

INSTRUMENT OF ASSIGNMENT AND ASSUMPTION

Pursuant to Section 2.07(a)(iii) of the Asset Purchase Agreement dated February 20, 1997 (the "Asset Purchase Agreement") among OAK MOUNTAIN ENERGY CORPORATION, an Alabama corporation ("Seller") and others, and OAK MOUNTAIN ENERGY, L.L.C., an Alabama limited liability company ("Buyer"), and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby sell, assign, transfer, convey and deliver unto Buyer, its successors and assigns, and Buyer hereby purchases and accepts from Seller, each of the leases identified on Schedule A attached hereto and made a part hereof (the "Real Property Leases"), intending hereby to convey all of the rights, titles and interests of Seller therein, including without limitation the right to recoup and enjoy the benefit of all advanced, minimum, prepaid and other royalties and rentals which have heretofore been paid by Seller or its predecessors in title with respect to any and all of the Real Property Leases. Buyer hereby agrees to observe, keep, assume, and be bound by all of the terms and conditions of each of the Real Property Leases from and after the date hereof.

Seller hereby covenants and agrees to and with Buyer, its successors and assigns, to do, execute, acknowledge and deliver to, or to cause to be done, executed, acknowledged and delivered to, Buyer, its successors and assigns, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances that may be reasonably requested by Buyer to confirm the sale, assignment, transfer, conveyance and delivery to Buyer, its successors or assigns, of any or all of the Real Property Leases.

The representations and warranties relative to the Real Property Leases transferred by Seller to Buyer hereunder are set forth in the Asset Purchase Agreement, and incorporated herein by reference. This Instrument of Assignment and Assumption shall be binding upon the successors and assigns of Seller and shall inure to the benefit of the successors and assigns of Buyer.

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IN WITNESS WHEREOF, Seller and Buyer have executed and delivered this Instrument of Assignment and Assumption this 17th day of April, 1997.

OAK MOUNTAIN ENERGY CORPORATION

OAK MOUNTAIN ENERGY, L.L.C.

By: 
Its: President

By: 
Its: President

STATE OF ALABAMA

Jefferson COUNTY

I, the undersigned, a notary public in and for said county in said state, hereby certify that Jimmy R. Ryan, whose name as President of Oak Mountain Energy Corporation, an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal the 17th day of April, 1997.

Wendy H. Dove
Notary Public

[NOTARIAL SEAL]

My commission expires: 10/99.

STATE OF ALABAMA

Jefferson COUNTY

I, the undersigned, a notary public in and for said county in said state, hereby certify that John J. Faltis, whose name as President of Oak Mountain Energy, L.L.C., an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such _____ and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal the 17th day of April, 1997.

Rahni Mousini Formby
Notary Public MY COMMISSION EXPIRES APRIL 19, 1998

[NOTARIAL SEAL]

My commission expires: _____.

SCHEDULE A

1. Underground Coal Mining Lease dated November 13, 1995, between M. Brian Gordon, Sr. and Janice O. Gordon collectively as Lessor and Oak Mountain Energy Corporation as Lessee, granting the right to mine and remove coal existing in or under the lands, properties and holdings described as follows to wit:

All that part of W½ of Section 14, lying South of Norfolk Southern Railroad Right of Way, Township 21 South, Range 4 West, Shelby County, Alabama. (hereinafter "Premises")

for the purpose of mining coal and carrying on any mining related business including but not limited to the removal of economically minable and merchantable coal by the underground method ("Mineral Use") and documented by that certain Memorandum of Underground Coal Mining Lease dated January 24, 1996.

2. That certain lease dated July 25, 1996, between USX Corporation as Lessor and Oak Mountain Energy Corporation as Lessee and filed of record in the Office of the Judge of Probate of Shelby County, Alabama, on August 8, 1996, and all amendments, assignments and extensions thereto described in that certain Memorandum of Lease as follows: the original Lease was dated September 17, 1990, was between USX and Bibb Energy, Inc., an Alabama corporation, was for a term of five (5) years with a five (5) year option to extend based on contingencies; the Lease was amended on May 31, 1991 to include additional property; the Lease was further amended on November 1, 1992 to include additional property; the Lease was further amended on May 1, 1993 to include additional seams and to include additional property; the Lease was assigned on October 29, 1994 so that Oak Mountain Energy Corporation became the lessee under the Lease; the Lease was further amended on August 24, 1995 to include additional seams of coal, to include additional property, and to provide to two (2) ten (10) year extensions provided Oak Mountain Energy Corporation met certain conditions; and subsequently the option to extend the Lease for an additional five (5) years pursuant to the original term was exercised so that the expiration date without extensions authorized on August 24, 1995 is September 17, 2000.
3. That certain Coal Mining Lease and Prospecting Agreement dated September 1, 1996 by and between Oak Mountain Energy Corporation and Southern Electric Generating Company.

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