

STATE OF ALABAMA
COUNTY OF SHELBY

§
§
§


20040323000148600 Pg 1/62 200.00
Shelby Cnty Judge of Probate, AL
03/23/2004 15:27:00 FILED/CERTIFIED

**AGREEMENT WITH RESPECT TO SURFACE AND SUBSURFACE USES
GREEN**

THIS AGREEMENT (this "Agreement"), effective as of February 26, 2004 (the "Delivery Date"), is made by and between UNITED STATES STEEL CORPORATION, a Delaware corporation, successor (by conversion) to United States Steel LLC and remote successor to USX Corporation (with its successors and assigns collectively the "Grantor"), and RGG S LAND & MINERALS, LTD., L.P., a Delaware Limited Partnership (with its successors and assigns collectively the "Grantee").

RECITALS:

- A. By Mineral Deed dated effective as of January 1, 2003 (the "Deed"), Grantor has granted, bargained, sold and conveyed to Grantee all of Grantor's interest in Minerals, as that term is defined below, subject to the limitations contained in the Deed, in and under certain tracts of land located in Shelby County, Alabama. Grantor retained the ownership of the surface of the lands described in the Deed, less and except the title to Minerals granted in the Deed, the portion of such surface parcels being subject to this Agreement are listed on **Exhibit A**, and sometimes called the "Land" or the "Lands." For reference, the Deed is recorded as follows;

Shelby County: Book 20040323000148600

The Deed conveys "Minerals" and grants to the Grantee certain "Mining Rights," all as defined therein. Grantor and Grantee each desire to set forth certain agreements regulating the exercise of their respective rights with respect thereto.

- B. Grantor has previously entered into the leases listed on **Exhibit D** (the "Current Leases"), which contain surface use provisions separate and apart from this Agreement.
- C. Grantor and Grantee have previously entered into that certain Agreement with Respect to Surface and Subsurface Uses dated effective January 1, 2003, a copy of which is recorded in Book 2004, Page 6992 in the Office of the Judge of Probate of Tuscaloosa County, Alabama, covering certain operations in and under lands known as White Oak Creek (the "White Oak Use Agreement"), which is not affected or amended by this Agreement.

- D. Grantor has entered into that certain *Timber Purchase and Cutting Agreement* with U.S. Steel Timber Company LLC, (the "Company"), dated the 29th day of September, 2003, as amended December 29, 2003, covering 134,606.27 acres (the "Timber Agreement"). The Timber Agreement is intended, with respect to the Lands covered thereby, *inter alia*, (i) to provide for compensation to the Company under **Section 12** thereof for damage to the Timber and impairment of the Timber Rights (as those terms are defined in the Timber Agreement) caused by the exercise or undertaking of the Mineral Activities thereunder (as defined in the Timber Agreement) by Grantor or any successor or assign of Grantor, and (ii) to provide that Company cannot block or hinder the development of Minerals or the exercise or utilization of Mineral Activities by Grantor or any successor or assign of Grantor, and that in lieu thereof Company will receive the compensation provided in **Section 12** thereof. Selective provisions and definitions from the Timber Agreement are incorporated herein by reference.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

ARTICLE I
AGREEMENT OF GRANTOR AND OF GRANTEE WITH RESPECT TO
SURFACE AND SUB-SURFACE USES

Preamble and Coordination with Current Leases. Grantor and Grantee have agreed to the covenants with respect to surface and subsurface use contained in this **Article I**. To the extent that the Current Leases remain in effect and presently impose obligations and covenants relating to surface use by the lessee or its assignee(s) under such Current Leases (the "**Lease Restrictions**") that are more stringent than contained in this **Article I**, Grantor, to the extent that it retains rights relating to the surface of the Lands under the Current Leases, and its successors and assigns, shall limit its exercise of the Lease Restrictions to the standards set forth in this **Article I**, except that if the Current Leases would call for a payment due to Grantor for timber damages which is greater than the payment for timber damages pursuant to **Section 1.10**, the amount due under the Current Leases shall be due. To the extent that the Lease Restrictions are less stringent than contained in this **Article I**, or the payment due Grantor for timber damage pursuant to **Section 1.10** below is greater than the payment due under the Current Leases, the provisions of the Current Leases shall control. The parties agree that the use of the Lands for development of Minerals and the exercise of Mining Rights will from time to time interfere with Grantor's use of the of the Lands for Timber and Timber Rights, for which interference Grantor shall receive as its sole and exclusive right under this Article I the compensation provided in this Article I, in lieu of any rights by which the Grantor could block or hinder the development of Minerals or the exercise of Mining Rights. Reference is made to **Section 1.12** of this Agreement for additional provisions regarding coordination among the Timber Agreement, where applicable, and the Current Leases.

1.1 Notice. The parties shall cooperate with one another pursuant to the terms of **Section 1.4** of this Agreement, to the extent that **Section 1.4** applies. Grantee shall give Grantor

written notice of the location of any (i) facility proposed to be located on surface of the Lands which are permitted hereunder, or (ii) operations which will alter the surface of the Lands, including seismic operations, at least thirty (30) days prior to the commencement thereof, except that Grantee shall give at least sixty (60) days notice prior to commencement of operations and activities for coal mining and quarrying (the "Notice Period"). As used herein, the term "facility" shall be broadly defined to include a well, mine, road or other use of the surface which involves changing the then-current character of the surface, and to include the type of facilities known at the date of this Agreement, together with those developed in the future, it being recognized that this Agreement is designed to govern the relationship of Grantor and Grantee for many years, and that technology will change during the term of this Agreement.

1.2 Coordination of Activities. Grantor and Grantee shall each conduct their operations and activities in such manner as to avoid unnecessary or unreasonable interference with or damage to the rights of the other in the Lands and the operations of the other, or their contractors, agents, or lessees who may be conducting operations on the Lands. Pursuant to the Deed, Grantor and Grantee shall have certain rights with respect to use of clay, sand and gravel on the Lands. In the event that Grantor should desire to grant easements for roads, utilities, and the like to third parties covering the surface of the Lands, Grantor shall give written notice thereof to Grantee in order that Grantee may (within twenty (20) days, beyond which it shall be deemed that Grantee has no comment) comment on the potential impact of such proposed easement upon Grantee's plans to develop the Minerals. Grantor shall take such comments regarding the impact on Grantee's interests in the Minerals and the Mining Rights into account when negotiating the easement with the third party. In conducting its operations for the development of the Minerals, Grantee shall have the Mining Rights granted by the Deed. Grantor has previously granted various easements, licenses and other contracts permitting the location of roads, power lines, communication lines, pipelines and utilities on the Lands, including without limitation agreements with Alabama Power Company and its predecessors, some or all of which may be unrecorded (the "Location Agreements"). To the extent that the Location Agreements permit Grantor to cause the other party thereto to relocate such roads, power lines, pipelines, communication lines and/or utilities to avoid interference with Grantee's mining or quarrying of the Minerals, Grantor shall upon request of Grantee exercise such rights, the expense thereof to be the responsibility of Grantee.

