upon Lessor's request, to execute any instrument necessary or expedient for filing, recording or perfecting the interest of Lessor. This Agreement and any Schedule and annexes, exhibits or schedules thereto constitute the entire agreement of the parties with respect to the subject matter hereof.

(d) If Lessee does not comply with any provision of this Agreement and Lessee does not cure such noncompliance in accordance with the terms hereof, Lessor shall have the right, but shall not be obligated, to effect such compliance, in whole or in part. All reasonable amounts actually spent and obligations incurred or assumed by Lessor in effecting such compliance shall constitute Additional Rent due to Lessor. Lessee shall pay such Additional Rent upon demand. Lessor's effecting such compliance shall not be a waiver of Lessee's Default.

(e) Any amount not paid to Lessor pursuant to this Agreement or any Schedule when due shall bear interest, from the due date until paid, at the lesser of the Overdue Rate or the maximum rate permitted by law.

(f) If any one or more provisions contained in this Agreement and any Schedule, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality, and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not in any way be impaired.

(G) THIS AGREEMENT AND ALL MATTERS ARISING OUT OF OR RELATING IN ANY

WAY WHATSOEVER TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE), SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO ANY CONFLICT OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION).

(h) With respect to any suit, action or proceedings relating to or arising out of this Agreement or any of the transactions contemplated hereby ("Proceedings"), each of Lessor and Lessee irrevocably: (i) submits to the non-exclusive jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan and of the United States District Court for the Southern District of New York, and any appellate court therefrom; and (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

(i) Each of Lessor and Lessee hereby agrees that service of process in any Proceeding may be effected by mailing a copy thereof by registered or certified mail or by overnight courier service, postage prepaid, to it at its address specified below.

(j) Any cancellation or termination by Lessor, pursuant to the provisions of this Agreement, any Schedule, supplement or amendment hereto, of the lease of any Equipment hereunder, shall not release Lessee from any then outstanding obligations to Lessor hereunder.

(k) Lessee covenants and agrees with Lessor to, at Lessee's sole cost and expense, cause to be done, executed, acknowledged and delivered each and every such further act, conveyance and assurance as such party shall by notice to Lessee reasonably require for accomplishing the purpose of this Agreement. Without limiting the generality of the foregoing, Lessee shall execute and deliver such documents and instruments as Lessor shall by notice to Lessee reasonably require under Applicable Law from time to time in order to establish, protect and perfect Lessor's rights and remedies in the Equipment intended to be created by this Agreement (and, in connection therewith and pursuant to the directions of Lessor agrees to sign all financing statements and other instruments and perform all other acts necessary or advisable to enable Lessee to perform such acts required to be performed by Lessee under this Agreement).

(l) Unless otherwise specifically provided herein, all notices required or permitted by the terms hereof shall be in writing and in the English language. Any written notice shall become effective when received. Any written notice shall either be mailed, certified or registered mail (airmail, if international), return receipt requested with proper first class (airmail, if international) postage prepaid, or sent in the form of a telecopy, or by overnight delivery service or delivered by hand. Any written notice shall be directed to the parties, to the respective addresses and telecopy numbers set forth below, or to such other address or telecopy number as such party may hereafter designate by notice duly given to the other parties to this Lease:

If to Lessee: To the applicable address set forth on Exhibit D attached hereto
Tel: 304-380-0200
Fax: 304-380-0367
Attn: General Counsel

If to Lessor: ICON Capital Corp.

100 Fifth Avenue
4th Floor
New York, NY 10011
Tel: 212-418-4700
Fax: 212-418-4739
Attn: General Counsel

(m) Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing signed by the parties hereto.

(n) This is a financing transaction in accordance with which the specification of Dollars is of the essence, and Dollars shall be the currency of account in the case of all obligations under this Agreement. All Rent shall be paid in Dollars and the payment obligations of Lessee under this Agreement shall not be discharged by an amount paid in a currency or in a place other than that specified with respect to such obligations, whether pursuant to a judgment or otherwise, to the extent that the amount so paid on prompt conversion to Dollars and transfer to the specified place of payment under normal banking procedures does not yield the amount of Dollars, in such place, due under the Lease. In the event that any payment, whether pursuant to a judgment or otherwise, upon conversion and transfer does not result in payment of such amount of Dollars in the specified place of payment, the obligee of such payment shall have a separate cause of action against the party making the same for the additional amount necessary to yield the amount due and owing under this Agreement.

(o) To the extent that any Schedule would constitute chattel paper as such term is defined in the UCC as in effect in any applicable jurisdiction, no security interest therein may be created through the transfer or possession of this Agreement in and of itself without the transfer or possession of the original of a Schedule executed pursuant to this Agreement and incorporating this Agreement by reference, together with a copy of this Agreement; and no security interest in this Agreement and a Schedule may be created by the transfer or possession of any counterpart of the Schedule other than the original thereof which shall be identified as the document marked "Original" and all other counterparts shall be marked "Duplicate".

(p) Lessee acknowledges that Lessor may encumber the Equipment subsequent to the date hereof. In recognition of the foregoing, Lessee agrees, to (i) afford a reasonable number of potential lenders access, consistent with Lessee's then-current security policies and procedures and upon reasonable prior written notice and during normal business hours, to the officers, employees and authorized agents and representatives of the Lessee as a potential lender may reasonably request, (ii) furnish additional information, including financial and other information, regarding the Lessee as a potential lender may reasonably request and (iii) agree to execute an acknowledgement in favor of the potential lender, containing customary representations, warranties and covenants, including but not limited to, due authorization, execution and enforceability of the Agreement, acknowledgement of assignment and no rescission of the Rent, acceptance of the Equipment and the condition thereof and no material adverse change to the Agreement.

(q) Lessee agrees not to discuss or disclose this Agreement or the transactions contemplated hereby or any information provided to Lessee or any of its officers, directors, employees, Affiliates or agents with any person other than those officers and employees of Lessee, any of its Affiliates and Patriot, outside legal counsel, outside accounting firm(s) and advisers, Magnum's lenders, Patriot's lenders and other transaction representatives that need to know such information for the purpose of evaluating or completing the transactions contemplated hereby. Lessee agrees to fully indemnify Lessor for any and all past or future losses, costs, fees, expenses and/or

damages suffered by Lessor resulting from Lessee's, Patriot's, Magnum's and each of their Affiliates and advisers' failure to comply with this Section 20(q).


(r) Lessee hereby authorizes Lessor to publish the name and description of the Lessee and a summarized description of the transaction evidenced hereby (but specifically excluding all transaction and business terms) in any "tombstone" or comparable advertisement which Lessor elects to publish or distribute to any selling broker-dealers or investors of an affiliate of the Lessor. In addition, Lessee agrees that Lessor may provide leasing industry trade organizations with information necessary and customary for inclusion in an industry publication after the Initial Closing Date.

[Signature Pages Follows]

IN WITNESS WHEREOF, Lessee and Lessor have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

LESSOR:
ICON MAGNUM, LLC

By: IEMC Corp., its manager

By:  _____

Name: ~~_____~~ Michael Rejsner
Co-President

Title: ~~_____~~ and ~~_____~~ ^{Chief Executive Officer}
~~Co-Chief Executive Officer~~

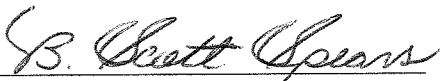
LESSEES:

APOGEE COAL COMPANY, LLC



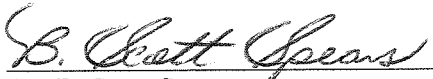
By: B. Scott Spears
Vice President and Treasurer

BROOK TROUT COAL, LLC



By: B. Scott Spears
Vice President and Treasurer

CATENARY COAL COMPANY, LLC



By: B. Scott Spears
Vice President and Treasurer

COAL CLEAN LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

COYOTE COAL COMPANY LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

DAKOTA LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

DAY LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

HIGHWALL MINING LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

HOBET MINING, LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

INFINITY COAL SALES, LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

IO COAL LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

JUPITER HOLDINGS LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

KANAHWA RIVER VENTURES II, LLC

B. Scott Spears

By: B. Scott Spears
Vice President and Treasurer

KANAWHA RIVER VENTURES III, LLC



By: B. Scott Spears
Vice President and Treasurer

LITTLE CREEK LLC



By: B. Scott Spears
Vice President and Treasurer

MAGNUM COAL COMPANY



By: B. Scott Spears
Vice President and Treasurer

MAGNUM COAL SALES LLC



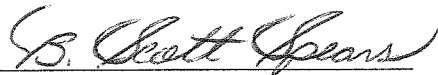
By: B. Scott Spears
Vice President and Treasurer

MIDLAND TRAIL ENERGY LLC



By: B. Scott Spears
Vice President and Treasurer

NEW TROUT COAL HOLDINGS II, LLC



By: B. Scott Spears
Vice President and Treasurer

PANTHER LLC



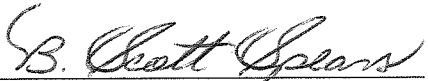
By: B. Scott Spears
Vice President and Treasurer

POND FORK PROCESSING LLC



By: B. Scott Spears
Vice President and Treasurer

REMINGTON LLC



By: B. Scott Spears
Vice President and Treasurer

REMINGTON II LLC



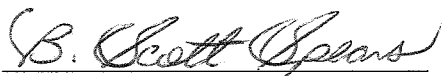
By: B. Scott Spears
Vice President and Treasurer

ROBIN LAND COMPNAY, LLC



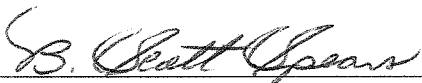
By: B. Scott Spears
Vice President and Treasurer

REMINGTON HOLDINGS LLC



By: B. Scott Spears
Vice President and Treasurer

SPEED MINING LLC



By: B. Scott Spears
Vice President and Treasurer

TC SALES COMPANY, LLC



By: B. Scott Spears
Vice President and Treasurer

THUNDERHILL COAL LLC



By: B. Scott Spears
Vice President and Treasurer

TROUT COAL HOLDINGS, LLC



By: B. Scott Spears
Vice President and Treasurer

VIPER LLC



By: B. Scott Spears
Vice President and Treasurer

WEATHERBY PROCESSING LLC



By: B. Scott Spears
Vice President and Treasurer

WILDCAT LLC



By: B. Scott Spears
Vice President and Treasurer

WINCHESTER LLC



By: B. Scott Spears
Vice President and Treasurer

Appendix A

DEFINITIONS AND RULES OF USAGE

Rules of Usage. The following rules of usage shall apply to this Appendix A and the Agreement unless otherwise required by the context:

- (a) Singular words shall connote the plural as well as the singular, and vice versa (except as indicated), as may be appropriate.
- (b) Unless otherwise indicated, references within any document to appendices, articles, schedules, sections, paragraphs, clauses or exhibits are references to appendices, articles, schedules, sections, paragraphs, clauses or exhibits in or to such document.
- (c) The headings and table of contents are solely for convenience of reference and shall not constitute a part of any such document nor shall they affect the meaning, construction or effect of any provision thereof.
- (d) References to any Person shall include such Person, its successors and permitted assigns and transferees.
- (e) Except as otherwise expressly provided, reference to any agreement means such agreement as amended, modified or supplemented from time to time in accordance with the applicable provisions thereof.
- (f) References to “including” shall mean including without limiting the generality of any description preceding such term and for purposes hereof the rule of *ejusdem generis* shall not be applicable to limit a general statement, followed by or referable to an enumeration of specific matters, to matters similar to those specifically mentioned.
- (g) Unless otherwise indicated, all amounts herein are expressed in Dollars.

Definitions. The following terms shall have the following meanings in the Agreement unless otherwise required by the context:

“Adverse Event” shall mean an event that has occurred and resulted in a change in the condition or circumstances which is adverse to the assets, business or financial condition or prospects of the Lessees, such that the Lessees could reasonably be expected, in Lessor’s sole discretion, to be unlikely to meet their payment obligations under this Agreement or any Schedules hereto.

“Affiliate”, with respect to a specified Person, means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person. For the purposes of this definition, “control”, when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Applicable Law” means with reference to any Person, all laws, ordinances and treaties and all judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, and all rules, regulations, orders, interpretations, directives, licenses and permits of any Governmental Authority applicable to such Person or its property or in respect of its operations.

“Basic Rent” means the periodic Rent payable with respect to the Base Term.

“Current Term” means, as of the date of determination, the then-current Base Term or Renewal Term, as applicable.

“Credit Agreement” means that certain Credit Agreement dated as of March 21, 2006 among Magnum Coal Company, as borrower, and those certain other parties as identified therein.

“Default” means any event or condition that with the giving of notice or lapse of time or both would become an Event of Default.

“Dollars” and “\$” means the lawful currency of the United States of America.

“Equipment Cost” means with respect to each item of Equipment, the amount specified as such in the Schedule therefor.

“Equipment Location” means Boone County and Lincoln County, both of which are located in the State of West Virginia, United States of America.

“Event of Loss” means any of the following events with respect to any item of Equipment:

- (i) the actual or constructive total loss of such items of Equipment or the use thereof due to the destruction thereof or damage thereto which, in Lessee’s reasonable opinion, would make repair thereof uneconomical or would render such item of Equipment unfit for normal use for any reason whatsoever for a period exceeding twelve months or, if earlier, extending beyond the term of the Agreement or that results in an insurance settlement on the basis of a total loss, or an agreed constructive or a compromise total loss;
- (ii) the theft or disappearance of such item of Equipment that shall have resulted in the loss of possession thereof by Lessee for a period in excess of the lesser of 180 days and the balance of the term of the Agreement;
- (iii) the confiscation, condemnation, requisition, seizure, forfeiture, purchase or other taking for use of such item of Equipment by any governmental or purported Governmental Authority resulting in the loss of possession of such item of Equipment by Lessee and such loss of possession shall have continued beyond the earlier of 180 days and the date of the termination of the Agreement; or
- (iv) the prohibition of operation of such item of Equipment by any competent Governmental Authority for a period of 180 days.