1.3 Roads. In the use of private roads, including bridges, culverts, ditches, drainage structures, guardrails and the like related thereto (collectively, "Roads") located on the Lands, Grantee shall, at all times, at its own expense, arrange for the proper maintenance of the Roads so used by Grantee and/or its contractors, agents, licensees or lessees so as to prevent or repair damage thereto by Grantee and/or its contractors, agents, licensees or lessees but otherwise shall have no other obligation for regular maintenance or repair of any Roads on the Lands. Grantor shall, at all times, at its expense, arrange for the proper maintenance of the Roads so used by Grantor and/or its contractors, agents, licensees or lessees so as to prevent or repair damage thereto by Grantor and/or its contractors, agents, licensees or lessees but shall have no other obligation to maintain or repair any Roads on the Lands. Grantee shall build or use only such Roads on the Lands as are reasonably necessary to conduct operations in respect of the Minerals. All new or existing Roads whether constructed by Grantee or not are and shall be the property of Grantor. If Grantor shall install and maintain at its expense any gates, berms or other barricades

on the Roads, Grantor shall furnish keys for any such gates to Grantee so that such gates do not hamper or impede access by Grantee over such Roads. Grantee may, with the consent of Grantor which shall not be unreasonably withheld, install and maintain at its expense any and all gates, berms or other barricades on the Roads used by Grantee as may reasonably be required by Grantee to prevent access to Grantee's operations by unauthorized persons. Grantee shall furnish keys for any such gates to Grantor so that such gates do not hamper or impede access by Grantor over such Roads. Grantor and/or its contractors, agents, licensees or lessees, shall have the right in common with Grantee to use any Roads constructed by Grantee on the Lands. In the event Grantee desires to abandon the use of any existing Road or any new Road constructed by it on the Lands, Grantee will provide Grantor with written notice of such abandonment. Each such notice shall contain a map showing the location of the Road that Grantee intends to abandon the use thereof and a description and schedule of the abandonment activities. Within thirty (30) days after receipt of such notice of abandonment, Grantor shall advise Grantee in writing whether Grantor desires that: (a) the Road remain intact for Grantor's further use; or (b) the Road be abandoned. In the event Grantee does not receive Grantor's election within the time provided above, Grantor will be deemed to have elected alternative (a). If Grantor elects, or is deemed to have elected, alternative (a), the Grantee shall thereafter be relieved of the maintenance, abandonment and restoration responsibility associated with such Road. If Grantor elects alternative (b), the Grantee shall, at its sole cost, abandon such Road and restore the lands covered thereby to a condition that is as close to their condition before the construction of such Road as is reasonably practicable.

1.4 Cooperation. Grantor and Grantee shall cooperate with one another, providing, upon request, periodic maps and descriptions of planned activities. During such times as Grantee or Grantor is actively conducting operations on the Land, the party conducting activity shall furnish to the other a map showing the approximate geographic areas of activities or operations planned for the coming year. From time to time, either party may request that the other furnish such a map, even if the other party does not contemplate activities at the time of the request. The parties shall determine appropriate frequencies.

1.5 Pipelines. Grantee and/or its contractors, agents, licensees or lessees shall bury or require to be buried all pipelines installed from and after the date of this Agreement below the surface of the ground. Such pipelines shall be buried at least thirty (30) inches below the surface of the ground, or a greater depth as may reasonably be required by Grantor and/or its licensees or lessees to accommodate the specific use of the surface of the Land contemplated by Grantor and/or its licensees or lessees. Grantee and/or its contractors, agents, licensees or lessees shall build or use only such pipelines on and under the Land as are reasonably necessary to conduct operations in respect of the Minerals and the Mining Rights.

1.6 Location of Wells. Grantee and/or its contractors, agents, licensees or lessees shall not locate any well within two hundred (200) feet of any residence, barn, building, or similar structure now or hereafter owned or used by Grantor and/or its licensees or lessees or by others permitted by Grantor to be on the Lands.

1.7 Operations.

1.7.1 Grantor's Operations. Grantor and/or its contractors, agents, licensees or lessees shall maintain their operations in an orderly and workmanlike manner and shall not permit accumulation of any of the following arising from such operations: scrap machinery, fixtures, equipment or supplies. All such scrap machinery, fixtures, equipment, supplies, etc. remaining on the Lands after the expiration of one (1) year following the completion of such operations and activities on any portion of the Lands, may at the sole option of Grantee and after thirty (30) days written notice to Grantor, be removed by Grantee at Grantor's expense.

1.7.2 Grantee's Operations. Grantee and/or its contractors, agents, licensees or lessees shall maintain their operations in an orderly and workmanlike manner and shall, upon completion of such operations and activities on any parts of the Lands, remove all of their machinery, fixtures, equipment, supplies, buildings, and other structures and materials from the Lands, and shall have the right to draw and remove tubing, piping, and casing and shall not permit accumulation of any of the following arising from such operations: scrap machinery, fixtures, equipment or supplies. All such machinery, fixtures, equipment, supplies, buildings, structures, casing, etc. remaining on the Lands after the expiration of one (1) year following the completion of such operations and activities on any portion of the Lands, may at the sole option of Grantor and after thirty (30) days written notice to Grantee, be deemed the sole property of Grantor or Grantor may have it removed at Grantee's expense.

1.8 Restoration.

1.8.1 Restoration by Grantee. Grantee shall, upon the completion of Grantee's and/or its contractors', agents', licensees' or lessees' operations and activities on any portion of the Lands, or upon the abandonment of any facility or operation constructed, installed, or located by Grantee and/or its contractors, agents, licensees or lessees on the Lands, promptly restore the surface of the Lands to as near the same condition as it was prior to the installation of said facility as is practicable. Such surface restoration shall include, without limitation, reforestation, the cleaning and leveling of all locations, the filling and leveling of all slush pits or other excavations, including Roads if required by **Section 1.3**, the remediation of any soil or structures visibly stained or contaminated with any petroleum products and the removal of all drilling mud and drilling fluids from such pits and other excavation prior to the filling and leveling thereof; provided, however, that if the State Oil and Gas Board of Alabama (the "OGB") or any other agency having jurisdiction, does not require removal of drilling mud and drilling fluids from such pits and other excavations, Grantee and/or its contractors, agents, licensees or lessees can leave same in place in accordance with applicable law, rules, codes and permits, so long as such drilling mud and/or drilling fluids do not materially adversely affect the planting, growing and harvesting of trees on such areas. Such restoration shall also be performed by Grantee and/or its contractors, agents, licensees or lessees as required, if applicable, by the State Oil and Gas Board of Alabama, the Alabama Surface Mining Commission, or such other agency having jurisdiction over the installation or operation of the facilities, and performed in compliance with all environmental and mining laws, regulations and codes. Grantee shall, after consulting with Grantor as to the species and number of trees and ground cover plants to be planted and seeded on the areas to be restored hereunder, and the manner in which such restoration shall be accomplished, replant and restore in accordance with customary standards and applicable Best Management Practices.

1.8.2 Restoration by Grantor. Grantor shall, upon the completion of Grantor's and/or its contractors', agents', licensees' or lessees' operations and activities on any portion of the Land, or upon the abandonment of any facility or operation constructed, installed or located by Grantor and/or its contractors, agents, licensees or lessees on the Land, promptly restore the surface of the Land in compliance with all applicable laws and regulations.

1.9 Damage.

1.9.1 Damage by Grantee. Grantee shall promptly repair all damage to fences, buildings and other improvements constructed, installed or located on the Lands by Grantor and/or its contractors, agents, licensees or lessees and shall pay for all physical damages caused by Grantee's and/or its contractors', agents', licensees' or lessees' operations and activities on the Lands to growing crops, grass, water places, livestock, canals, laterals, water boxes, and other similar installations, provided, however, that Grantee shall not be required to repair or pay for damage resulting from the condition commonly known as subsidence in connection with underground mining activities. In the event any operations and activities under this Agreement of Grantee and/or its contractors, agents, licensees or lessees result in (i) any break in any lake, pond, canal, lateral, or levee that results or could result in a loss of water therefrom, (ii) any contamination of surface or subsurface water, or (iii) any wear or tear, on cattle guards, and gates, Grantee shall be liable for and shall pay for all loss, cost, remediation and damage, including reasonable attorneys fees and other legal costs, regardless of whether Grantee acted negligently.

1.9.2 Damage by Grantor. Grantor shall promptly repair all damage to fences and other improvements constructed or installed by Grantee and/or its contractors, agents, licensees or lessees located on the Land and shall pay for all physical damages caused by Grantor's and/or its contractors', agents', licensees' or lessees' operations and activities on the Land to canals, laterals, water boxes, and other similar installations. In the event any operations and activities under this Agreement of Grantor and/or its contractors, agents, licensees or lessees result in (i) any break in any lake, pond, canal, lateral, or levee constructed by Grantee and/or its contractors, agents, licensees or lessees that results or could result in a loss of water therefrom or (ii) any contamination of surface or subsurface water, Grantor shall be liable for and shall pay for all loss, cost, remediation and damage, including reasonable legal and consultant's fees, regardless of whether Grantor acted negligently.

1.10 Timber Valuation. With respect to those parts of the Lands not, from time to time, covered by the Timber Agreement, Grantee shall provide Grantor with its proposed plans for each area of the Lands where the Minerals will be developed at least in accord with the Notice Period, as defined in **Section 1.1** hereof, which plans shall show the surface area of the Lands that is reasonably expected to be affected by operations, access Roads, pipelines, surface equipment, any diversion or impoundment of water, etc. The surface area of the Lands to be affected by the operations and activities of Grantee and/or its licensees or lessees shall be plainly visible and identifiable in the field. During the Notice Period, Grantor's foresters shall cruise the area to be affected and shall consult with Grantee to suggest modifications of Grantee's surface locations which would minimize damage to Merchantable Timber. All tree values shall be based on current market prices as determined for the local area. Grantor will attempt to contract for removal and marketing of the Merchantable Timber during the Notice Period; and, if Grantor

fails to do so during the Notice Period, Grantee may thereafter attempt to contract (for the account of the Grantor) for removal and marketing of the Merchantable Timber after the Notice Period on commercially and economically reasonable terms; provided, however, that Grantor shall not be required to remove and market the Merchantable Timber if it cannot do so on commercially and economically reasonable terms. If Grantor (or Grantee, for the account of the Grantor) is able to remove and market the Merchantable Timber on commercially and economically reasonable terms during or after the Notice Period or an extended period approved in writing by Grantee, no payment shall be due Grantor for Merchantable Timber damage, and Grantor shall be entitled to the net proceeds of the sale of such Merchantable Timber. Should Grantee, at Grantee's election, decide to proceed with clearance of such surface area on the Lands before the Notice Period elapses or if commercially and economically reasonable sale of the Merchantable Timber is not available during the Notice Period or an extended period approved by Grantee, then a payment for the fair market value of the Merchantable Timber shall become due Grantor by Grantee within thirty (30) days after the value of same is established as provided herein. It is hereby acknowledged by Grantee that this Agreement and all timber on the Lands may be subject to various timber sale agreements between Grantor and third parties, who shall be bound by the provisions hereof. The term "**Merchantable Timber**" shall include all timber having an age of at least fifteen (15) years and having commercial value at the time such timber is harvested. Fair market value of Merchantable Timber shall be agreed upon or if agreement is not reached, determined by the Appraisal Procedure. As used herein, "**Pre-Merchantable Timber**" shall mean all timber which is not Merchantable Timber. With respect to any Pre-Merchantable Timber which will be damaged by Grantee's and/or its contractors', agents', licensees' or lessees' operations, Grantee shall purchase all such Pre-Merchantable Timber at an estimate agreed by Grantee and Grantor of its present value, based on the pre-tax value the timber is expected to have at the time it most likely would be harvested in the ordinary course of Grantor's timber management program, discounted from that time to the present at a rate of ten percent (10%) per annum. If Grantee and Grantor are unable to agree on a value for the Merchantable Timber and/or the Pre-Merchantable Timber, the value of such timber shall be determined utilizing the Appraisal Procedure. After paying for the Merchantable Timber and/or the Pre-Merchantable Timber, Grantee may destroy or salvage it, with Grantee to retain the proceeds of any salvage, but must do so with reasonable care to avoid damage to adjoining timber stands not being purchased. For purposes hereof, the "Appraisal Procedure" shall consist of the following: all appraisals shall be made by an Alabama State Registered Forester who shall determine the fair market value of the Merchantable Timber and the present value, determined in accord with the formula set forth above, of the Pre-Merchantable Timber thereon. The appraisal shall be conducted at the joint expense of Grantor and Grantee by an independent forester agreed upon by Grantee and Grantor. If Grantee and Grantor are unable to agree upon an appraiser, Grantee and Grantor shall each appoint and pay for an independent appraiser. Each appraiser shall deliver an appraisal to Grantee and Grantor within fourteen (14) days of appointment. If the difference in appraised values is five percent (5%) or less, the value shall be the average of the two appraised values. If the difference in appraised values set forth in the two appraisals is more than five percent (5%), each of Grantee and Grantor shall instruct the appraisers previously selected to select a third independent appraiser to deliver an appraisal of such parcels within fourteen (14) days, which appraisal shall be binding and conclusive on the Grantee and Grantor. In the event Grantee and Grantor do not agree on an appraiser, each party shall bear the cost of the appraisal furnished by its chosen appraiser. If a third appraisal is required, each party shall bear one-half of the cost for such appraisal.

1.11 Surface Options.

1.11.1 Surface Mining Option. With respect to all of the Lands containing coal or other Minerals which can be mined by surface mining methods, sometimes called strip mining, Grantor hereby grants unto Grantee, for a term of twenty (20) years from the Delivery Date (the "Option Period"), the non-exclusive option, from time to time, to lease portions of the Lands for surface mining purposes pursuant to the terms of a lease in the form of **Exhibit 1.11** (the "Surface Mining Lease"), provided that Grantee (i) assigns the Surface Mining Lease to a mineral operator (the "Mineral Operator"), (ii) executes a lease in the form of **Exhibit 1.11(a)** for Grantee's interest in the same property (the "Mineral Lease") to the same Mineral Operator, and (iii) pays to Grantor thirty-seven and one-half percent (37.5%) (subject to proportionate reduction in the event Grantor owns less than one-hundred percent (100%) of the surface of the Lands or Grantee owns less than one-hundred percent (100%) of the coal and other minerals) of the total bonus, royalties and other things of value received by or paid to Grantee or Grantor under, collectively, the Surface Mining Lease and the Mineral Lease. Grantee shall exercise this option by giving notice pursuant to **Section 5.4** hereof, tendering the form of Surface Mining Lease and all advance consideration, if any, due to Grantor under this **Section 1.11.1**, and Grantor shall thereupon execute the Surface Mining Lease. This **Section 1.11.1** does not apply to use of the surface of the Lands for extraction of Minerals through means other than surface mining, including, without limitation, drilling and underground mining. The Surface Mining Lease and the Mineral Lease shall be on commercially reasonable terms. The Surface Mining Lease shall be deemed on commercially reasonable terms if the Mineral Operator is not an affiliate, as defined below, of Grantee. For purposes of this **Section 1.11.1**, an "affiliate" means (i) any partner or joint venturer of Grantee, (ii) any person or entity directly or indirectly owning, controlling or holding the power to vote ten percent (10%) or more of the outstanding voting securities of Grantee, (iii) any entity ten percent (10%) or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by Grantee, (iv) any person or entity directly or indirectly controlling, controlled by or under common control with Grantee, and (v) any officer, director, employer, employee, trustee, agent or representative of Grantee, or the parent, spouse or child of such person. If the Mineral Operator under the Surface Mining Lease is an affiliate of Grantee, then in order for the Surface Mining Lease and the Mineral Lease to be deemed on commercially reasonable terms it shall be in the form of **Exhibit 1.11(a)**, and must meet the following conditions: the royalty, minimum royalty and/or advance minimum royalty, and other terms of payment shall be at least as favorable to the lessor as other surface mining leases covering a commodity of similar type, quality and quantity executed covering lands located within any of the counties in which the Lands are located, during the thirty-six (36) month period preceding the date of the proposed lease. For the purpose of this **Section 1.11.1**, timber shall not be considered an "other thing of value," and nothing in this Section shall affect the obligation of Grantee under **Section 1.10** to pay Grantor for Merchantable and Pre-Merchantable Timber; provided, however, that Grantor shall not be required to remove any trees from any of the Lands which are subject to a Surface Mining Lease except during the sixty (60) day period prior to Grantee's commencement of mining operations.