“Environmental Law” means each federal, state, local and foreign law and regulation relating to pollution, protection or preservation of human health or the environment, including ambient air, surface or ground water, land surface or subsurface strata, and natural resources, and including each law and regulation relating to emissions, discharges, releases or threatened releases of Materials of Environmental Concern, or otherwise relating to the manufacturing, processing, distribution, use, treatment, generation, storage, containment (above and below ground), disposal, transport or handling of Materials of Environmental Concern or the preservation of the environment or mitigation of adverse effects thereon and each law and regulation with regard to record keeping, notification, disclosure and reporting requirements respecting Materials of Environmental Concern.

“Environmental Liability” means any actual or potential liability (including any claim, action, cause of action, investigation or notice (whether written or oral) by any Person) for investigatory, cleanup or governmental response costs, or natural resources or property damages, or personal injuries, attorney’s fees or penalties relating to (i) the presence, or release into the environment at any location owned or

operated by Lessee or an Affiliate, now or in the past of Materials of Environmental Concern, or (ii) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law.

“Fair Market Rental Value” means the price that a willing lessee (who is neither a lessee in possession nor a used equipment dealer) would pay to lease the Equipment in an arm’s-length transaction from a willing lessor under no compulsion to lease.

“Fair Market Sales Value” means the price that a willing buyer (who is neither a lessee in possession nor a used equipment dealer) would pay for the Equipment in an arm’s-length transaction to a willing seller under no compulsion to sell.

“Governmental Authority” means any national, state or sovereign government and any federal, regional, state, provincial, municipal, local, city government or other political subdivision, legislative body, administrative agency or governmental or quasi-governmental body or agency (including their respective successors) of the United States or any other sovereign or any political subdivision thereof or any organ or member thereof exercising executive, legislative, judicial, regulatory or administrative functions.

“Lease Agreement” means that certain Lease Agreement dated as of March 1, 1983 between Kanawha Valley Bank, N.A. and Hobet Mining & Construction Co., Inc. (as amended, restated or otherwise modified from time to time).

“Lessee’s Obligations” means all of the obligations of Lessee under the Agreement.

“Lessor’s Lien” means any Lien in respect of any item of Equipment or any of Lessee’s rights under the Agreement arising as a result of (i) any claim against Lessor that is not related to the transactions contemplated by the Agreement, (ii) any act or omission of Lessor that is not related to the transactions contemplated by the Agreement or is in violation of any of the terms of the Agreement, (iii) Taxes imposed against Lessor that Lessee has not agreed to indemnify against pursuant to the Agreement, or (iv) any claim against Lessor (but excluding claims by Lessee while an Event of Default shall have occurred and be continuing) arising out of the voluntary transfer of all or any part of its interest in the items of Equipment or the Agreement, other than a transfer pursuant to or arising out of Sections 8, 10 or 17.

“Lien” means any mortgage, pledge, lien, charge, encumbrance, lease, adverse possession, exercise of rights, security interest, easement, servitude or claim of any kind, including any arising under any conditional sale or other title retention agreement.

“Manufacturer’s Consent” means the consent letter (or, if there is more than one, each such consent letter) executed by a manufacturer concerning the transfer to Lessee of rights relating to the Equipment.

“Manufacturer’s Purchase Agreement” means, with respect to any item of Equipment, the agreement between Lessee and a manufacturer and assigned to Lessor pursuant to which Lessor has purchased an item of Equipment and acquired any rights related thereto, including, but not limited, to rights (i) to use software related thereto and (ii) for technical support services (including the acquisition and installation of enhancements and upgrades).

“Materials of Environmental Concern” means any chemicals, pollutants, contaminants, wastes, toxic or hazardous substances, petroleum products, asbestos related products, polychlorinated biphenyls, lead related products or radon.

“Overdue Rate” means a rate of compound interest of 12% per annum on the amount due and owing.

“Parts” means any and all appliances, parts, instruments, appurtenances, accessories, and other equipment of whatever nature (other than temporary replacement parts as provided in the Agreement) that may from time to time be incorporated or installed in or attached to any item of Equipment, including any Parts removed from an item of Equipment for so long as title to such removed Part remains vested in Lessor under the terms and conditions of the Agreement.

“Permitted Liens” means (i) the respective rights of Lessor and Lessee as provided under the Agreement, (ii) the rights of others under agreements or arrangements to the extent expressly permitted by the terms of the Agreement, (iii) Lessor’s Liens, (iv) materialmen’s, suppliers’, mechanics’, workmen’s, repairmen’s, employees’ or other like Liens arising in the ordinary course of business for amounts the payment of which is either not yet delinquent or is being contested in good faith by appropriate proceedings diligently conducted so long as such proceedings do not involve a material danger of the sale, forfeiture or loss of the Equipment or any interest therein, (v) Liens arising out of judgments or awards against Lessee with respect to which an appeal or proceeding for review is being prosecuted in good faith by appropriate proceedings and with respect to which there shall have been secured a stay of execution pending such appeal or review, (vi) customary salvage and similar rights of insurers under policies of insurance maintained with respect to the Equipment, and (vii) Liens relating to any temporary replacement Parts.

“Person” means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Prime Rate” means the rate of interest per annum publicly announced from time to time by Citibank, N.A., as its prime rate in effect at its branch office in New York City; each change in the Prime Rate shall be effective on the date such change is publicly announced as being effective.

“Renewal Term” means with respect to any item of Equipment, the applicable renewal period for which Lessee has agreed to continue to Lease the Equipment beyond the Base Term as provided in the applicable Schedule(s).

“Renewal Rent” means the periodic Rent payable with respect to any Renewal Term as provided in Section 17.

“Rent” means, collectively, Advance Rent, Basic Rent, Renewal Rent and any Additional Rent.

“Termination Value” means, with respect to any item of Equipment, as of any Termination Value Determination Date, the amount identified as such in the Schedule therefor.

“Termination Value Determination Date” means, with respect to any item of Equipment, each date identified as such in the Schedule therefor.

EXHIBIT A

FORM OF LEASE SCHEDULE

**SCHEDULE 1 TO
MASTER LEASE AGREEMENT
DATED AS OF MAY 5, 2008
BETWEEN
ICON MAGNUM, LLC, MAGNUM COAL COMPANY AND ALL
OF ITS SUBSIDIARIES**

This Schedule (the "Schedule") is entered into between ICON MAGNUM, LLC ("Lessor") and HOBET MINING, LLC ("Lessee") pursuant to that certain Master Lease Agreement dated as of May 5, 2008 (the "Lease") between Lessor, as lessor, and MAGNUM COAL COMPANY and all of its subsidiary companies identified in the Lease (including, but not limited to, Lessee). All the terms and conditions of the Lease are hereby incorporated herein and made a part hereof. In the event of a conflict between the Lease and this Schedule, the provisions of this Schedule shall prevail. All payments obligations and liabilities provided for herein, unless otherwise specified, shall be denominated and performed in Dollars. Capitalized terms used herein but not otherwise defined shall have the meaning assigned to such term in the Lease.

1. **EQUIPMENT DESCRIPTION:**

- (a) SEE EQUIPMENT SCHEDULE 1-A ATTACHED HERETO.

2. **ACQUISITION COST:**

- (a) Lessor shall acquire the Equipment for Lessee for a purchase price of \$12,460,807 (the "Schedule Amount").

3. **EQUIPMENT LOCATION:**

- (a) Boone County and Lincoln County, both of which are located in the State of West Virginia, the United States of America.

4. **ADVANCE RENT:**

- (a) Calculated at \$6,699.59 per day (such amount shall be computed as the total average monthly Rent payment divided by 30 days and shall be due for the period starting with the Interim Closing Date and ending on the first day of the calendar month following the Interim Closing Date.

5. **ADVANCE RENT PAYMENT DATE:**

- (a) The first day of each month following the Interim Term Commencement Date during the Interim Term.

6. **RENT DURING THE BASE TERM:**

- (a) for payments 1-24: 1.2553% of the Schedule Amount

- (b) for payments 25-60: 1.8714% of the Schedule Amount

all of which payments shall be made monthly in advance, for the entire Base Term, unless the Lease shall be terminated earlier in accordance with the terms thereof or, unless such Base Term is renewed in accordance with the provisions of Section 17 of the Lease.

7. **BASE TERM:**

- (a) The Base Term shall commence on the Base Term Commencement Date and shall continue for a term equal to sixty (60) months.

8. **BASE RENT PAYMENT DATE:**

- (a) The first day of each month during the Base Term.

9. **BASE TERM COMMENCEMENT DATE:**

- (a) In accordance with the Lease or as otherwise set forth herein.

10. **LESSEE'S OPTIONS ON EXPIRY OF BASE TERM, FIRST RENEWAL TERM, SECOND RENEWAL TERM AND THIRD RENEWAL TERM:** The Lessee shall have the following options, exercisable in accordance with the Lease:

- (a) Purchase all, but not less than all, the Equipment set forth on a particular Schedule for the Fair Market Sales Value of the Equipment;
- (b) Renew the rental of all, but not less than all, of the Equipment set forth on a particular Schedule for the First Renewal Rental Amount, the Second Renewal Rental Amount or the Third Renewal Rental Amount (each as defined below), as the case may be;
- (c) Return all, but not less than all, the Equipment set forth on a particular Schedule to Lessor.

11. **RENT DURING THE FIRST RENEWAL TERM:**

- (a) Pursuant to Section 17 of the Lease, should Lessee elect to renew the Lease upon expiry of the Base Term, Lessee shall pay 24 monthly payments in an amount equal to 1.4474% of the Schedule Amount (the "First Renewal Rental Amount"), in advance, for the entire First Renewal Term, unless the lease shall be terminated earlier in accordance with the terms thereof (the "First Renewal Term").

12. **RENT DURING THE SECOND RENEWAL TERM:**

- (a) Pursuant to Section 17 of the Lease, should Lessee elect to renew the Lease upon expiry of the First Renewal Term, Lessee shall pay 24 monthly payments in an amount equal to 1.9168% of the Schedule Amount (the "Second Renewal Rental Amount"), in advance, for the entire Second Renewal Term, unless the Lease shall be terminated earlier in accordance with the terms thereof (the "Second Renewal Term").

13. **RENT DURING THE THIRD RENEWAL TERM:**

- (a) Pursuant to Section 17 of the Lease, should Lessee elect to renew the Lease upon expiry of the Second Renewal Term, Lessee shall pay monthly payments in an amount equal to

an amount that Lessor and Lessee mutually agree to be the Fair Market Rental Value of such Equipment (the "Third Renewal Rental Amount"), unless the Lease shall be terminated earlier in accordance with the terms thereof (the "Third Renewal Term").

14. **STIPULATED LOSS VALUE:** SCHEDULE OF TERMINATION VALUES ATTACHED AS SCHEDULE B HERETO (the "Termination Value Schedules"). For certainty, all payments required under this Schedule based on Termination Values shall be payable by Lessee to Lessor in Dollars.

15. **TITLE TO AND CONDITION OF EQUIPMENT:**

(a) Lessee shall receive a bill of sale to the Equipment from Branch Banking & Trust Company, as trustee, transferring title to the Equipment to Lessor as set forth therein. Lessee shall sign a Certificate of Acceptance in respect of the Equipment in the form attached hereto as Schedule C and shall be obligated to pay Rent and other amounts required hereby and by the Lease in respect of the Equipment, irrespective of any defect or alleged defect in title to or the condition of the Equipment.

16. **DISCLAIMERS/EXCLUSION OF WARRANTIES:**

(a) LESSOR LEASES AND LESSEE TAKES THE EQUIPMENT AND EACH PART THEREOF "AS-IS" AND "WHERE-IS" AND LESSOR DOES NOT MAKE, HAS NOT MADE, NOR SHALL BE DEEMED TO MAKE OR HAVE MADE, ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO THE EQUIPMENT LEASED UNDER THIS SCHEDULE OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AS TO THE TITLE, CONDITION, VALUE, DESIGN, OPERATION, COMPLIANCE WITH SPECIFICATIONS, CONSTRUCTION, PERFORMANCE OR MERCHANTABILITY, FITNESS OR SUITABILITY FOR OR OF THE USE OR PURPOSE OF THE EQUIPMENT OR ANY PART THEREOF, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, SAFETY, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATIONS BASED ON STRICT LIABILITY IN TORT, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR ANY PART THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT OR ANY PART THEREOF. Lessee acknowledges that Lessor does not manufacture or supply the Equipment and does not represent the Supplier and that Lessee has selected the Equipment and Supplier based upon its own judgment. Lessee agrees that neither Supplier nor any salesperson, employee or agent of Supplier is an agent, or has any authority to speak, for Lessor or to bind Lessor in any way. Without limiting the generality of the foregoing, Lessor makes no and specifically excludes any representation or warranty relating to any software, including without limitation any warranty of title, validity or enforceability of a license, non-infringement, or the availability or quality of vendor support.

**COUNTERPART NO. 1 OF 1 SERIALY NUMBERED MANUALLY
EXECUTED COUNTERPARTS, TO THE EXTENT THAT THIS DOCUMENT
CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL
CODE, NO SECURITY INTEREST MAY BE CREATED THROUGH THE
TRANSFER AND POSSESSION OF ANY COUNTERPART OTHER THAN
COUNTERPART NO. 1**

WHEREFORE, the parties have caused this Schedule 1 to be executed and do each hereby warrant and represent that their respective signatories whose signatures appear below have been and are on the date of this agreement duly authorized by all necessary and appropriate action to execute this Schedule.

LESSOR:
ICON MAGNUM, LLC

By: IEMC Corp., its manager

By: _____
Name: _____
Title: _____

LESSEE:
HOBET MINING, LLC

By: _____
Name: _____
Title: _____

[Signature Page to Schedule 1 to Lease]

SCHEDULE "1-A"
Equipment

Bucyrus Erie model 1570 Dragline

Year of Manufacturer: 1983

Serial Number: 140510

HOUR METER

MAIN TRANSFORMER

AUXILIARY TRANSFORMER

MAIN CIRCUIT BREAKER

GENERATOR SET SYNCHRONOUS MOTORS SYM1

GENERATOR SET SYNCHRONOUS MOTORS SYM2

GENERATOR SET SYNCHRONOUS MOTORS SYM3

GENERATOR SET SYNCHRONOUS MOTORS SYM4

EXCITER(S)

SFEX1

HEX2

HDEX3

DYNAMIC EXCITER MOTOR (AC)

ELECTRIC EQUIPMENT ROOM

ELECTRICAL CABINETS ETC.