1.11.2 Surface Purchase Agreement. Should Grantee's and/or its contractors', agents', licensees' or lessees' operations involve a use of the surface which will, (i) upon

completion of Grantee's activities, not be substantially restored to pre-use condition or constitute a nuisance, or (ii) pose a material risk of contaminating soil, air or water thereon in a way which will not be remediated in the normal course of Grantee's operations (an "Unrestored Use"), then, in lieu of exercising its right to use the surface hereunder, Grantee shall be required to purchase and Grantor shall be required to sell the surface of the Land needed for the Unrestored Use at its fair market value (after deducting the fair market value, if any, of timber, for which compensation is provided in **Section 1.10**). Examples of an Unrestored Use include air shafts, mine entries, refuse disposal areas from underground mining, stockpiles, treatment or washing facilities, refuse piles, and permanently affixed washing and treating facilities. Examples of matters **not** an Unrestored Use include surface mining (surface mining being covered by **Section 1.11.1** hereof) and (i) well sites for oil, or gas or salt water disposal wells, (ii) roads, (iii) pipelines, (iv) power lines, (v) telephone lines, (vi) power substations, (vii) non commercial tower sites, (viii) dehydration facilities, (ix) tank batteries, (x) transfer and pumping stations, (xi) conveyors, (xii) equipment yards, (xiii) field offices, (xiv) water disposal ponds, (xv) compressor sites, and (xvi) temporary sales stockpiles and temporary treatment or washing facilities which are to be remediated or restored to pre-use condition in the normal course of Grantee's and/or its contractors', agents', licensees' or lessees' operations. Grantee shall designate the Lands reasonably required for the Unrestored Use (the "Unrestored Use Acreage"). If Grantor determines that an Unrestored Use leaves a contiguous portion of the Land in a condition which cannot be economically managed as a commercial tree farm, for any reason including contamination caused by Mineral Activity, along with the Land remaining subject to this Agreement (an "Uneconomic Remnant"), Grantor shall provide notice thereof during the Notice Period and Grantee will purchase the Uneconomic Remnant, but shall not be obligated to purchase an Uneconomic Remnant greater in size than ten percent (10%) of the acreage of the Unrestored Use Acreage. Any purchase under this **Section 1.11.2** shall be by special warranty deed in accordance with a boundary survey prepared at Grantee's expense, and shall be subject to the Agreement to Grant Easements between Grantor and Grantee. Should the requirement for Grantee to purchase the surface needed for an Unrestored Use be deemed unenforceable, then: (i) Grantee shall offer to purchase land for the Unrestored Use at the fair market value of the land, and (ii) if Grantor rejects such offer, Grantee shall have the right to use the surface of the Lands, as otherwise provided by the Deed, subject to the remaining applicable provisions of this Agreement.

If Grantee and Grantor are unable to agree on the fair market value of any land to be purchased pursuant to **Section 1.11.2**, the fair market value shall be determined by appraisal, which shall be made by an Alabama State General Real Property Appraiser and a Registered Forester, or a single person holding both of such designations, who shall determine, in accord with normal and customary appraisal practices, the fair market value of the such land (after deducting the fair market value, if any, of timber, for which compensation is provided in **Section 1.10**) in its then-present state, without considering the impact of the use proposed by Grantee, and without considering the impact upon surrounding land owned by the Grantor. The appraisal shall be conducted at the joint expense of Grantor and Grantee by an independent appraiser agreed upon by Grantee and Grantor. If Grantee and Grantor are unable to agree upon an appraiser, Grantee and Grantor shall each appoint and pay for an independent appraiser. Each appraiser shall deliver an appraisal to Grantee and Grantor within fourteen (14) days of appointment. If the difference in appraised values is five percent (5%) or less, the value shall be the average of the two appraised values. If the difference in appraised values set forth in the two

appraisals is more than five percent (5%), each of Grantee and Grantor shall instruct the appraisers previously selected to select a third independent appraiser to deliver an appraisal of such parcels within fourteen (14) days, which appraisal shall be binding and conclusive on the Grantee and Grantor. In the event Grantee and Grantor do not agree on an appraiser, each party shall bear the cost of the appraisal furnished by its chosen appraiser. If a third appraisal is required, each party shall bear one-half of the cost for such appraisal.

1.12 Timber Agreement.

1.12.1 The Timber Agreement. Grantor has entered into the Timber Agreement, covering all or part of the Lands covered by this Use Agreement, which includes certain provisions in **Section 12** thereof relating to Temporary Termination and Permanent Termination, as those terms are defined therein. The Timber Agreement became effective upon execution by Grantor. A copy of same is recorded. Should all or any portion of the Lands no longer be subject to the Timber Agreement, the provisions of this **Section 1.12** shall expire and be of no force and effect as to those portions of the Lands not subject to the Timber Agreement. Except for the obligations specifically assumed by Grantee hereunder, Grantee does not either by taking the Deed or entering into this Agreement, assume any obligations of Grantor under the Timber Agreement.

1.12.2 Compensation and Rights. In the Timber Agreement the parties thereto shall agree that the use of the Land for development of Minerals and the exercise and undertaking of Mineral Activities will from time to time interfere with Company's use of the of the Lands for Timber and Timber Rights, for which interference Company shall receive as its sole and exclusive right thereunder the compensation provided in **Section 12** thereof in lieu of any rights under **Section 7** of the Timber Agreement or any other provision of the Timber Agreement by which the Company could block or hinder the development of Minerals or the exercise or undertaking of Mineral Activities.

1.12.3 Lease Restrictions Coordination. The Timber Agreement provides in part that, to the extent that the Current Leases remain in effect and presently impose Lease Restrictions that are more stringent than contained in **Section 7** of the Timber Agreement, Company shall limit its exercise of the Lease Restrictions to the standards set forth in **Section 7** of the Timber Agreement, except that if the Current Leases would call for a payment due to the Company for Timber damages which is greater than the payment for termination pursuant to **Section 12** of the Timber Agreement, the amount due under the Current Lease shall be due. The Timber Agreement further provides in part that to the extent the Lease Restrictions are less stringent than the standards set forth in **Section 7** or **Section 12** of the Timber Agreement, or the payment due Company for termination pursuant to **Section 12** of the Timber Agreement is greater than the payment for Timber damage due under the Current Leases, the provisions of the Current Leases shall control.

1.12.4 Coordination. During such times, if any, as both this Agreement and Timber Agreement are effective, in lieu of complying with **Sections 1.10** and **1.11.2** hereof, and to supplement the agreement of Grantor and Grantee otherwise set forth in **Section 1.11.1** hereof, the provisions of **Sections 1.12.4.1** through **1.12.4.4** shall apply with respect to those parts of the Lands covered by the Timber Agreement. Further, during such times, if any, as both this

Agreement and Timber Agreement are effective, Grantor shall provide all notices and communications to Company, and shall be deemed to have assigned to Grantee such rights and responsibilities under the Timber Agreement which are required to implement the terms of this **Section 1.12**. The use by a Lessee pursuant to a Current Lease shall not give rise to an obligation to cause a Temporary Termination or a Permanent Termination pursuant to **Section 12** of the Timber Agreement and Current Leases shall control rather than the provisions of **Section 1.12.4.1** through **1.12.4.4**, below, or **Article 12** of the Timber Agreement.

1.12.4.1 Should Grantee conduct or cause to be conducted operations which require a Temporary Termination, other than for surface or strip mining activities, Grantee shall comply with the provisions of **Section 12.2** of the Timber Agreement and pay to Grantor all amounts due to the Company thereunder, which Grantor shall pay over to Company.

1.12.4.2 Should Grantee conduct or cause to be conducted operations which require a Temporary Termination for surface or strip mining activities, unless Grantee elects to treat same as a Permanent Termination, Grantee shall comply with the provisions of **Section 12.2** of the Timber Agreement, except that Grantee shall pay to Grantor (which Grantor shall pay over to Company) all amounts due to the Company for the fair market value of the timber pursuant to **Section 12.3** of the Timber Agreement, and Grantor may elect, within thirty (30) days after notice from Grantee, option (i) or (ii) below.

(i) Grantor shall execute the Surface Mining Lease contemplated by **Section 1.11.1** of this Agreement and shall receive the royalties and other payments which would be due to Grantor under **Section 1.11.1** of this Agreement, in which event Grantor shall pay the Rental Amounts due to the Company pursuant to **Section 12.2.1** of the Timber Agreement.

(ii) Grantor shall waive the royalties and other payments which would be due to Grantor under **Section 1.11.1** of this Agreement, in which event Grantor shall execute the Surface Mining Lease contemplated by **Section 1.11.1** of this Agreement and assign to Grantee Grantor's right of Temporary Termination under **Section 12.2** of the Timber Agreement relating to such portion of the Lands and Grantee shall pay the Rental Amounts due to the Company pursuant to **Section 12.2.1** of the Timber Agreement.

If Grantor does not timely elect either option (i) or (ii) within said thirty (30) day period, it shall be deemed to have elected option (ii).

1.12.4.3 Should Grantee conduct or cause to be conducted operations which require a Permanent Termination, other than for surface or strip mining activities, Grantee shall comply with the provisions of **Section 12.4** of the Timber Agreement, except that Grantee shall pay to Grantor (i) all amounts due to the Company under **Section 12.3** thereof, and (ii) Grantee shall further pay to Grantor the fair market value of the land as contemplated by **Section 1.11.2** of this Agreement. Grantor shall thereupon pay to the Company the amounts due the Company under **Section 12.4** of the Timber Agreement and shall convey to Grantee that portion of the Lands affected by such operations and assign to Grantee all of Grantor's rights under **Section 12.4** of the Timber Agreement relating to such portion of the Lands.

1.12.4.4 Should Grantee conduct or cause to be conducted operations which require a Permanent Termination for surface or strip mining activities, or should Grantee elect to treat such a use as a Permanent Termination, Grantee shall comply with the provisions of **Section 12.4** of the Timber Agreement, except that Grantee shall pay to Grantor (which Grantor shall pay over to Company) all amounts due to the Company for the fair market value of the timber pursuant to **Section 12.5 (i)** of the Timber Agreement, and Grantor may elect, within thirty (30) days after notice from Grantee, option (i) or (ii) below:

(i) Grantor shall execute the Surface Mining Lease contemplated by **Section 1.11.1** of this Agreement and shall receive the royalties and other payments which would be due to Grantor under **Section 1.11.1** of this Agreement, in which event Grantor shall pay the amounts due to the Company pursuant to **Section 12.5 (ii)** of the Timber Agreement.

(ii) Grantor shall waive the royalties and other payments which would be due to Grantor under **Section 1.11.1** of this Agreement, in which event Grantor shall convey to Grantee that portion of the Lands affected by such operations and shall assign to Grantee all of Grantor's rights under **Section 12.4** of the Timber Agreement relating to such portion of the Lands and Grantee shall further pay to Grantor the fair market value of the land as contemplated by **Section 1.11.2** of this Agreement in which event Grantor shall pay the amounts due to the Company pursuant to **Section 12.5 (ii)** of the Timber Agreement.

If Grantor does not timely elect either option (i) or (ii) within said thirty (30) day period, it shall be deemed to have elected option (ii).

1.13 Compliance with Laws and Taxes.

1.13.1 By Grantee. Grantee and/or its contractors, agents, licensees or lessees, shall comply with all local, state, and federal laws and regulations concerning protection of the environment and mining, including, without limitation, the encasing of wells or the plugging of dry and abandoned wells and with those and any other such laws pertaining to the facilities and surface or underground mining, and all laws and regulations concerning storm water, waste water and erosion control. Grantee shall be responsible for and shall pay any and all taxes that may be levied or assessed against Grantee's Minerals or mineral operations or facilities on the Lands.

1.13.2 By Grantor. Grantor, and/or its contractors, agents, licensees or lessees shall comply with all local, state, and federal laws and regulations concerning protection of the environment and timber operations and all laws and regulations concerning storm water, waste water and erosion control. Grantor shall be responsible for and shall pay any and all taxes that may be levied or assessed against the Land, other than as set forth in **Section 1.13.1**.

1.14 Environmental Compliance.

1.14.1 Grantee. Grantee shall dispose of all Hazardous Materials used or generated by it and/or its contractors, agents, licensees or lessees in accordance with applicable federal, state, and local laws, regulations, codes and permits. Should the discharge, leakage, spillage, injection, or emission of any Hazardous Materials occur upon the Land as a result of

Grantee's and/or its contractors', agents', licensees' or lessees' actions or inactions at any time prior to the end of the Term (herein, a "Grantee Event"), Grantee, at its sole cost and expense, shall remediate the surface, subsurface and groundwater of the Land as required to bring the Land into material compliance with the Environmental Laws. Grantee and Grantor shall use reasonable efforts to agree on the standard of material compliance with the Environmental Laws as applied to the portion of the Land in question. If a Grantee Event should occur involving the release of reportable quantities of Hazardous Materials during the Term, the Grantee shall promptly inform the Grantor of such occurrence, and shall promptly commence the notification and cleanup actions required to bring the Land into material compliance with Environmental Laws. Nothing in this Section shall prohibit Grantee's and/or its contractors', agents', licensees' or lessees' use, injection or emission of Hazardous Materials in accord and in compliance with applicable laws, regulations and permit(s).

1.14.2 Grantor. Grantor shall dispose of all Hazardous Materials used or generated by it and/or its contractors, agents, licensees or lessees in the exercise of its rights hereunder in accordance with applicable federal, state, and local laws, regulations, codes and permits. Should the discharge, leakage, spillage, injection, or emission of any Hazardous Materials occur upon the Land as a result of Grantor's and/or its contractors', agents', licensees' or lessees' actions or inactions during the Term (herein, a "Grantor Event"), Grantor, at its sole cost and expense, shall remediate the surface, subsurface and groundwater of the Land as required to bring the Land into material compliance with the Environmental Laws. Grantee and Grantor shall use reasonable efforts to agree on the standard of material compliance with the Environmental Laws as applied to the portion of the Land in question. If a Grantor Event should occur involving the release of reportable quantities of Hazardous Materials during the Term, the Grantor shall promptly inform the Grantee of such occurrence, and shall promptly commence the notification and cleanup actions required to bring the Land into material compliance with Environmental Laws. Nothing in this Section shall prohibit Grantor's and/or its contractors', agents', licensees' or lessees' use, injection or emission of Hazardous Materials in accord and in compliance with applicable laws, regulations and permit(s).

1.14.3 Demand for Remediation. Grantor may make written demand on Grantee for remediation of a Grantee Event, and Grantee may make written demand on Grantor for remediation of a Grantor Event. If the party responsible does not undertake to comply with that demand within thirty (30) days, then the other party shall have the right to remediate the surface, subsurface and groundwater of the Land as required to bring the Land into material compliance with the Environmental Laws, and the costs thereof shall all be chargeable to the party responsible, provided that exercise or failure to exercise such right shall not be a waiver of any other rights it might have under this **Section 1.14.3** or at law. In the event of a dispute regarding responsibility for a matter covered by this **Section 1.14.3**, the dispute shall be resolved pursuant to **Article IV** hereof.