DRIVE CONROLS

CABLE TRAYS AND RACEWAYS

CONDUIT AND BUSS ENCLOSURES

PLC RACKS AND CABINET

COMMUNICATION SYSTEM

HOUSE BLOWERS

FIRE SUPPRESSION SYSTEM

TRAIL CABLE

HOUSE LIGHTS (exterior)

HOUSE LIGHTS (interior)

DIGGING LIGHTS

ACCESS PLATFORMS, HANDRAILS

BOARDING LADDERS

HOUSE STRUCTURE, ROOF AND WALLS

HOUSE CRANES AND WINCHES

LUBRICATION CENTER, TANKS, PUMPS

AIR COMPRESSOR(S) MAIN & AUXILIARY

COUNTER WEIGHT

OPERATORS CAB:

DOORS, GLASS

WIPERS

MIRRORS

SEAT

HEATER

AIR CONDITIONING

INSTRUMENTS & CONTROL PANELS

GANTRY TOWER / MAST:

GANTRY OR A-FRAME STRUCTURE

BACK LEG SAFETY CABLES

MAST STRUCTURE

MAST FOOT PINS
MAST SUPPORT CABLES
MAST DEFLECTOR HOIST SHEAVES
PLATFORMS AND HANDRAILS
FAIRLEAD:
UPPER DRAG SHEAVES (RIGHT)
UPPER DRAG SHEAVES (LEFT)
LOWER DRAG SHEAVES (RIGHT)
LOWER DRAG SHEAVES (LEFT)
FAIRLEAD STRUCTURE
BOOM:
STRUCTURE
FOOT PINS
POINT SHEAVES
UPPER HOIST DEFLECTOR SHEAVES
LOWER HOIST DEFLECTOR SHEAVES
PLATFORMS AND HANDRAILS
MAIN BOOM SUSPENSION CABLES
INTER, UPPER BOOM SUPPORT CABLES
INTER, LOWER BOOM SUPPORT CABLES
DRAG FUNCTION:
MOTORS (625/1300 HP) DM1
MOTORS (625/1300 HP) DM2
MOTORS (625/1300 HP) DM3
MOTORS (625/1300 HP) DM4
GENERATORS (Frame and Stator) DGN1
GENERATORS (Frame and Stator) DGN2
GENERATORS (Frame and Stator) DGN3
GENERATORS (Frame and Stator) DGN4
GENERATOR ARMATURES DGA1
GENERATOR ARMATURES DGA2
GENERATOR ARMATURES DGA3
GENERATOR ARMATURES DGA4
TRANSMISSIONS RIGHT DGB1
TRANSMISSIONS LEFT DGB2
DRAG PINION(S)
GUIDES, ROLLERS, SHEAVES, ETC.
HOIST FUNCTION:
MOTORS (625/1300 HP) HM1
MOTORS (625/1300 HP) HM2
MOTORS (625/1300 HP) HM3
MOTORS (625/1300 HP) HM4
MOTORS (625/1300 HP) HM5
MOTORS (625/1300 HP) HM6
GENERATORS HG1
GENERATORS HG2
GENERATORS HG3
GENERATORS HG4
GENERATORS HG5
GENERATORS HG6
GENERATOR ARMATURES HGA1
GENERATOR ARMATURES HGA2

GENERATOR ARMATURES	HGA3
GENERATOR ARMATURES	HGA4
GENERATOR ARMATURES	HGA5
GENERATOR ARMATURES	HGA6
TRANSMISSIONS	
HGB1 (Right Rear)	
HGB2 (Right Front)	
HGB3 (Left Front)	
HGB4 (Left Rear)	
BRAKE(S)	
DRUM AND LAGGING	
MAIN DRUM GEARS	
HDG1 (right)	
HDG2 (left)	
HOIST PINION(S)	
HOIST ROPES	
GUIDES, ROLLERS, ETC.	
SWING FUNCTION:	
MOTORS	SWM1
MOTORS	SWM2
MOTORS	SWM3
MOTORS	SWM4
GENERATORS	SWG1
GENERATORS	SWG2
GENERATORS	SWG3
GENERATORS	SWG4
GENERATOR ARMATURES	SWGA1
GENERATOR ARMATURES	SWGA2
GENERATOR ARMATURES	SWGA3
GENERATOR ARMATURES	SWGA4
TRANSMISSIONS:	SWGB1
TRANSMISSIONS:	SWGB2
TRANSMISSIONS:	SWGB3
TRANSMISSIONS:	SWGB4
BRAKES	
SWING SHAFTS	SS1
SWING SHAFTS	SS2
SWING SHAFTS	SS3
SWING SHAFTS	SS4
SWING PINIONS	SP1
SWING PINIONS	SP2
SWING PINIONS	SP3
SWING PINIONS	SP4
SWING GEAR (RACK-12 SEGMENTS)	
LUBRICATION SYSTEM	
CENTER PIN SHAFT	
REVOLVING FRAME ROLLERS & RACES	
CENTER GUDGEON BUSHINGS	
BRUSH HOLDER ASSEMBLIES, BRUSHES	
PROPEL FUNCTION:	
MOTORS	PM1
MOTORS	PM2

MOTORS PM3
MOTORS PM4
INTERMEDIATE TRANSMISSIONS
IMT1 (right)
IMT2 (right)
IMT3 (left)
IMT4 (left)
MAIN GEARS
RIGHT
LEFT
BRAKES
WALKING CAM SHAFTS
RIGHT
LEFT
WALKING CAMS
RIGHT
LEFT
WALKING FRAME (cam carrier)
RIGHT
LEFT
WALKING SHOES
RIGHT
LEFT
TUB:
TUB STRUCTURE
TUB SUPPORT HOOKS (2)
BUCKET: 72 YARD
BUCKET BODY
DRAG CHAIN
HOIST CHAIN
CHAIN SPREADER BAR
BUCKET DUMP ROPE
DUMP SHEAVES
BUCKET WEAR PACKAGE
GROUND ENGAGING TOOLS:
BUCKET LIP
ADAPTORS
LIP SHROUDS
TEETH
WING SHROUDS
SPARE AND REPLACEMENT PARTS
TO INCLUDE BUT NOT LIMITED TO,
GENERATORS
MOTORS, TRANSMISSIONS AND BUCKETS

SCHEDULE "B"
Stipulated Loss Values

Period	Percent (%) of Financing Amount
Interim Term & Month 1	120.00%
Month 2	119.00%
Month 3	118.60%
Month 4	118.40%
Month 5	118.20%
Month 6	118.00%
Month 7	117.80%
Month 8	117.60%
Month 9	117.40%
Month 10	117.20%
Month 11	117.00%
Month 12	116.80%
Month 13	116.60%
Month 14	116.40%
Month 15	116.20%
Month 16	116.00%
Month 17	115.80%
Month 18	115.60%
Month 19	115.40%
Month 20	115.20%
Month 21	115.00%
Month 22	114.80%
Month 23	114.60%
Month 24	114.40%
Month 25	114.20%
Month 26	114.00%
Month 27	113.80%
Month 28	113.60%
Month 29	113.40%
Month 30	113.20%

Period	Percent (%) of Financing Amount
Month 31	113.10%
Month 32	113.00%
Month 33	112.90%
Month 34	112.80%
Month 35	112.70%
Month 36	112.60%
Month 37	112.50%
Month 38	112.40%
Month 39	112.30%
Month 40	112.20%
Month 41	112.10%
Month 42	112.00%
Month 43	111.90%
Month 44	111.80%
Month 45	111.70%
Month 46	111.60%
Month 47	111.50%
Month 48	111.40%
Month 49	111.30%
Month 50	111.20%
Month 51	111.10%
Month 52	111.00%
Month 53	110.90%
Month 54	110.80%
Month 55	110.70%
Month 56	110.60%
Month 57	110.50%
Month 58	110.40%
Month 59	110.30%
Month 60	110.20%

EXECUTION VERSION

SCHEDULE "C"
Form of Certificate of Acceptance
Re: Equipment
CERTIFICATE OF ACCEPTANCE

I have been appointed as the duly authorized representative of HOBET MINING, LLC (the "Lessee") for the purpose of inspecting, accepting, and receiving delivery of the leased equipment described below (the "Equipment"), which are referred to in the Master Lease Agreement, dated as of May 5, 2008 (the "Lease") between ICON MAGNUM, LLC, as lessor ("Lessor") and MAGNUM COAL COMPANY and all of its subsidiary companies, as Lessees. Capitalized terms used herein and not otherwise defined herein shall have the meanings as defined in the Lease.

I hereby certify to Lessor, the following:

1. Equipment has been inspected and is in good order and in compliance with the terms of the Lease in all respects;
2. Based on my determination that all Equipment is in compliance with all applicable specifications, the Equipment is hereby unconditionally accepted for all purposes of the Lease as of the Acceptance Date set forth below.
3. The Lessee's representations and warranties contained in the Lease are true and correct as of the date hereof;
4. The Lessee has satisfied or complied with all requirements under the Lease on or prior to the Acceptance Date set forth below;
5. No breach or Default under the Lease has occurred or is continuing as such on the date hereof and no event or circumstance has occurred that, through the passage of time, would constitute a breach or Default under the Lease; and
6. The Lessee has obtained, and there are in full force and effect, all insurance policies as required under the Lease with respect to the Equipment.

Acceptance Date: May 5, 2008
Acceptance Location: See Equipment Schedule No. 1 to Lease
Equipment Description: See Equipment Schedule No. 1 to Lease

[Signature Page Follows]

IN WITNESS WHEREOF, the Lessee has duly executed this Certificate of Acceptance on this 5th day of
May 2008.

LESSEE:
HOBET MINING, LLC

By: _____
Name: _____
Title: _____

EXHIBIT B

FORM OF CERTIFICATE OF ACCEPTANCE

CERTIFICATE OF ACCEPTANCE

I have been appointed as the duly authorized representative of HOBET MINING, LLC (the "Lessee") for the purpose of inspecting, accepting, and receiving delivery of the leased equipment described below (the "Equipment"), which are referred to in the Master Lease Agreement, dated as of May 5, 2008 (the "Lease") between ICON MAGNUM, LLC, as lessor ("Lessor") and MAGNUM COAL COMPANY and all of its subsidiary companies, as Lessees. Capitalized terms used herein and not otherwise defined herein shall have the meanings as defined in the Lease.

I hereby certify to Lessor, the following:

2. Equipment has been inspected and is in good order and in compliance with the terms of the Lease in all respects;
7. Based on my determination that all Equipment is in compliance with all applicable specifications, the Equipment is hereby unconditionally accepted for all purposes of the Lease as of the Acceptance Date set forth below.
8. The Lessee's representations and warranties contained in the Lease are true and correct as of the date hereof;
9. The Lessee has satisfied or complied with all requirements under the Lease on or prior to the Acceptance Date set forth below;
10. No breach or Default under the Lease has occurred or is continuing as such on the date hereof and no event or circumstance has occurred that, through the passage of time, would constitute a breach or Default under the Lease; and
11. The Lessee has obtained, and there are in full force and effect, all insurance policies as required under the Lease with respect to the Equipment.

Acceptance Date:	May 5, 2008
Acceptance Location:	See Equipment Schedule No. 1 to Lease
Equipment Description:	See Equipment Schedule No. 1 to Lease

[Signature Page Follows]

IN WITNESS WHEREOF, the Lessee has duly executed this Certificate of Acceptance on this 5th day of
May 2008.

LESSEE:
HOBET MINING, LLC

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF CERTIFICATE OF COMPLIANCE

COMPLIANCE CERTIFICATE

HOBET MINING, LLC
(the "Lessee")

Master Lease Agreement dated as of _____, 2008 (the "Master Lease")

[Insert Date]

To: ICON Magnum, LLC, as lessor under the Master Lease.

I, _____, the duly appointed, qualified and incumbent Chief Financial Officer of the Lessee, a West Virginia limited liability company, being duly authorized by _____, the sole member of the Lessee to deliver this certificate, hereby make the following certifications and confirmations.

1. I am the Chief Financial Officer of the Lessee.
2. This certificate is delivered pursuant to Section 5(b) of the Master Lease.
3. This certificate applies to the [year] [quarter] ending _____.
4. That the attached [audited annual] [unaudited quarterly] financial statements present fairly in accordance with GAAP (subject to normal year-end adjustments, if applicable) the financial position and results of the Lessee, for the period then ended.
6. That the representations and warranties of Lessee set forth in Section 16 of the Maser Lease are true and correct as of the date hereof.
7. That all information provided pursuant to this certificate is true, correct and complete in all material respects.

I make this certificate in my capacity as the Chief Financial Officer of the Lessee and assume no personal liability with respect to the matters stated herein.

IN WITNESS WHEREOF, the undersigned has executed this certificate on the date first written above.

Signed:

Name:

Title:

EXHIBIT D

LIST OF MAGNUM SUBSIDIARIES

1. Apogee Coal Company, LLC, a Delaware limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301;
2. Brook Trout Coal, LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301;
3. Catenary Coal Company, LLC, a Delaware limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301;
4. Coal Clean LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301;
5. Dakota LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
6. Day LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
7. Highwall Mining LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
8. Hobet Mining, LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
9. Infinity Coal Sales, LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
10. IO Coal LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
11. Jupiter Holdings LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
12. Kanawha River Ventures II, LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
13. Kanawha River Ventures III, LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
14. Little Creek LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
15. Magnum Coal Sales LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
16. New Trout Coal Holdings II, LLC, a Delaware limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
17. Panther LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
18. Pond Fork Processing LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
19. Remington Holdings LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
20. Remington II LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
21. Remington LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
22. Robin Land Company, LLC, a Delaware limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
23. Speed Mining LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
24. TC Sales Company, LLC, a Delaware limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301

25. Thunderhill Coal LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
26. Trout Coal Holdings, LLC, a Delaware limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
27. Viper LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
28. Weatherby Processing LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
29. Wildcat, LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
30. Winchester LLC, a West Virginia limited liability company, with its principal place of business at 500 Lee Street East, Suite 900, Charleston, West Virginia 25301
31. Coyote Coal Company, LLC, a West Virginia limited liability company, with its principal place of business at P.O. Box 1060, Danville, West Virginia, 25053; and
32. Midland Trail Energy LLC, a West Virginia limited liability company, with its principal place of business at 42 Rensford Star Rd. Charleston, West Virginia 25306

CERTIFICATE OF ACCEPTANCE

I have been appointed as the duly authorized representative of HOBET MINING, LLC (the "Lessee") for the purpose of inspecting, accepting, and receiving delivery of the leased equipment described below (the "Equipment"), which are referred to in the Master Lease Agreement, dated as of May 5, 2008 (the "Lease") between ICON MAGNUM, LLC, as lessor ("Lessor") and MAGNUM COAL COMPANY and all of its subsidiary companies, as Lessees. Capitalized terms used herein and not otherwise defined herein shall have the meanings as defined in the Lease.