1.14.4 Hazardous Material. As used in this Agreement, the term "Hazardous Material" shall mean any substance or material which has been determined to be capable of posing a risk of injury or damage to health, person, safety, or property under any federal, state, and local laws, codes, ordinances, rules, decrees, order, judgments, implementing regulations, and applicable regulatory permits relating to pollution or protection of the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act

of 1980, the Resource Conservation and Recovery Act of 1976, the Superfund Amendments and Reauthorization Act of 1986, and all other laws and regulations relating to hazardous and toxic substances, emissions, releases, and discharges of pollutants, wastes, and other substances into ambient air, surface water, ground water, or land, whether such requirements exist on the date hereof or are adopted in the future.

1.14.5 Environmental Laws. As used herein, the term "Environmental Laws," shall mean any federal, state, or local statute, law (including common law), ordinance, rule, regulation, policy, permit, consent, approval, license, judgment, order, administrative order or decision, decree or injunction or other legal requirement, as the same may be amended from time to time during the Term, relating to: (a) releases or threatened releases of hazardous materials, substances or wastes into the environment, (b) the generation, treatment, storage, recycling, presence, disposal, use, handling, manufacturing, transportation or shipment of hazardous materials, substances or wastes, (c) protection of natural resources, or (d) protection of human health or the environment, including those pertaining to providing safe and healthful working conditions and reducing occupational safety and health hazards, and including, without limitation, CERCLA, RCRA, the Clean Water Act, as amended ("CWA"), and the Surface Mining Control and Reclamation Act of 1977, as amended ("SMCRA").

1.14.6 Environmental Notices. Each party (the "Reporting Party") hereto shall notify the other in writing of the receipt of any notice, order, or citation alleging the violation of any Environmental Law, and shall provide the other with copies of any permits or licenses issued by governmental authorities required by any Environmental Law, copies of all materials filed by the Reporting Party with governmental authorities relating to Hazardous Materials, copies of any environmental reports or assessments relating to the Lands in question.

1.15 Deed Provisions. The provisions of **Sections 3.5.1 through 3.5.3** of the Deed are hereby incorporated by reference.

1.16 Change in Law or Restriction. Neither Grantor nor Grantee shall initiate, join in, acquiesce in or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, the result of which would be to unreasonably limit or impair the use of the Land by the other party for any use presently permitted under this Agreement, including, without limitation, Grantor's Timber Rights and Grantee's right to develop Minerals and exercise Mining Rights. The exercise of Grantee's right to develop Minerals and exercise or utilize Mining Rights is not an unreasonable limitation or impairment of Grantor's Timber Rights so long as Grantee acknowledges that in connection with any change in law or restriction it will, (i) if the Timber Agreement is effective and applicable to the Lands in question, and the Lands in question are not subject to a Current Lease, exercise its Temporary Termination or Permanent Termination rights in accordance with **Section 12** of the Timber Agreement, (ii) otherwise, if the Lands in question are not subject to a Current Lease, pay the compensation required hereunder and purchase the Lands, if required hereunder, or (iii) if the Lands in question are subject to a Current Lease, comply with the compensation provisions of the Current Lease. Each party agrees to assist and cooperate, at no expense to such party, with the other party in obtaining any zoning reclassification, changes, variances or other modifications necessary for either party to exercise its rights hereunder, including, without limitation, changes necessary to permit operations to be conducted by Grantee and/or its contractors, agents, licensees or lessees

on those portions of the Lands which, from time to time, Grantee intends to use for development of Minerals or the exercise of Mining Rights.

1.17 Limitation of Ingress and Egress Rights. Any non-exclusive rights of ingress and egress granted to Grantee are not given to any persons other than Grantee and/or its contractors, agents, licensees or lessees.

ARTICLE II

INDEMNIFICATION AND INSURANCE

2.1 Policies of Liability Insurance. At all times during the Term, each of Grantor and Grantee shall, at their respective own cost and expense, provide and keep in force, or cause to be provided and kept in force, for the benefit of the other the insurance set forth on **Exhibit 2.1** attached hereto. Such policies to be written in a company or companies approved by Grantor, with such insurable limits and other terms and conditions as set forth on **Exhibit 2.1** as the same may be amended from time to time by the mutual agreement of Grantor and Grantee. Such insurance coverage, may be effected pursuant to blanket coverage insurance policies which cover losses in addition to those required to be insured against hereunder, provided that the amount of coverage for the losses required to be insured against hereunder shall be separately stated, either in such blanket coverage policies or in a separate certificate issued by the insurer, and provided further that such insurance gives to the other party, no less protection than that which would be afforded by separate policies, and provided further that each party shall deliver to the other party reasonably satisfactory certificates evidencing such insurance coverage. At least every five (5) years the parties shall negotiate in good faith to update limits and coverage requirements to reflect current economic and legal conditions and industry practices. Notwithstanding the requirements of this **Section 2.1**, (i) Grantor may elect to “self-insure” in accordance with its self-insurance program as in effect from time to time and (ii) Grantee may elect to “self-insure” in accordance with its self-insurance program as in effect from time to time, but such right shall apply only to the Grantee named herein and to no other successor or assign of the Grantee, without the prior written permission of Grantor.

2.2 Failure to Provide Liability Insurance. If at any time or times any party hereto shall default in its obligation to provide and keep in force general liability policies as aforesaid, or shall fail or refuse so to deliver to and leave with the other party a duplicate original of any of such policies of insurance, as required by the provisions of this Agreement, such other party may, after five (5) days written notice thereof, effect such insurance as the agent of such defaulting party, by taking out a policy or policies in a company or companies satisfactory to such other party, running for a period not exceeding three years under any one policy; and the amount of the premium or premiums paid for such insurance by such other party shall be paid by the defaulting party to such other party upon demand; and the other party shall also be entitled to recover as damages for such breach, the uninsured amount of any loss, liability, damage, claims, costs and expenses of suit, judgment and interest, suffered or incurred by the other party.

2.3 Employees. Each party, in all of its operations and activities hereunder, shall be exclusively liable for the payment of all sums due to all persons legally entitled thereto who are properly engaged in such party’s operations and activities, including amounts due its employees under the Alabama Worker’s Compensation Law or any other law, and such party shall defend,

indemnify, and hold harmless the other party against any and all payments due to the claims for payments made by persons engaged by the other party in any work on or with respect to the Land.

2.4 Indemnification by Grantee. Grantee agrees to indemnify, defend and save harmless Grantor and its directors, officers, employees and agents ("Grantor Protected Parties") from and against any and all liability, loss, damages, expenses, costs, causes of action, suits, interest, fines, penalties, claims and judgments, including reasonable attorneys fees, consultants fees and other legal costs (collectively, "Liabilities") (to the extent that the same are not paid out of the proceeds of any policy of insurance furnished by Grantee to Grantor hereunder) arising from injury, or claim of injury, during the Term to persons or property of any and every nature, and from any matter or thing, growing out of the exercise of Grantee's rights hereunder or arising out of Grantee's failure to perform or comply with its obligations as set forth herein, except for matters caused by the gross negligence or willful misconduct of the Grantor Protected Parties. Grantee at Grantee's own cost and expense will defend by counsel selected or approved by Grantor, any and all suits that may be brought, and claims which may be made, against Grantor, or in which Grantor may be impleaded with others, whether Grantor shall be liable or not, upon any such Liabilities and shall satisfy, pay and discharge any and all judgments that may be recovered against Grantor in any such action or actions in which Grantor may be a party defendant, or that may be filed against the Land, and in the event of the failure of Grantee to pay the sum or sums for which Grantee shall become liable as aforesaid, then Grantor may pay such sum or sums, with all interest and charges which may have accrued thereon, and the amount so paid by Grantor shall be payable by Grantee to Grantor upon demand.