I hereby certify to Lessor, the following:

1. Equipment has been inspected and is in good order and in compliance with the terms of the Lease in all respects;
2. Based on my determination that all Equipment is in compliance with all applicable specifications, the Equipment is hereby unconditionally accepted for all purposes of the Lease as of the Acceptance Date set forth below.
3. The Lessee's representations and warranties contained in the Lease are true and correct as of the date hereof;
4. The Lessee has satisfied or complied with all requirements under the Lease on or prior to the Acceptance Date set forth below;
5. No breach or Default under the Lease has occurred or is continuing as such on the date hereof and no event or circumstance has occurred that, through the passage of time, would constitute a breach or Default under the Lease; and
6. The Lessee has obtained, and there are in full force and effect, all insurance policies as required under the Lease with respect to the Equipment.

Acceptance Date:	May 5, 2008
Acceptance Location:	See Equipment Schedule No. 1 to Lease
Equipment Description:	See Equipment Schedule No. 1 to Lease

[Signature Page Follows]

IN WITNESS WHEREOF, the Lessee has duly executed this Certificate of Acceptance on this 5th day of
May 2008.

LESSEE:
HOBET MINING, LLC

By: B. Scott Spears
Name: B. SCOTT SPEARS
Title: VP & TREASURER

CERTIFICATE OF ACCEPTANCE

I have been appointed as the duly authorized representative of HOBET MINING, LLC (the "Lessee") for the purpose of inspecting, accepting, and receiving delivery of the leased equipment described below (the "Equipment"), which are referred to in the Master Lease Agreement, dated as of May 5, 2008 (the "Lease") between ICON MAGNUM, LLC, as lessor ("Lessor") and MAGNUM COAL COMPANY and all of its subsidiary companies, as Lessees. Capitalized terms used herein and not otherwise defined herein shall have the meanings as defined in the Lease.

I hereby certify to Lessor, the following:

1. Equipment has been inspected and is in good order and in compliance with the terms of the Lease in all respects;
2. Based on my determination that all Equipment is in compliance with all applicable specifications, the Equipment is hereby unconditionally accepted for all purposes of the Lease as of the Acceptance Date set forth below.
3. The Lessee's representations and warranties contained in the Lease are true and correct as of the date hereof;
4. The Lessee has satisfied or complied with all requirements under the Lease on or prior to the Acceptance Date set forth below;
5. No breach or Default under the Lease has occurred or is continuing as such on the date hereof and no event or circumstance has occurred that, through the passage of time, would constitute a breach or Default under the Lease; and
6. The Lessee has obtained, and there are in full force and effect, all insurance policies as required under the Lease with respect to the Equipment.

Acceptance Date: May 5, 2008
Acceptance Location: See Equipment Schedule No. 1 to Lease
Equipment Description: See Equipment Schedule No. 1 to Lease

[Signature Page Follows]

IN WITNESS WHEREOF, the Lessee has duly executed this Certificate of Acceptance on this 5th day of
May 2008.

LESSEE:
HOBET MINING, LLC

By: B. Scott Spears
Name: B. SCOTT SPEARS
Title: VP & TREASURER

EXHIBIT B

EQUIPMENT PURCHASE AGREEMENT

EQUIPMENT PURCHASE AGREEMENT dated as of May 5, 2008 (this "Agreement"), by and among BRANCH BANKING & TRUST COMPANY, a state banking corporation organized under the laws of North Carolina with its principal place of business located at 223 West Nash Street, Wilson, North Carolina 27893, not individually but solely in its capacity as owner trustee ("Owner Trustee" or "Seller"), HOBET MINING, LLC, a West Virginia limited liability company with its principal place of business located a 500 Lee Street East, Suite 900, Charleston, West Virginia 25301 ("Hobet"), CYPRESS EQUIPMENT FUND VI, LLC, a California limited liability company ("Fund VI") and CYPRESS EQUIPMENT FUND VII, LLC a California limited liability company, each with their principal place of business located at Bayside Plaza, Suite 420, 188 The Embarcadero, San Francisco, California 94105 ("Fund VII", together with Fund VI, each an "Owner Participant" and collectively, the "Owner Participants") and ICON Magnum, LLC, a Delaware limited liability company, with its principal place of business located at 100 Fifth Avenue, 4th Floor, New York, New York 10011 ("Purchaser").

RECITALS:

- A. WHEREAS, pursuant to that certain Lease Agreement dated as of March 1, 1983 (as amended, restated, modified and assigned from time to time, the "Lease"), between Owner Trustee (as successor in interest to Kanawha Valley Bank, N.A.), as lessor, and Hobet, as lessee (as successor in interest to Hobet Mining & Construction Co., Inc.), Owner Trustee agreed to lease to Hobet and Hobet agreed to lease from Owner Trustee that certain Bucyrus-Erie Model 1570-W Electric Powered Walking Dragline Serial No. 126504, as more particularly described in Exhibit A to the Lease (the "Equipment");
- B. WHEREAS, Owner Trustee and Hobet executed a letter agreement dated October 30, 2007, pursuant to which Hobet irrevocably exercised its option to purchase the Equipment pursuant to Section 21(b) of the Lease (the "Purchase Option") and Owner Trustee and Hobet amended the Lease in certain respects (the "Letter Agreement"). The current Renewal Term of the Lease expired on March 23, 2008 and, pursuant to the Letter Agreement, has been extended to the Closing Date described below. Pursuant to the Appraisal Procedure set forth in the Lease, as amended, the Fair Market Sale Value of the Equipment has been determined and is the Purchase Price, as described below; and
- C. WHEREAS, Hobet has assigned to Purchaser Hobet's right to purchase the Equipment, Purchaser desires to acquire all of Seller's right, title and interest in, to and under the Equipment and Seller desires to sell, assign and transfer unto Purchaser its right, title and interest in, to and under the Equipment in accordance with this Agreement.

NOW THEREFORE, to accomplish such purposes and in consideration of the promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1 **INTERPRETATION.**

Capitalized Terms. All capitalized terms used herein but not otherwise defined shall have the meanings assigned to such terms in the Lease or the Participation Agreement.

2 **SALE AND PURCHASE OF ASSETS.**

2.1 Sale and Purchase of Equipment. Upon the terms and subject to the conditions of this Agreement, Seller, in consideration of the payment of the Purchase Price (as hereinafter defined), agrees to sell, assign, convey, transfer and deliver on the Closing Date (as hereafter defined) to Purchaser, all of Seller's right, title and interest in, to and under the Equipment and Purchaser agrees to purchase the Equipment from Seller.

2.2 Title. Seller shall transfer title to the Purchaser without any representation or warranty whatsoever, express or implied, except (i) a warranty that the Equipment is free of Liens arising from claims against the Seller or any Owner Participant which are not related to the Seller's ownership of the Equipment or the transactions contemplated by the Lease or other Operative Agreements (as defined in the Lease) and (ii) a warranty that the Seller is transferring the same title that was transferred to the Seller by River Cities Leasing, Inc.

2.3 Equipment Locations. The Equipment is or, as of the Closing Date, will be located at the location at which the Equipment is presently being used by Hobet, as lessee under the Lease, or at such other location as may be specified in writing by Hobet to Seller on or prior to the Closing Date.

2.4 Purchase Price. The full and complete purchase price for the Equipment shall be an amount equal to (i) Twelve Million Three Hundred Fifty Thousand and No/100s Dollars (\$12,350,000) (the "Basic Purchase Price"), plus (ii) One Hundred Ten Thousand Eight Hundred Seven and No/100s Dollars (\$110,807) (the "Stub Interest"), representing interest at the rate of eight and one-half percent (8.5%) per annum on the Basic Purchase Price from and including March 23, 2008 to and excluding April 30, 2008, an aggregate amount of Twelve Million Four Hundred Sixty Thousand Eight Hundred Seven and No/100s Dollars (\$12,460,807) (the Basic Purchase Price and the Stub Interest being collectively, the "Purchase Price"), and with respect to the period described in clause (ii), no additional Basic Rent under the Lease shall be payable by Hobet.

2.5 Final Installment of Basic Rent. On the Closing Date, Hobet agrees to pay to Seller an installment of Basic Rent due under the Lease in an amount ("Final Installment of Basic Rent") equal to Fourteen Thousand Five Hundred Seventy Nine and No/100s Dollars (\$14,579), which represents interest at the rate of eight and one-half percent (8.5%) per annum on the Basic Purchase Price from and including April 30, 2008 to and excluding the Closing Date. No further Basic Rent shall be payable by Hobet under the Lease upon the payment of the Stub Interest and the Final Installment of Basic Rent.

2.6 Bill of Sale. Upon payment of the Purchase Price as provided in Section 2.4 hereof and the Final Installment of Basic Rent as provided in Section 2.5 hereof, the Seller shall execute and deliver a Bill of Sale (the "Bill of Sale") to Purchaser in the form attached hereto as Exhibit A. The Bill of Sale shall transfer such title as is described in Section 2.2 of this Agreement.

2.7 Assignment of Warranties, Licenses, Etc. Seller, by delivering the Bill of Sale, shall be deemed to have assigned to Purchaser all right, title and interest in, to and under all warranties applicable to the Equipment, including all software licenses, if any. Seller makes no representation or warranty as to the existence of any such warranties or licenses.

2.8 Expenses. Hobet shall bear and pay all transfer, sales, purchase, use, stamp, duty, taxes, fees, assessments and other charges, of any nature whatsoever and however designated and arising, that may be imposed, assessed or levied by any United States, federal, or state government or any political

subdivision of either thereof (collectively, "Tax"), if any, upon the sale, assignment or transfer of the Equipment or arising out of the transactions contemplated by this Agreement, and any filing or recording or similar fees payable in connection with any instruments of transfer provided for herein. Purchaser shall deliver to Seller an executed general sales and use tax resale certificate, in a form reasonably satisfactory to Seller, in connection with any exemption from the imposition of any Tax in connection with the sale of the Equipment.

2.9 Brokerage. Seller, Purchaser and Hobet represent and warrant to each other that no broker, finder, agent or intermediary of any kind brought about the transactions contemplated by this Agreement, and that no such party is entitled to any brokerage commission, finder's fee, agent's commission or other similar compensation in connection with the transactions contemplated by this Agreement.

2.10 Delivery. Purchaser shall accept delivery of the Equipment as of the Closing Date at the Equipment's location. Hobet shall bear all risk of damage or loss from fire, the elements or otherwise to the Equipment until the Closing Date. If prior to the Closing Date an Event of Loss under the Lease shall occur, on the Closing Date Hobet shall remit the Purchase Price to Seller, notwithstanding the occurrence of such Event of Loss, Hobet, and not Purchaser, shall purchase the Equipment hereunder, and Seller shall assign to Hobet all of Seller's right, title and interest in and to any insurance proceeds to which Seller would otherwise be entitled under the Lease arising from such Event of Loss. For the avoidance of doubt, if prior to the Closing Date an Event of Loss under the Lease shall occur, all of Purchaser's obligations under this Agreement shall be null and void and be of no further force and effect.

3 **CLOSING DATE AND PLACE OF CLOSING; CERTAIN TRANSACTIONS TO BE EFFECTED AT CLOSING.**

3.1 Closing Date. The closing of the transactions contemplated by this Agreement (the "Closing") shall occur on May 5, 2008 (the "Closing Date").

3.2 Deliveries by Seller at Closing. On or before the Closing Date, Seller shall deliver, or cause to be delivered, to Purchaser, each of the following:

- (a) its countersignature to this Agreement;
- (b) the Bill of Sale dated the Closing Date executed by Seller;
- (c) a certificate from Seller dated the Closing Date and issued by a duly authorized officer or director certifying and attaching as true and correct (i) the incumbency signatures of those officers and or directors of Seller authorized to execute this Agreement and the transactions contemplated hereby on its behalf; (ii) certified copy of the excerpt from the Seller's bylaws indicating the Seller's authority to execute and deliver this Agreement and the documents and transactions to be entered into in connection herewith, and (iii) certifying that Seller has not received written notice from Lessee that an Event of Loss has occurred;
- (d) a pay proceeds letter substantially in the form set forth as Exhibit B, signed by Seller and Owner Participants, directing Purchaser with respect to the disposition of the Purchase Price and Hobet with respect to the disposition of the Final Installment of Basic Rent (the "Pay Proceeds Letter"); and

(e) such other documents as shall reasonably be requested by Purchaser in order effectively to carry out the transactions contemplated by this Agreement, duly executed by such party where appropriate.

All of the forgoing items (a) through (e) of this Section 3.2 are herein collectively referred to as the "Seller's Transaction Documents".

3.3 Deliveries by Purchaser at Closing. On or before Closing Date, Purchaser shall deliver, or cause to be delivered, to Seller, each of the following:

- (a) its countersignature to this Agreement;
- (b) the Purchase Price; and

(c) a certificate from Purchaser dated the Closing Date and issued by a duly authorized officer or director certifying and attaching as true and correct (i) the incumbency signatures of those officers and/or directors of Purchaser authorized to execute this Agreement and the transactions contemplated hereby on its behalf; and (ii) copies of all relevant board resolutions authorizing the execution and delivery of this Agreement.