2.5 Indemnification by Grantor. Grantor agrees to indemnify, defend and save harmless Grantee and its directors, officers, employees and agents ("Grantee Protected Parties") from and against any and all Liabilities (to the extent that the same are not paid out of the proceeds of any policy of insurance furnished by Grantor to Grantee hereunder) arising from injury, or claim of injury, during the Term to persons or property of any and every nature, and from any matter or thing, growing out of the exercise of Grantor's rights hereunder on the Land, or arising out of Grantor's failure to perform or comply with its obligations as set forth herein, except for matters caused by the gross negligence or willful misconduct of the Grantee Protected Parties. Grantor at Grantor's own cost and expense will defend by counsel selected or approved by Grantee, any and all suits that may be brought, and claims which may be made, against Grantee, or in which Grantee may be impleaded with others, whether Grantee shall be liable or not, upon any such above mentioned Liabilities and shall satisfy, pay and discharge any and all judgments that may be recovered against Grantee in any such action or actions in which Grantee may be a party defendant, or that may be filed against the Land, and in the event of the failure of Grantor to pay the sum or sums for which Grantor shall become liable as aforesaid, then Grantee may pay such sum or sums, with all interest and charges which may have accrued thereon, and the amount so paid by Grantee shall be payable by Grantor to Grantee upon demand.

2.6 Environmental Indemnification.

2.6.1 By Grantor. Grantor shall defend, indemnify, and hold the Grantee Protected Parties harmless from and against any and all Liabilities in any manner caused by, arising from or growing out of any operations and activities with respect to the Land by, through or under Grantor, or any cost, fine, penalty, including without limitation liability under

CERCLA, RCRA, or the HMTA, or any other local, state, or federal laws, rules, regulations, or ordinances related to the physical and environmental condition of the Land, except for matters caused by the gross negligence or willful misconduct of the Grantee Protected Parties. (For the purpose of this Section, "CERCLA shall mean and refer to the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601, et seq., as amended; "RCRA" shall mean and refer to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., as amended; and "HMTA" shall mean and refer to the Hazardous Materials Transportation Act, 49 U.S.C. § 5102, et seq., as amended). It is the intent of Grantor to indemnify the Protected Parties regardless of any defense that Grantor might have, except for matters caused by the gross negligence or willful misconduct of the Grantee Protected Parties. Grantor (in a claim hereunder by the Grantee Protected Parties) expressly and without reservation waives any defense it may have under the Worker's Compensation Laws of Alabama, or any statute or judicial decision. Furthermore, Grantor consents to a cause of action for indemnity by the Grantee Protected Parties.

2.6.2 By Grantee. Grantee shall defend, indemnify, and hold the Grantor Protected Parties harmless from and against any and all Liabilities in any manner caused by, arising from or growing out of any operations and activities with respect to the Land by, through or under Grantee, or any cost, fine, penalty, including without limitation liability under CERCLA, RCRA, or the HMTA, or any other local, state, or federal laws, rules, regulations, or ordinances related to the physical and environmental condition of the Land, except for matters caused by the gross negligence or willful misconduct of the Grantor Protected Parties. It is the intent of Grantee to indemnify the Grantor Protected Parties regardless of any defense that Grantee might have, except for matters caused by the gross negligence or willful misconduct of the Grantor Protected Parties. Grantee (in a claim hereunder by the Grantor Protected Parties) expressly and without reservation waives any defense it may have under the Worker's Compensation Laws of Alabama, or any statute or judicial decision. Furthermore, Grantee consents to a cause of action for indemnity by the Grantor Protected Parties.

2.7 Survival. The obligations of Grantor or Grantee arising during the Term under **Sections 2.4 through 2.6.2** shall survive the expiration or termination of this Agreement.

2.8 Worker's Compensation. Grantee, in all of its operations and activities hereunder, shall be exclusively liable for the payment of all sums due to all persons legally entitled thereto who are properly engaged in Grantee's operations and activities, including amounts due its employees under the Alabama Worker's Compensation Law or any other law, and Grantee shall defend, indemnify, and hold harmless Grantor against any and all payments due to the claims for payments made by persons engaged by Grantee in any work hereunder.

2.9 Liens. Grantee shall not permit any lien or encumbrance in any way arising out of its and/or its contractors', agents', licensees' or lessees' occupancy of or operations and activities conducted in, on or under the Lands to attach to Grantor's interest in the Lands, and Grantee shall cause to be promptly canceled and discharged as of record any lien or encumbrance which does so attach. If any such lien which attaches to Grantor's interest in the Lands is not canceled and discharged as of record within sixty (60) days after such lien attaches, Grantor, at Grantor's option, may take such action as may be necessary to have such lien canceled and discharged of record at Grantee's expense. Grantee shall defend, indemnify, and

hold harmless Grantor from and against any and all costs and expenses incurred in canceling and discharging said liens and/or encumbrances. Nothing herein contained, however, shall prevent Grantee from contesting in good faith, and at its expense, any claim of lien provided that, Grantee shall provide security to Grantor for such lien reasonably satisfactory to Grantor, discharge said lien in case of any action to foreclose the same, and in event such contest is unsuccessful, Grantee shall pay and discharge the lien and all costs associated therewith promptly after final determination of the contest.

ARTICLE III

DELEGATION TO LESSEE

3.1 Delegation by Grantee. The rights and obligations of Grantee hereunder may be delegated to a lessee upon written notice to Grantor, provided, however, that except with respect to the Current Leases, Grantee shall remain responsible for its obligations hereunder. The rights of Grantee hereunder are subject to the Current Leases, and, subject to the standards established in **Article I**, Grantor shall look to the respective lessee under the Current Leases, rather than to Grantee, for performance of those obligations which are imposed on Grantee hereunder, provided that the assignment and assumption of the Current Leases shall make provision for the enforcement of rights of the Grantor and the Grantee.

3.2 Delegation by Grantor. The rights and obligations of Grantor hereunder may be delegated to a lessee or licensee upon written notice to Grantee, provided Grantor shall remain responsible for its obligations hereunder.

3.3 Specific vs General References. The delegation provisions of Section 3.1 and 3.2 apply notwithstanding the fact that in some provisions of this Agreement a right is granted or obligation imposed upon the Grantor or the Grantee, and that in other provisions of this Agreement a right is granted or obligation imposed upon the Grantor or the Grantee, and/or their contractors, agents, licensees or lessees.

ARTICLE IV

DISPUTE RESOLUTION

4.1 Selection of Panel. On the request of any party hereto, whether made before or after the institution of any legal proceedings, any action, dispute, claim or controversy of any kind hereafter arising out of this Agreement or the performance thereof, such Dispute shall be resolved by binding arbitration in accordance with the terms hereof. Any arbitration shall be administered by the American Arbitration Association (the "AAA") in accordance with the terms of this Article V and the Commercial Arbitration Rules of the AAA. Judgment on any award rendered by a panel of arbitrators may be entered in any court having jurisdiction. Any arbitration shall be conducted before three (3) arbitrators, one chosen by each party, and the third chosen by the other two (2) arbitrators. The arbitrators shall be practicing attorneys licensed to practice in the State of Alabama who are knowledgeable in the subject matter of the Dispute selected by agreement between the parties hereto. If an arbitration panel is not selected within thirty (30) days of the initial request for an arbitration panel, then any party may request the AAA to select the necessary number of arbitrators needed to fill the panel. The arbitrators may

engage engineers, accountants or other consultants that the arbitration panel deems necessary to render a conclusion in the arbitration proceeding.

4.2 Remedies. The arbitration panel shall base its award on applicable law and judicial precedent, provided, however, that the award shall not include punitive, exemplary, incidental or consequential damages, including lost profits. The award shall include the findings of fact and conclusions of law upon which the award is based and shall not grant any remedy or relief that a court could not grant under applicable law. Judgment on the award rendered by the arbitration panel may be entered in any court having jurisdiction thereof. The arbitration panel may engage engineers, accountants or other consultants that the panel deems necessary to render a conclusion in the arbitration proceeding.