3.4 Deliveries by Hobet at Closing. On or before Closing Date, Hobet shall deliver, or cause to be delivered, to Seller, each of the following:

- (a) its countersignature to this Agreement; and
- (b) the Final Installment of Basic Rent.

4 REPRESENTATIONS AND WARRANTIES OF OWNER PARTICIPANTS.

Each Owner Participant represents and warrants to Purchaser and Hobet as of the date hereof and as of the Closing Date that:

4.1 Due Organization and Authority. Each Owner Participant is a limited liability company, duly organized and validly existing under the laws of the State of California, and has the full corporate power and authority to own, lease and operate its properties and assets, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into, execute, deliver and perform its obligations under this Agreement.

4.2 Agreement Authorized; Binding and Enforceable. The execution, delivery and performance by it of this Agreement have been duly authorized by all required company action. This Agreement, when executed and delivered will, assuming due authorization, execution, and delivery hereof by Hobet, Purchaser and Seller, constitutes the valid, legal and binding obligation of each Owner Participant, enforceable against it in accordance with its terms, except as enforcement of the terms hereof may be limited by applicable bankruptcy, insolvency, reorganization, receivership, liquidation, moratorium or similar laws affecting enforcement of creditors' rights and remedies generally. By its execution of this Agreement, each Owner Participant consents to and instructs the Owner Trustee to enter into this Agreement and consummate the transactions contemplated hereby.

4.3 Title to Equipment. Each Owner Participant represents and warrants to Purchaser and Hobet that it does not own any right, title or interest in and to the Equipment and that no Lien on the Equipment has been created by or through such Owner Participant.

4.4 No Conflict. Neither the execution or delivery by it of this Agreement nor the sale, transfer, assignment and delivery by Seller of the Equipment hereunder, nor the performance of any of such Owner Participant's other obligations under this Agreement, does or shall conflict with, result in the breach of, constitute a default under or result in the creation of any Lien upon the Equipment under the terms of its certificate of formation or articles of association, any contract or other agreement, or any statute, ordinance, judgment, order, decree, regulation or rule of any court or governmental body, affecting or relating to it, or its business or the Equipment.

4.5 Required Approvals. No consent of, waiver from, application or notice to any third party is required in order for it to execute, deliver and perform this Agreement or to consummate the transactions contemplated hereby or thereby.

4.6 Litigation. There is no litigation, proceeding or investigation pending or, to Owner Participant's knowledge, threatened, against or involving it or its assets or properties that, either individually or in the aggregate, if adversely determined, would have a material adverse effect on the assets or business of such Owner Participant or prohibit or materially interfere with the consummation by it of the transactions contemplated in this Agreement. There are no outstanding judgments, decrees or orders of any court or any governmental authority against Owner Participant.

4.7 No Event of Loss. It has not received written notice from Lessee that an Event of Loss has occurred or of any condition or event which, upon the giving of notice or the lapse of time, or both, would constitute an Event of Loss with respect to the Equipment.

4.8 No Default Under Lease. To the best of each Owner Participant's knowledge as of the Closing Date, there are no defaults or any events that, with notice or passage of time (or both) would constitute a default on the part of the Hobet under the Lease.

5 REPRESENTATIONS AND WARRANTIES OF OWNER TRUSTEE.

Seller hereby represents and warrants to Purchaser and Hobet as of the date hereof and as of the Closing Date that (and such representations and warranties, except for Section 5.1 and the first sentence of Section 5.2 below each of which is made in Seller's individual capacity and not as Owner Trustee, are made by Seller solely in its capacity as Owner Trustee and not in its individual capacity):

5.1 Due Organization and Authority. Owner Trustee is a national association and is validly existing and in good standing under the laws of the United States of America, and Owner Trustee has the full corporate power and authority to own, lease and operate its properties and assets, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into, execute, deliver and perform its obligations under this Agreement and the Seller's Transaction Documents, including, without limitation, to transfer the Equipment hereunder.

5.2 Agreement Authorized; Binding and Enforceable. The execution, delivery and performance by Owner Trustee of this Agreement and the Seller's Transaction Documents have been duly authorized by all required corporate and stockholder action on the part of Owner Trustee. This Agreement and the Seller's Transaction Documents, when executed and delivered will, assuming due

authorization, execution, and delivery hereof by Hobet, Purchaser and Owner Participants, are valid, legal and binding obligations of Owner Trustee, enforceable against it in accordance with their respective terms, except as enforcement of the terms hereof and thereof may be limited by applicable bankruptcy, insolvency, reorganization, receivership, liquidation, moratorium or similar laws affecting enforcement of creditors' rights and remedies generally.

5.3 Title to Equipment. Owner Trustee has such title to the Equipment as was transferred to it by River Cities Leasing, Inc. and the sale, transfer, assignment and delivery of the Equipment under this Agreement shall transfer to Purchaser such title without any representation or warranty whatsoever, express or implied, except a warranty that the Equipment is free of Liens arising from claims against the Seller or any Owner Participant which are not related to the Seller's ownership of the Equipment or the transactions contemplated by the Lease or the other Operative Agreements (as defined in the Lease). Hobet and Purchaser acknowledge receipt from Seller of a copy of that certain Bill of Sale dated March 24, 1983, delivered by River Cities Leasing, Inc. to Kanawha Valley Bank, N.A., as trustee (predecessor in interest to Seller), pursuant to which River Cities Leasing, Inc. granted, conveyed, transferred, bargained and sold, delivered and set over all of its right, title and interest in and to the Equipment to Kanawha Valley Bank, N. A., as trustee (the "River Cities Bill of Sale"). Seller represents and warrants to Hobet and Purchaser that the River Cities Bill of Sale is a true and correct copy of the original River Cities Bill of Sale.

5.4 No Conflict. Neither the execution or delivery by Owner Trustee of this Agreement or any of the Seller's Transaction Documents, nor the sale, transfer, assignment and delivery by it of the Equipment hereunder, nor the performance of any other obligation of Owner Trustee under this Agreement or under any of the Seller's Transaction Documents, does or shall conflict with, result in the breach of, constitute a default under or result in the creation of any Lien upon the Equipment under the terms of, the by-laws of Owner Trustee, any contract or other agreement, or any statute, ordinance, judgment, order, decree, regulation or rule of any court or governmental body, affecting or relating to Seller, its business or the Equipment.

5.5 Required Approvals. No consent of, waiver from, application or notice to any third party is required in order for Owner Trustee to execute, deliver and perform this Agreement or any of the Seller's Transaction Documents or to consummate the transactions contemplated hereby or thereby.

5.6 Litigation. There is no litigation, proceeding or investigation pending or, to the knowledge of Owner Trustee, threatened, against or involving Owner Trustee or its assets or properties that, either individually or in the aggregate, if adversely determined, would prohibit or materially interfere with the consummation by Owner Trustee of the transactions contemplated in this Agreement. There are no outstanding judgments, decrees or orders of any court or any governmental authority against Owner Trustee affecting Owner Trustee's ability to transfer the Equipment to Purchaser.

5.7 No Event of Loss. Owner Trustee has not received written notice from Lessee that an Event of Loss has occurred or of any condition or event which, upon the giving of notice or the lapse of time, or both, would constitute an Event of Loss with respect to the Equipment.

5.8 No Default Under Lease. To the best of Owner Trustee's knowledge as of the Closing Date, there are no defaults or events that, with notice or passage of time (or both), would constitute a default on the part of Hobet under the Lease.

5.9 Condition of the Equipment; Limitations on Representations and Warranties. Except as specifically set forth in this Agreement, PURCHASER ACKNOWLEDGES THAT THE SALE OF THE EQUIPMENT HEREUNDER IS BEING MADE ON AN "AS IS" AND "WHERE IS" BASIS. EXCEPT AS SET FORTH IN THIS SECTION 5, NEITHER SELLER NOR OWNER PARTICIPANTS SHALL BE DEEMED TO HAVE MADE AND DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOW OR HEREAFTER, AS TO THE CONDITION, DESIGN, OPERATION, MAINTENANCE, VALUE, MARKETABILITY, MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE OF THE EQUIPMENT OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR AS TO THE FREEDOM OF THE EQUIPMENT FROM ANY LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), OR ANY OTHER REPRESENTATION OR WARRANTY, WHATSOEVER, EITHER EXPRESS OR IMPLIED WITH RESPECT TO THE EQUIPMENT OR ANY PART THEREOF AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, DEALING OR USAGE OF THE TRADE.

Purchaser acknowledges that (i) the description of the Equipment herein, referencing the description set forth in Exhibit A to the Lease, is used by the parties solely as a convenience, and (ii) as Hobet, or its predecessors in interest as Lessee under the Lease, has had sole and exclusive possession and control of the Equipment since the commencement of the Lease term, and neither Seller nor Owner Participants make any representation or warranty, express or implied, that any of the items included in the description of the Equipment set forth in Exhibit A to the Lease continue to be a part of, affixed to, or used with (as applicable) the Equipment. During the Lease term, Hobet has had the contractual obligation to maintain all required documentation, and to inspect, maintain and repair the Equipment, and thus Purchaser agrees that it has full knowledge of all conditions and circumstances and accepts title subject to any and all patent and latent conditions, and waives any and all delivery inspections and waives any and all representations and warranties, express or implied, as to the condition and documentation upon delivery.

The provisions of this Section have been negotiated by the parties and are intended to be a complete exclusion and negation of any representations or warranties by Seller and Owner Participants, express or implied, with respect to the Equipment, that may arise pursuant to any law now or hereafter in effect, or otherwise, except as expressly set forth herein.

6 REPRESENTATIONS AND WARRANTIES OF HOBET AND PURCHASER

Hobet hereby represents and warrants to Purchaser, Seller and the Owner Participants as of the date hereof and as of the Closing Date that:

6.1 Due Organization and Authority. Hobet is a limited liability company duly organized, validly existing and in good standing under the laws of the State of West Virginia and has full limited liability company power and authority to own its property, enter into this Agreement, where required, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder.

6.2 Agreement Authorized; Binding and Enforceable. The execution, delivery and performance of this Agreement have been duly authorized by all required corporate action on the part of Hobet. This Agreement when executed and delivered by Hobet will, assuming due authorization, execution, and delivery hereof by Purchaser, Owner Participants and Seller, constitute the valid, legal and binding obligation of Hobet enforceable against it in accordance with its terms, except as enforcement of

the terms hereof may be limited by applicable bankruptcy, insolvency, reorganization, receivership, liquidation, moratorium or similar laws affecting enforcement of creditors' rights and remedies generally.

6.3 No Conflict. Neither the execution and delivery by Hobet of this Agreement nor the performance of any other obligation of Hobet under this Agreement, does or shall conflict with, result in the breach of or constitute a default under the certificate of formation or operating agreement of Hobet or any contract or other agreement, or any statute, ordinance, judgment, order, decree, regulation or rule of any court or governmental body affecting, or relating to Hobet, Hobet's business or the Equipment.

6.4 Required Approvals. No consent of, waiver from or notice to any third party is required in order for Hobet to execute, deliver and perform this Agreement or to consummate the transactions contemplated hereby or thereby.

6.5 Taxes, Etc. All sales, use, property and other taxes, licenses, tolls, inspection or other fees, bonds, permits or certificates which were or may be required to be paid or obtained in connection with the initial acquisition by it of the Equipment or sale by Seller of the Equipment to Purchaser have been, or will when due, be paid in full by Hobet. Hobet shall indemnify Owner Trustee and Owner Participants upon demand for any of the foregoing and for all Taxes of any nature whatsoever and however designated and arising, that may be imposed, assessed or levied by any governmental or taxing authority against any or all of the Equipment, to the extent that such Taxes accrue prior to the Closing Date.

6.6 Title to Equipment. Hobet represents and warrants to Purchaser, Seller and Owner Participants that it does not own any right, title or interest in and to the Equipment and that no Lien on the Equipment has been created by or through Hobet.

6.7 Obligations under Lease. Hobet represents and warrants to Seller that, to the best of its knowledge, it has performed its obligations as lessee under the Lease.

Purchaser hereby represents and warrants to Hobet, Seller and the Owner Participants as of the date hereof and as of the Closing Date that:

6.8 Due Organization and Authority. Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has full limited liability company power and authority to own its property, enter into this Agreement, where required, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder.

6.9 Agreement Authorized; Binding and Enforceable. The execution, delivery and performance of this Agreement have been duly authorized by all required corporate action on the part of Purchaser. This Agreement when executed and delivered by Purchaser will, assuming due authorization, execution, and delivery hereof by Hobet, Owner Participants and Seller, constitute the valid, legal and binding obligation of Purchaser enforceable against it in accordance with its terms, except as enforcement of the terms hereof may be limited by applicable bankruptcy, insolvency, reorganization, receivership, liquidation, moratorium or similar laws affecting enforcement of creditors' rights and remedies generally.

6.10 No Conflict. Neither the execution and delivery by Purchaser of this Agreement nor the performance of any other obligation of Purchaser under this Agreement, does or shall conflict with, result in the breach of or constitute a default under the certificate of formation or operating agreement of

Purchaser or any contract or other agreement, or any statute, ordinance, judgment, order, decree, regulation or rule of any court or governmental body affecting, or relating to Purchaser, Purchaser's business or the Equipment.

6.11 Required Approvals. No consent of, waiver from or notice to any third party is required in order for Purchaser to execute, deliver and perform this Agreement or to consummate the transactions contemplated hereby or thereby.

7 CONDITIONS PRECEDENT TO CLOSING.

7.1 Conditions of Purchaser's Obligations. All obligations of Purchaser pursuant to this Agreement to consummate the transactions contemplated hereby at the Closing shall be subject to the satisfaction, at or prior to the Closing, of all of the following conditions, any one or more of which may be waived in writing by Purchaser (in its absolute and sole discretion):

(a) Representations and Warranties Accurate. All representations and warranties of Hobet, Seller and the Owner Participants contained in this Agreement and the other Seller's Transaction Documents shall be true and accurate in all material respects on and as of the Closing as if made again at and as of such date.

(b) Certificate. Purchaser shall have received a certificate dated as of the Closing executed by a duly authorized officer or director of Seller and the Owner Participants certifying that the conditions set forth in this Section 7.1 have been fully satisfied.

(c) Closing Deliverables. Purchaser shall have received all deliverables to be made to it pursuant to this Agreement, including, without limitation, those specified in Section 3.2 hereof.

7.2 Conditions of Seller's Obligations. All obligations of Seller pursuant to this Agreement to consummate the transactions contemplated hereby at the Closing shall be subject to the satisfaction, on or prior to the Closing, of all of the following conditions, any one or more of which may be waived in writing by Seller (in its sole discretion):

(a) Closing Deliverables. Seller shall have received all deliverables to be made to it pursuant to this Agreement, including, without limitation, those specified in Section 3.3 hereof; and

(b) Lender Release. Seller shall have obtained from its secured lenders such releases, subordinations, and any and all other documentation as may be reasonably necessary to convey the Equipment free and clear of all Liens, other than any Lien which is the responsibility of Hobet, as Lessee under the Lease, to pay or remove, and to otherwise consummate the transaction contemplated by this Agreement.

8 MISCELLANEOUS.

8.1 Reserved Rights. (a) Hobet and Seller recognize and agree that Seller and the Owner Participants will continue to be entitled to all benefits accrued and all rights under the Lease (as extended by the Letter Agreement) and the Participation Agreement in respect of the period on or prior to the Closing Date, including, without limitation, all rights to indemnification in respect of tax and other matters that survive termination of the Lease by their nature or according to the terms of the Participation Agreement or the Lease (as extended by the Letter Agreement). Hobet agrees that, in all matters relating

to any such rights, it shall act in a manner consistent with, and not in derogation of, any rights of Owner Participants and Seller under such agreements. Without limiting the generality of the foregoing, Hobet agrees to take all action reasonably necessary to facilitate the realization by Owner Participants and Seller of their respective rights under such agreements.

(b) Hobet and Seller recognize and agree that Hobet will continue to be entitled to all benefits accrued and all rights under the Participation Agreement or the Lease (as extended by the Letter Agreement), in respect of the period on or prior to the Closing Date, including, without limitation, all rights to indemnification that survive termination of the Lease by their nature or according to the terms of the Participation Agreement or the Lease (as extended by the Letter Agreement). Seller agrees that, in all matters relating to any such rights, it shall act in a manner consistent with, and not in derogation of, any rights of Hobet under the Lease. Without limiting the generality of the foregoing, Seller agrees to take all action reasonably necessary to facilitate the realization by Hobet of its rights under the Lease.

8.2 Indemnification. Seller, Hobet and Purchaser shall indemnify and hold the other parties harmless from and against any and all loss, cost, damage, injury or expense (including court costs and reasonable attorneys' fees) wheresoever and howsoever arising which may be incurred by reason of any breach by Seller, Hobet or Purchaser of any of their respective warranties, representations or obligations set forth herein or in any documents executed in connection herewith. Owner Participants, severally and not jointly (with each Owner Participant liability hereunder being limited to fifty percent (50%) of any such liability) shall indemnify and hold Hobet and Purchaser harmless from and against any and all loss, cost, damage, injury or expense (including court costs and reasonable attorneys' fees) wheresoever and howsoever arising which may be incurred by reason of the breach by Seller of Seller's warranties and representations set forth in Section 2.9, 5.2 and 5.3. Notwithstanding the foregoing, the indemnity obligations under this Section 8.2 shall be limited to the Purchase Price.

8.3 Termination of Liens. Prior to Closing, Seller shall take all actions necessary to discharge any Liens on the Equipment created by or through Seller, other than any Lien which is the responsibility of Hobet, as Lessee under the Lease, to pay or remove, such that Seller can transfer its right, title and interest in and to the Equipment to Purchaser free and clear of any Liens created by or through Seller, other than any Lien which is the responsibility of Hobet, as Lessee under the Lease, to pay or remove, as required by this Agreement.

8.4 Survival. All representations and warranties made by Seller, Owner Participants, Hobet or the Purchaser in this Agreement or in any document, exhibit or certificate furnished pursuant hereto or in connection herewith, shall survive the Closing.

8.5 Notices. All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been given (a) when received, if delivered in person, or (b) on the date of receipt if sent by a nationally recognized reputable overnight courier. Address for notices should be sent to the addresses listed in the heading to this Agreement or at such other address or addresses as any party may have advised the other in the manner provided in this Section 8.4.

8.6 Complete Agreement. This Agreement, together with its exhibits, sets forth the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements, contracts, promises, representations, warranties, statements, arrangements and understandings, if any, among the parties hereto or their representatives. No waiver, modification or amendment of any

provision, term or condition hereof shall be valid unless in writing and signed by the parties hereto, and any such waiver, modification or amendment shall be valid only to the extent therein set forth.

8.7 Further Assurances. Each of the parties hereto shall, from time to time after the Closing, upon the request of the other party hereto and at the expense of such requesting party, duly execute, acknowledge and deliver or cause to be duly executed, acknowledged and delivered, all such further instruments and documents reasonably requested by the other party to further effectuate the intents and purposes of this Agreement.

8.8 Severability. Any provision of this Agreement which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.9 Captions. The captions appearing in this Agreement are inserted only as a matter of convenience and for reference and shall in no way affect the interpretation or construction of this Agreement or any of the provisions hereof.

8.10 Knowledge. Wherever the term "knowledge" is used herein with respect to a person, such term shall refer to the actual knowledge of each respective person's executive officers and/or those individuals within each entity of such person with functional responsibility for the matter addressed, but, with respect to Purchaser, Seller and Owner Participant, unless expressly set forth herein, such individuals shall not be under any obligation to make any effort, under the circumstances, to become knowledgeable.

8.11 Assignability. Notwithstanding anything to the contrary in the Lease, each of the parties hereto may assign its rights hereunder and under Seller's Transaction Documents, as the case may be, without the consent of the other parties hereto; provided, however, that written notice of any such assignment shall be provided by the assigning party to the other parties hereto. No assignment of this Agreement or any of the rights hereunder shall relieve the assigning party of any of its obligations or liabilities hereunder.

8.12 Governing Law. This Agreement and all matters arising out of or relating in any way whatsoever to this Agreement (whether in contract, tort or otherwise) shall be governed by, the law of the State of New York.

8.13 Jurisdiction. With respect to any suit, action or proceedings relating to or arising out of this Agreement or any of the transactions contemplated hereby (***Proceedings***), the Seller, Purchaser, Hobet and each Owner Participant hereby: (i) submits to the non-exclusive jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan and of the United States District Court for the Southern District of New York, and any appellate court therefrom; and (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over the such party. The Seller, Purchaser, Hobet and each Owner Participant hereby agrees that a final judgment in any such Proceedings shall be conclusive and may be enforced in other jurisdictions otherwise having jurisdiction over such party by suit on such final judgment or in any other manner provided by law.

8.14 Counterparts. This Agreement may be signed in counterparts and may only be amended or varied by a document, in writing, executed by the Seller, Purchaser, Hobet and each Owner Participant. An executed facsimile of this Agreement shall be deemed to be a valid and binding agreement between the parties hereto.

/signature page follows/

SIGNATURE PAGE TO EQUIPMENT PURCHASE AGREEMENT DATED MAY 5, 2008

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

HOBET MINING, LLC,

By: B. Scott Spears
Name: B. SCOTT SPEARS
Title: VP & TREASURER

BRANCH BANKING & TRUST COMPANY,

as Seller, not individually but solely in its capacity as owner trustee

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VI, LLC,

as Owner Participant

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VII, LLC,

as Owner Participant

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

ICON MAGNUM, LLC,

as Purchaser

By: IEMC Corp., its manager

By: _____
Name: _____
Title: _____

SIGNATURE PAGE TO EQUIPMENT PURCHASE AGREEMENT DATED MAY 5, 2008

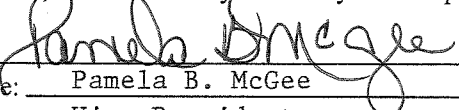
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

HOBET MINING, LLC,

By: _____
Name: _____
Title: _____

BRANCH BANKING & TRUST COMPANY,

as Seller, not individually but solely in its capacity as owner trustee

By:  _____
Name: Pamela B. McGee
Title: Vice President

CYPRESS EQUIPMENT FUND VI, LLC,

as Owner Participant

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VII, LLC,

as Owner Participant

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

ICON MAGNUM, LLC,

as Purchaser

By: IEMC Corp., its manager

By: _____
Name: _____
Title: _____

SIGNATURE PAGE TO EQUIPMENT PURCHASE AGREEMENT DATED MAY 5, 2008

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

HOBET MINING, LLC,

By: _____
Name: _____
Title: _____

BRANCH BANKING & TRUST COMPANY,


as Seller, not individually but solely in its capacity as owner trustee

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VI, LLC,

as Owner Participant

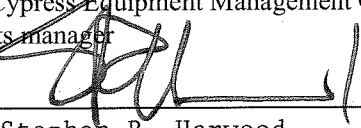
By: Cypress Equipment Management Corporation II,
its manager

By: 
Name: Stephen R. Harwood
Title: President

CYPRESS EQUIPMENT FUND VII, LLC,

as Owner Participant

By: Cypress Equipment Management Corporation II,
its manager

By: 
Name: Stephen R. Harwood
Title: President

ICON MAGNUM, LLC,

as Purchaser

By: IEMC Corp., its manager

By: _____
Name: _____
Title: _____

SIGNATURE PAGE TO EQUIPMENT PURCHASE AGREEMENT DATED MAY 5, 2008

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

HOBET MINING, LLC,

By: B. Scott Spears
Name: B. SCOTT SPEARS
Title: VP & TREASURER

BRANCH BANKING & TRUST COMPANY,
as Seller, not individually but solely in its capacity as owner trustee

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VI, LLC,

as Owner Participant
By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VII, LLC,

as Owner Participant
By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

ICON MAGNUM, LLC,

as Purchaser
By: IEMC Corp., its manager

By: Michael Reisner
Name: Co-President
and
Title: Co-Chief Executive Officer

EXHIBIT A

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that BRANCH BANKING & TRUST COMPANY, not individually but solely in its capacity as owner trustee ("Seller"), in consideration of the amount of Twelve Million Four Hundred Sixty Thousand Eight Hundred Seven and No/100 Dollars (\$12,460,807.00), and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) paid to it by ICON MAGNUM, LLC, a Delaware limited liability company with its principal place of business located at 100 Fifth Avenue, 4th Floor, New York, New York 10011 ("Purchaser"), has granted, bargained, sold, conveyed, transferred, assigned and delivered, and by these presents does grant and assign, to Purchaser all of its legal and beneficial right, title and interest in, to and under that certain Bucyrus-Erie Model 1570-W Electric Powered Walking Dragline Serial No. 126504, as more particularly described in the Lease (collectively, the "Equipment"). This Bill of Sale is being delivered in connection with the Equipment Purchase Agreement ("Purchase Agreement") dated as of May 5, 2008 between Hobet Mining, LLC ("Hobet"), Purchaser and Seller. Capitalized terms used herein shall have the respective meanings set forth in the Purchase Agreement.

TO HAVE AND TO HOLD, all and singular the Equipment by these presents bargained, sold and confirmed unto Purchaser, its successors and assigns, forever.

Seller, for itself, its successors and assigns, does hereby covenant with Purchaser that at the time of this sale Purchaser is receiving title to the Equipment without any representation or warranty whatsoever, express or implied, except (i) a warranty that the Equipment is free of Liens arising from claims against the Seller or any Owner Participant which are not related to the Seller's ownership of the Equipment or the transactions contemplated by the Lease or other Operative Agreements (as defined in the Lease) and (ii) a warranty that the Seller is transferring the same title that was transferred to the Seller by River Cities Leasing, Inc.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH IN THIS BILL OF SALE AND IN THE PURCHASE AGREEMENT, THE SALE OF THE EQUIPMENT HEREUNDER IS BEING MADE ON AN "AS IS" AND "WHERE IS" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THE PURCHASE AGREEMENT, SELLER SHALL NOT BE DEEMED TO HAVE MADE, AND DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOW OR HEREAFTER, AS TO THE CONDITION, DESIGN, OPERATION, MAINTENANCE, VALUE, MARKETABILITY, MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE OF THE EQUIPMENT OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR AS TO THE FREEDOM OF THE EQUIPMENT FROM ANY LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT OR ANY PART THEREOF AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, DEALING OR USAGE OF THE TRADE.

IN WITNESS WHEREOF, Seller has caused this instrument to be executed in its name by an authorized signatory as of the fifth day of May, 2008.

[Remainder of Page Intentionally Left Blank]

BRANCH BANKING & TRUST COMPANY,
as Seller, not individually but solely in its capacity as
owner trustee

By: _____
Name: _____
Title: _____

ACKNOWLEDGED AND AGREED:

CYPRESS EQUIPMENT FUND VI, LLC,
as Seller

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VII, LLC,
as Seller

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

/signature page to Bill of Sale/

EXHIBIT B

PAY PROCEEDS LETTER

**CYPRESS EQUIPMENT FUND VI, LLC
CYPRESS EQUIPMENT FUND VII, LLC**

Bayside Plaza, Suite 420
188 The Embarcadero
San Francisco, California 94105

May 5, 2008

ICON Magnum, LLC
100 Fifth Avenue
4th Floor
New York, New York 10011

Hobet Mining, LLC
500 Lee Street, Suite 900
Charleston, West Virginia 25301

Ladies and Gentlemen:

Pursuant to that certain Equipment Purchase Agreement, dated as of May 5, 2008 between Hobet Mining, LLC, ICON Magnum, LLC, as purchaser, Branch Banking & Trust Company, not individually but solely in its capacity as owner trustee, as seller, and Cypress Equipment Fund VI, LLC and Cypress Equipment Fund VII, LLC (collectively, the "Owner Participants"), (i) ICON Magnum, LLC is hereby authorized to disburse the Purchase Price in the amount of Twelve Million Four Hundred Sixty Thousand Eight Hundred Seven and No/100 Dollars (\$12,460,807.00), and (ii) Hobet Mining, LLC is hereby authorized to disburse the Final Installment of Basic Rent in the amount of Fourteen Thousand Five Hundred Seventy-Nine and No/100 Dollars (\$14,579.00), each such amount in lawful currency of the United States of America by wire transfer of immediately available funds to the following accounts (with 50% of each such amount being transferred to each of the following accounts):

Bank:	Comerica Bank 1331 North California Boulevard, Suite 400 Walnut Creek, CA 94596
ABA No.:	121137522
Account Name:	1894068608
Account No.:	Cypress Equipment Fund VI, LLC

Bank: Comerica Bank
1331 North California Boulevard, Suite 400
Walnut Creek, CA 94596

ABA No.: 121137522
Account Name: 1892183862
Account No.: Cypress Equipment Fund VII, LLC

[Signature Page Follows]

Very truly yours,

BRANCH BANKING & TRUST COMPANY,
as Seller, not individually but solely in its capacity as
owner trustee

By: _____
Name: _____
Title: _____

ACKNOWLEDGED AND AGREED:

CYPRESS EQUIPMENT FUND VI, LLC,
An Owner Participant,
By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VII, LLC,
An Owner Participant,
By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

[Signature Page to Pay Proceeds Letter]

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that BRANCH BANKING & TRUST COMPANY, not individually but solely in its capacity as owner trustee ("Seller"), in consideration of the amount of Twelve Million Four Hundred Sixty Thousand Eight Hundred Seven and No/100 Dollars (\$12,460,807.00), and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) paid to it by ICON MAGNUM, LLC, a Delaware limited liability company with its principal place of business located at 100 Fifth Avenue, 4th Floor, New York, New York 10011 ("Purchaser"), has granted, bargained, sold, conveyed, transferred, assigned and delivered, and by these presents does grant and assign, to Purchaser all of its legal and beneficial right, title and interest in, to and under that certain Bucyrus-Erie Model 1570-W Electric Powered Walking Dragline Serial No. 126504, as more particularly described in the Lease (collectively, the "Equipment"). This Bill of Sale is being delivered in connection with the Equipment Purchase Agreement ("Purchase Agreement") dated as of May 5, 2008 between Hobet Mining, LLC ("Hobet"), Purchaser and Seller. Capitalized terms used herein shall have the respective meanings set forth in the Purchase Agreement.

TO HAVE AND TO HOLD, all and singular the Equipment by these presents bargained, sold and confirmed unto Purchaser, its successors and assigns, forever.

Seller, for itself, its successors and assigns, does hereby covenant with Purchaser that at the time of this sale Purchaser is receiving title to the Equipment without any representation or warranty whatsoever, express or implied, except (i) a warranty that the Equipment is free of Liens arising from claims against the Seller or any Owner Participant which are not related to the Seller's ownership of the Equipment or the transactions contemplated by the Lease or other Operative Agreements (as defined in the Lease) and (ii) a warranty that the Seller is transferring the same title that was transferred to the Seller by River Cities Leasing, Inc.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH IN THIS BILL OF SALE AND IN THE PURCHASE AGREEMENT, THE SALE OF THE EQUIPMENT HEREUNDER IS BEING MADE ON AN "AS IS" AND "WHERE IS" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THE PURCHASE AGREEMENT, SELLER SHALL NOT BE DEEMED TO HAVE MADE, AND DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOW OR HEREAFTER, AS TO THE CONDITION, DESIGN, OPERATION, MAINTENANCE, VALUE, MARKETABILITY, MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE OF THE EQUIPMENT OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR AS TO THE FREEDOM OF THE EQUIPMENT FROM ANY LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT OR ANY PART THEREOF AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, DEALING OR USAGE OF THE TRADE.

IN WITNESS WHEREOF, Seller has caused this instrument to be executed in its name by an authorized signatory as of the fifth day of May, 2008.

[Remainder of Page Intentionally Left Blank]

BRANCH BANKING & TRUST COMPANY,
as Seller, not individually but solely in its capacity as
owner trustee

By: *Pamela B. McGee*
Name: Pamela B. McGee
Title: Vice President

ACKNOWLEDGED AND AGREED:

CYPRESS EQUIPMENT FUND VI, LLC,
as Seller

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VII, LLC,
as Seller

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

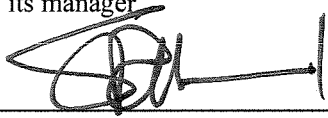
BRANCH BANKING & TRUST COMPANY,
as Seller, not individually but solely in its capacity as
owner trustee

By: _____
Name: _____
Title: _____

ACKNOWLEDGED AND AGREED:


CYPRESS EQUIPMENT FUND VI, LLC,
as Seller

By: Cypress Equipment Management Corporation II,
its manager

By: 
Name: Stephen R. Harwood
Title: President

CYPRESS EQUIPMENT FUND VII, LLC,
as Seller

By: Cypress Equipment Management Corporation II,
its manager

By: 
Name: Stephen R. Harwood
Title: President

PAY PROCEEDS LETTER

**CYPRESS EQUIPMENT FUND VI, LLC
CYPRESS EQUIPMENT FUND VII, LLC**

Bayside Plaza, Suite 420
188 The Embarcadero
San Francisco, California 94105

May 5, 2008

ICON Magnum, LLC
100 Fifth Avenue
4th Floor
New York, New York 10011

Hobet Mining, LLC
500 Lee Street, Suite 900
Charleston, West Virginia 25301

Ladies and Gentlemen:

Pursuant to that certain Equipment Purchase Agreement, dated as of May 5, 2008 between Hobet Mining, LLC, ICON Magnum, LLC, as purchaser, Branch Banking & Trust Company, not individually but solely in its capacity as owner trustee, as seller, and Cypress Equipment Fund VI, LLC and Cypress Equipment Fund VII, LLC (collectively, the "Owner Participants"), (i) ICON Magnum, LLC is hereby authorized to disburse the Purchase Price in the amount of Twelve Million Four Hundred Sixty Thousand Eight Hundred Seven and No/100 Dollars (\$12,460,807.00), and (ii) Hobet Mining, LLC is hereby authorized to disburse the Final Installment of Basic Rent in the amount of Fourteen Thousand Five Hundred Seventy-Nine and No/100 Dollars (\$14,579.00), each such amount in lawful currency of the United States of America by wire transfer of immediately available funds to the following accounts (with 50% of each such amount being transferred to each of the following accounts):

Bank: Comerica Bank
1331 North California Boulevard, Suite 400
Walnut Creek, CA 94596

ABA No.: 121137522
Account Name: 1894068608
Account No.: Cypress Equipment Fund VI, LLC

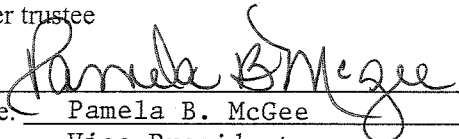
Bank: Comerica Bank
1331 North California Boulevard, Suite 400
Walnut Creek, CA 94596

ABA No.: 121137522
Account Name: 1892183862
Account No.: Cypress Equipment Fund VII, LLC

[Signature Page Follows]

Very truly yours,

BRANCH BANKING & TRUST COMPANY,
as Seller, not individually but solely in its capacity as
owner trustee

By: 
Name: Pamela B. McGee
Title: Vice President

ACKNOWLEDGED AND AGREED:

CYPRESS EQUIPMENT FUND VI, LLC,

An Owner Participant,

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

CYPRESS EQUIPMENT FUND VII, LLC,

An Owner Participant,

By: Cypress Equipment Management Corporation II,
its manager

By: _____
Name: _____
Title: _____

[Signature Page to Pay Proceeds Letter]

Very truly yours,

BRANCH BANKING & TRUST COMPANY,
as Seller, not individually but solely in its capacity as
owner trustee


By: _____
Name: _____
Title: _____

ACKNOWLEDGED AND AGREED:

CYPRESS EQUIPMENT FUND VI, LLC,

An Owner Participant,


By: Cypress Equipment Management Corporation II,
its manager

By:  _____
Name: Stephen R. Harwood
Title: President

CYPRESS EQUIPMENT FUND VII, LLC,

An Owner Participant,

By: Cypress Equipment Management Corporation II,
its manager

By:  _____
Name: Stephen R. Harwood
Title: President

[Signature Page to Pay Proceeds Letter]

EXHIBIT C

AMENDMENT NUMBER ONE TO MASTER LEASE AGREEMENT

AMENDMENT NUMBER ONE TO MASTER LEASING AGREEMENT, dated as of November 21, 2008 (this "Amendment") by and among MAGNUM COAL COMPANY and all the entities set forth in the Lease (as defined below) (collectively, the "Lessees") and ICON MAGNUM, LLC (the "Lessor") (Lessor and Lessees are each individually referred to herein as a "Party" and collectively referred to herein as the "Parties")

Recitals:

A. The Lessor and Lessees are parties to a Master Lease Agreement, dated April 30, 2008 (the "Lease"); and

B. The Lessor and Lessees desire to amend the Lease.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein and for other good and valuable consideration, the Parties agree as follows:

1. Patriot Coal Corporation and all of the entities identified on Exhibit A attached hereto and incorporated herein by reference (collectively, "Patriot Group") shall be added as signatories to the Lease and shall be incorporated within the definition of "Lessee" and "Lessees" as set forth in the Lease. The Patriot Group, each by its execution of this Amendment, hereby affirms it is a party to the Lease and explicitly assumes all obligations of a "Lessee" thereunder.

2. Section 16(a)(vi), Section 16(a)(vii) and Section 16(b)(iii)(i) of the Lease shall hereby be amended and restated to read as follows:

- (a) 16(a)(vi): "Other than as disclosed in Lessee's Public Filings, there are no pending or, to the knowledge of Lessee, threatened actions, suits or proceedings (whether or not purportedly on behalf of Lessee) against or affecting Lessee or any of its properties by or before any court or administrative agency in respect of this Agreement or the transactions contemplated hereby or that, if adversely determined, are reasonably likely to adversely affect Lessee's financial condition or the ability of Lessee to perform Lessee's Obligations;"
- (b) 16(a)(vii): "Other than as disclosed in Lessee's Public Filings, Lessees are in material compliance with all Environmental Laws, have received no communication from any Person alleging non-compliance with Environmental Laws that could give rise to a material Environmental Liability that would constitute and Adverse Event, have not engaged in any action, activity or circumstance that could give rise to a material Environmental Liability that would constitute an Adverse Event, and are not subject to any pending or potential Environmental liabilities;"
- (c) 16(b)(iii)(i): "of any change to Lessee's name or jurisdiction or form of organization within a reasonable amount of time, but in no case later than the fifth business day preceding such change or"

3. Lessees and each of the Patriot Group, jointly and severally, hereby represent, warrant and covenant to the Lessor that (i) all representations and warranties set forth in the Lease are true and correct as of the date of this Amendment with respect to each of the Lessees and the Patriot Group, and (ii) each has the legal, power, right and authority to enter into the Lease and this Amendment and perform the obligations set forth in the Lease and the Amendment.

4. Except as modified herein, all of the covenants, terms and conditions of the Lease, and all documents, instruments and agreements executed in conjunction therewith remain in full force and effect and are hereby ratified and reaffirmed in all respects. In the event of any conflict, inconsistency or incongruity between the terms and conditions of this Amendment and the covenants, terms and conditions of the Lease or any documents, instruments or agreements executed in conjunction therewith, the terms and conditions of this Amendment shall govern and control.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of November 21, 2008.

LESSOR:

ICON MAGNUM, LLC

By: IEMC Corp., its Manager


By: 

Name: Mark Gatto

Title: Co-President & Co-CEO

LESSEES:

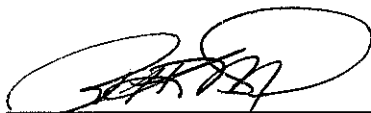
APOGEE COAL COMPANY, LLC



By: Robert L. Mead

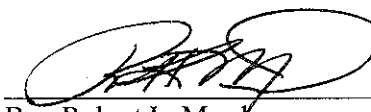
Title: Vice President

BROOK TROUT COAL, LLC



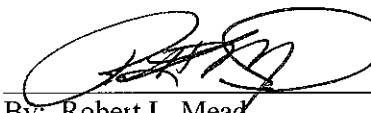
By: Robert L. Mead
Title: Vice President

CATENARY COAL COMPANY, LLC



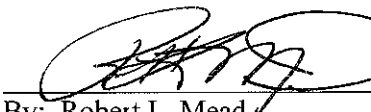
By: Robert L. Mead
Title: Vice President

COAL CLEAN LLC



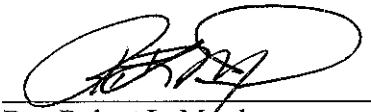
By: Robert L. Mead
Title: Vice President

COYOTE COAL COMPANY LLC



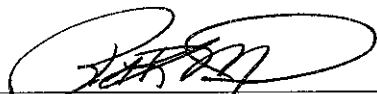
By: Robert L. Mead
Title: Vice President

DAKOTA LLC



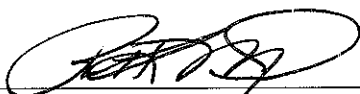
By: Robert L. Mead
Title: Vice President

DAY LLC



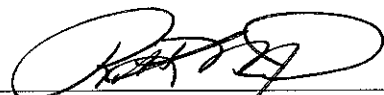
By: Robert L Mead
Title: Vice President

HIGHWALL MINING LLC



By: Robert L Mead
Title: Vice President

HOBET MINING, LLC



By: Robert L. Mead
Title: Vice President

INFINITY COAL SALES, LLC



By: Robert L. Mead
Title: Vice President

IO COAL LLC



By: Robert L. Mead
Title: Vice President

JUPITER HOLDINGS LLC



By: Robert L. Mead
Title: Vice President

KANAWHA RIVER VENTURES II, LLC



By: Robert L. Mead
Title: Vice President

KANAWHA RIVER VENTURES III, LLC



By: Robert L. Mead
Title: Vice President

LITTLE CREEK LLC



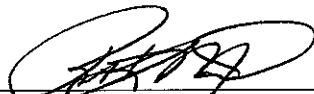
By: Robert L. Mead
Title: Vice President

MAGNUM COAL COMPANY



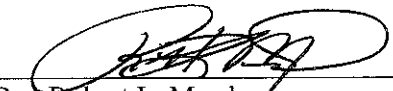
By: Robert L. Mead
Title: Vice President

MAGNUM COAL SALES LLC




By: Robert L. Mead
Title: Vice President

MIDLAND TRAIL ENERGY LLC



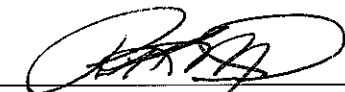
By: Robert L. Mead
Title: Vice President

NEW TROUT COAL HOLDINGS II, LLC



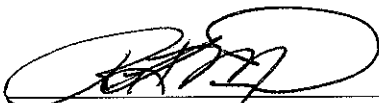
By: Robert L. Mead
Title: Vice President

PANTHER LLC



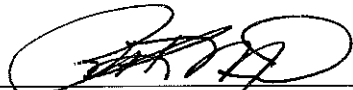
By: Robert L. Mead
Title: Vice President

POND FORK PROCESSING LLC



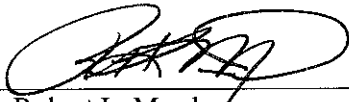
By: Robert L. Mead
Title: Vice President

REMINGTON LLC



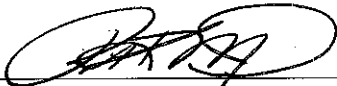
By: Robert L. Mead
Title: Vice President

REMINGTON II LLC



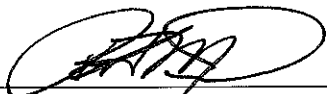
By: Robert L. Mead
Title: Vice President

ROBIN LAND COMPNAY, LLC



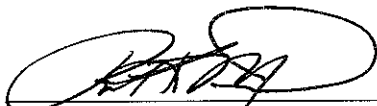
By: Robert L. Mead
Title: Vice President

REMINGTON HOLDINGS LLC



By: Robert L. Mead
Title: Vice President

SPEED MINING LLC



By: Robert L. Mead
Title: Vice President

TC SALES COMPANY, LLC



By: Robert L. Mead
Title: Vice President

THUNDERHILL COAL LLC



By: Robert L. Mead
Title: Vice President

TROUT COAL HOLDINGS, LLC



By: Robert L. Mead
Title: Vice President

VIPER LLC



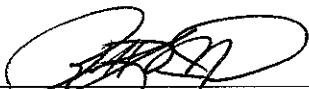
By: Robert L. Mead
Title: Vice President

WEATHERBY PROCESSING LLC



By: Robert L. Mead
Title: Vice President

WILDCAT LLC



By: Robert L. Mead
Title: Vice President

WINCHESTER LLC



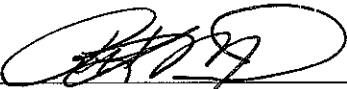
By: Robert L. Mead
Title: Vice President

AFFINITY MINING COMPANY



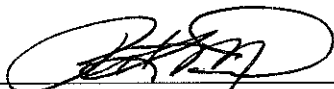
By: Robert L. Mead
Title: Vice President

APPALACHIA MINE SERVICES, LLC



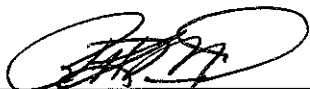
By: Robert L. Mead
Title: Vice President

BEAVER DAM COAL COMPANY, LLC



By: Robert L. Mead
Title: Vice President

BIG EAGLE LLC



By: Robert L. Mead
Title: Vice President

BIG EAGLE RAIL LLC



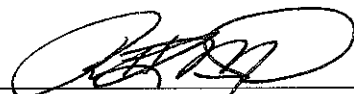
By: Robert L. Mead
Title: Vice President

BLACK STALLION COAL COMPANY, LLC



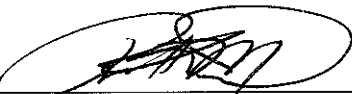
By: Robert L. Mead
Title: Vice President

BLACK WALNUT COAL COMPANY



By: Robert L. Mead
Title: Vice President

BLUEGRASS MINE SERVICES, LLC



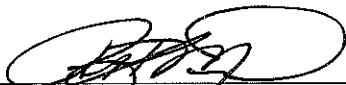
By: Robert L. Mead
Title: Vice President

CENTRAL STATES COAL RESERVES OF KENTUCKY, LLC



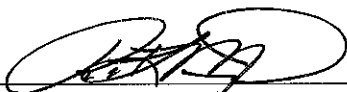
By: Robert L Mead
Title: Vice President

CHARLES COAL COMPANY, LLC



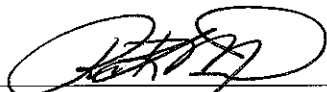
By: Robert L. Mead
Title: Vice President

CLEATON COAL COMPANY




By: Robert L Mead
Title: Vice President

COAL PROPERTIES, LLC



By: Robert L. Mead
Title: Vice President

COAL RESERVE HOLDING LIMITED LIABILITY COMPANY NO. 2



By: Robert L. Mead
Title: Vice President

COLONY BAY COAL COMPANY



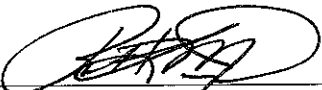
By: Robert L. Mead
Title: Vice President

COOK MOUNTAIN COAL COMPANY, LLC



By: Robert L. Mead
Title: Vice President

DIXON MINING COMPANY, LLC



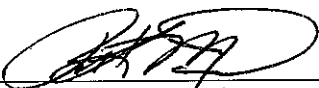
By: Robert L. Mead
Title: Vice President

DODGE HILL HOLDING JV, LLC



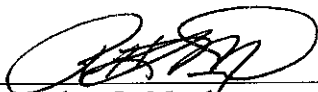
By: Robert L. Mead
Title: Vice President

DODGE HILL OF KENTUCKY, LLC



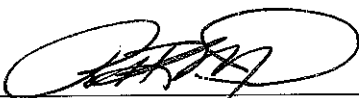
By: Robert L. Mead
Title: Vice President

DODGE HILL MINING COMPANY, LLC




By: Robert L. Mead
Title: Vice President

EASTERN ASSOCIATED COAL, LLC



By: Robert L. Mead
Title: Vice President

EASTERN COAL COMPANY, LLC



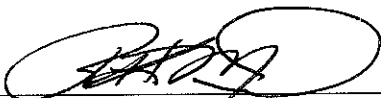
By: Robert L. Mead
Title: Vice President

EASTERN ROYALTY, LLC



By: Robert L. Mead
Title: Vice President

FORT ENERGY, LLC



By: Robert L. Mead
Title: Vice President

GRAND EAGLE MINING, INC.



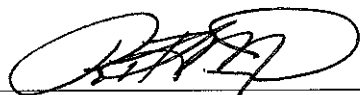
By: Robert L. Mead
Title: Vice President

HCR HOLDINGS, LLC



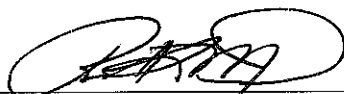
By: Robert L. Mead
Title: Vice President

HERITAGE COAL COMPANY LLC



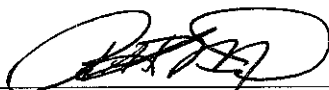
By: Robert L. Mead
Title: Vice President

HIGHLAND MINING COMPANY, LLC



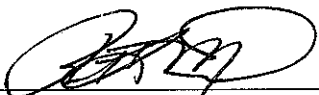
By: Robert L. Mead
Title: Vice President

HILLSIDE MINING COMPANY



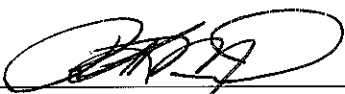
By: Robert L. Mead
Title: Vice President

INDIAN HILL COMPANY



By: Robert L Mead
Title: Vice President

INTERIOR HOLDINGS, LLC




By: Robert L Mead
Title: Vice President

JARRELL'S BRANCH COAL COMPANY



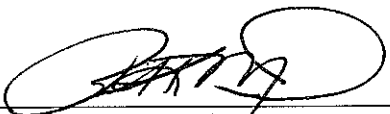
By: Robert L Mead
Title: Vice President

KANAWHA EAGLE COAL LLC



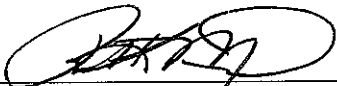
By: Robert L Mead
Title: Vice President

KANAWHA RIVER VENTURES I LLC



By: Robert L Mead
Title: Vice President

KE VENTURES LLC



By: Robert L. Mead
Title: Vice President

LOGAN FORK COAL COMPANY



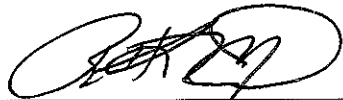
By: Robert L. Mead
Title: Vice President

MARTINKA COAL COMPANY, LLC



By: Robert L. Mead
Title: Vice President

MIDWEST COAL RESOURCES II, LLC



By: Robert L. Mead
Title: Vice President

MOUNTAIN VIEW COAL COMPANY, LLC



By: Robert L. Mead
Title: Vice President

NORTH PAGE COAL CORP.



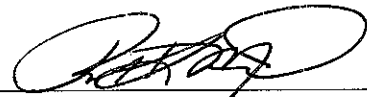
By: Robert L. Mead
Title: Vice President

OHIO COUNTY COAL COMPANY, LLC



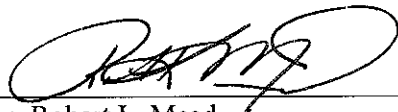
By: Robert L. Mead
Title: Vice President

PATRIOT COAL CORPORATION



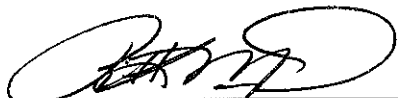
By: Robert L. Mead
Title: Vice President

PATRIOT COAL COMPANY, L.P.



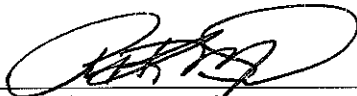
By: Robert L. Mead
Title: Vice President

PATRIOT COAL SALES LLC

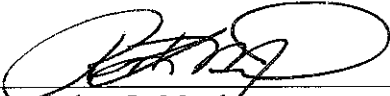


By: Robert L. Mead
Title: Vice President

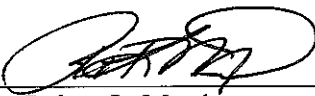
PATRIOT LEASING COMPANY LLC


By: Robert L. Mead
Title: Vice President

PATRIOT MIDWEST HOLDINGS, LLC


By: Robert L. Mead
Title: Vice President

PINE RIDGE COAL COMPANY, LLC


By: Robert L. Mead
Title: Vice President

POND CREEK LAND RESOURCES, LLC

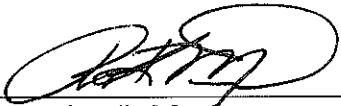

By: Robert L. Mead
Title: Vice President

Exhibit A

AFFINITY MINING COMPANY
APPALACHIA MINE SERVICES, LLC
BEAVER DAM COAL COMPANY, LLC
BIG EAGLE LLC
BIG EAGLE RAIL LLC
BLACK STALLION COAL COMPANY, LLC
BLACK WALNUT COAL COMPANY
BLUEGRASS MINE SERVICES, LLC
CENTRAL STATES COAL RESERVES OF KENTUCKY, LLC
CHARLES COAL COMPANY, LLC
CLEATON COAL COMPANY
COAL PROPERTIES, LLC
COAL RESERVE HOLDING LIMITED LIABILITY COMPANY NO. 2
COLONY BAY COAL COMPANY
COOK MOUNTAIN COAL COMPANY, LLC
DIXON MINING COMPANY, LLC
DODGE HILL HOLDING JV, LLC
DODGE HILL OF KENTUCKY, LLC
DODGE HILL MINING COMPANY, LLC
EASTERN ASSOCIATED COAL, LLC
EASTERN COAL COMPANY, LLC
EASTERN ROYALTY, LLC
FORT ENERGY, LLC
GRAND EAGLE MINING, INC.
HCR HOLDINGS, LLC
HERITAGE COAL COMPANY LLC
HIGHLAND MINING COMPANY, LLC
HILLSIDE MINING COMPANY
INDIAN HILL COMPANY
INTERIOR HOLDINGS, LLC
JARRELL'S BRANCH COAL COMPANY
KANAWHA EAGLE COAL LLC
KANAWHA RIVER VENTURES I LLC
KE VENTURES LLC
LOGAN FORK COAL COMPANY
MARTINKA COAL COMPANY, LLC
MIDWEST COAL RESOURCES II, LLC
MOUNTAIN VIEW COAL COMPANY, LLC
NORTH PAGE COAL CORP.
OHIO COUNTY COAL COMPANY, LLC
PATRIOT COAL COMPANY, L.P.
PATRIOT COAL SALES LLC
PATRIOT LEASING COMPANY LLC
PATRIOT MIDWEST HOLDINGS, LLC
PINE RIDGE COAL COMPANY, LLC
POND CREEK LAND RESOURCES, LLC

CERTIFICATE OF SERVICE

I, Sarah K. Kam, hereby certify that on December 10, 2012, I caused a true and correct copy of the *OBJECTION OF ICON MAGNUM, LLC TO NOTICE OF REJECTION OF LEASE AGREEMENT AND THE ABANDONMENT OF EXPENDABLE PROPERTY* to be served upon the following parties via U.S. mail.

By: Sarah K. Kam

U.S. Trustee

Attn: Elisabetta G. Gasparini and Paul J. Schwartzberg
33 Whitehall Street, 21st Floor
New York, New York 10004

Davis Polk & Wardwell LLP

Attn: Marshall S. Huebner and Brian M. Resnick
450 Lexington Avenue
New York, New York 10017

Weil Gotshal & Manges LLP

Attn: Marcia Goldstein and Joseph Smolinsky
767 Fifth Avenue
New York, New York 10153

Willkie Farr & Gallagher LLP

Attn: Margot B. Schonholtz and Ana Alfonso
787 Seventh Avenue
New York, New York 10019

Kramer Levin Naftalis & Frankel LLP

Attn: Adam C. Rogoff, and Gregory Plotko
1177 Avenue of Americas
New York, New York 10036