4.3 Miscellaneous. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within ninety (90) days of the filing of the Dispute with the AAA. Arbitration proceedings shall be conducted in Birmingham, Alabama, or such other site as is selected by the arbitration panel and acceptable to Grantee and Grantor. The arbitration panel shall be empowered to impose sanctions and to take such other actions as the panel deems necessary to the same extent a judge could impose sanctions or take such other actions pursuant to the Federal Rules of Civil Procedure and applicable law. The arbitration panel shall have the power to award recovery of all costs and fees, including without limitation attorneys fees, to the prevailing party. Each party agrees to keep all Disputes and arbitration proceedings strictly confidential except for disclosure of information required by applicable law.

4.4 Fees. All fees of the arbitration panel and any engineer, accountant or other consultant engaged by the panel shall be paid by Grantor and Grantee equally, unless otherwise ordered by the arbitrator.

ARTICLE V MISCELLANEOUS

5.1 Construction. The captions in this Agreement are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of this Agreement. Grantor and Grantee acknowledge that they have participated jointly in the negotiation and drafting of this Agreement and as such they agree that if an ambiguity or question of intent or interpretation arises hereunder, this Agreement shall not be construed more strictly against one party than another on the grounds of authorship.

5.2 Assignment. The rights, interests and obligations of Grantor and Grantee under this Agreement may be only be assigned as allowed by this **Section 5.2**.

5.2.1 Upon any conveyance of the surface of the Lands by Grantor, the provisions of **Section 1.4** and **Article II** of this Agreement shall expire, and any notice required need only be given to the owner of the respective portion of the Lands impacted by the proposed operation; provided, however that this **Section 5.2.1** shall not apply to any conveyance or assignment to the Company or to the United States Steel and Carnegie Pension Fund ("collectively, UCF") or to an entity owned or controlled by, or under common ownership or control with Grantor or UCF, but shall apply to any conveyance and assignment by Grantor or UCF to a third party.

5.2.2 Subject to the limitations of **Section 5.2.1**, the rights, interests and obligations of Grantor and Grantee under this Agreement shall extend to Grantor, Grantee and their respective successors and assigns. Subject to the limitations of **Section 5.2.1**, if Grantor or Grantee elect to sell or assign any part or all of its rights and interests hereunder, Grantor or Grantee and their respective assignees shall remain liable and responsible to the other hereunder, unless such assignment is approved in writing by the other party, which approval shall not be unreasonably withheld but may be conditioned on consideration of the technical and financial capability and integrity of the proposed assignee. In the event Grantor or Grantee approves any assignment by the other of its rights and obligations hereunder, liability for breach of any obligation hereunder from any event or circumstance first occurring thereafter shall rest exclusively with the approved assignee.

5.3 Governing Law. This Agreement, other documents delivered pursuant hereto and the legal relations between the parties hereto shall be governed and construed in accordance with the laws of the State of Alabama, without regard to the principles of conflicts of laws, except to the extent that it is mandatory that the law of some other jurisdiction, wherein the Minerals are located, shall apply.

5.4 Giving Notice. All notices required or permitted under this Agreement shall be in writing and, (a) if by air courier, shall be deemed to have been given one (1) Business Day after the date deposited with a recognized carrier of overnight mail, with all freight or other charges prepaid, (b) if by telegram, shall be deemed to have been given one (1) Business Day after delivered to the wire service, (c) if by telex, provided an answerback is received, shall be deemed to have been given when sent, (d) if mailed, shall be deemed to have been given three (3) Business Days after the date when sent by registered or certified mail, postage prepaid, and (e) if sent by telecopier, shall be deemed to have been given when sent, addressed as follows:

Grantor: President, USS Real Estate
United States Steel Corporation
600 Grant Street – Room 1683
Pittsburgh, Pennsylvania 15219
Fax: (412) 433-5148

with a copy to: Michael M. Partain, General Attorney
United States Steel Corporation
Law Department - Fairfield Office
P.O. Box 599 – Suite 192
Fairfield, Alabama 35064
Fax: (205) 783-2036

To Grantee: Russell D. Gordy
RGGGS Land & Minerals, LTD., L.P.
909 Fannin St., Suite 2600
Houston, Texas 77010
Fax: (713) 951-0191

with a copy to: James J. Sledge, Esq.
Rosen, Cook, Sledge, Davis, Cade & Shattuck, P.A.
2117 Jack Warner Parkway
Tuscaloosa, Alabama 35401
Fax (205) 758-8358

or to such other address as either party may direct in writing.

Grantee shall give all notices which affect the Timber or the Timber Rights required hereunder concurrently to the Company. Grantor shall cause the Company to give all notices which affect the Minerals or the Mineral Activities required under the Timber Agreement concurrently to Grantee, specifically **Section 7.1(b)**.

5.5 Term. Unless terminated earlier pursuant to the terms hereof, this Agreement shall be for a term (the "Term") beginning on the Delivery Date and continuing for a term of the greater of (i) ninety-nine (99) years, or (ii) until twenty-one (21) years following the death of the last lineal descendent of the late Joseph P. Kennedy (former Ambassador of the United States to England, and father of the late John F. Kennedy, 43rd President of the United States) who is living on the Delivery Date.

5.6 No Third Party Beneficiaries. Except to the extent that this Agreement expressly permits assignment, there are no third-party beneficiaries to this Agreement.

EXHIBITS

Exhibit A	Lands
Exhibit D	Current Leases
Exhibit 1.11	Form of Surface Mining Lease
Exhibit 1.11(a)	Form of Mineral Lease
Exhibit 2.1	Insurance

GRANTOR:

UNITED STATES STEEL CORPORATION

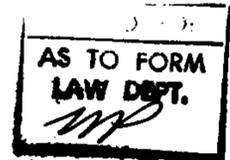
ATTEST:

By: M. White

By: Garrett F. Hurley

Title: Assistant Secretary

Title: President
USS Real Estate, a division of
United States Steel Corporation



STATE OF TEXAS)

COUNTY OF HARRIS)

I, Karen E. Inmon, a Notary Public in and for said County, in said State, hereby certify that Garrett F. Hurley, whose name as President of USS Real Estate, a division of United States Steel Corporation, a Delaware 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 said instrument, he, in such capacity and with full authority, executed the same voluntarily for and as the act of said corporation.

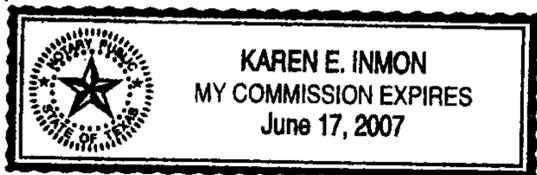
GIVEN UNDER MY HAND AND SEAL OF OFFICE this, the 26th day of February, 2004.

Karen E. Inmon

Notary Public

My Commission Expires: June 17, 2007

[SEAL]



GRANTEE:

**RGGS LAND & MINERALS, LTD., L.P.
By Gordy Oil Company, a Texas
Corporation, Its General Partner**

By: *Russell D. Gordy*
Russell D. Gordy
Its: President

STATE OF TEXAS)

COUNTY OF HARRIS)

I, *Karen E. Inmon*, a Notary Public, in and for said County in said State, hereby certify that Russell D. Gordy, whose name as President of Gordy Oil Company, a Texas Corporation, general partner of RGGS Land & Minerals, Ltd., L.P., a Delaware Limited Partnership, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this, the 26th day of February, 2004.

Karen E. Inmon

Notary Public

My Commission Expires: *June 17, 2007*

[SEAL]



THIS INSTRUMENT WAS PREPARED BY:

James J. Sledge
ROSEN, COOK, SLEDGE, DAVIS
CADE & SHATTUCK, P.A.
2117 JACK WARNER PARKWAY (35401)
POST OFFICE BOX 2727
TUSCALOOSA, ALABAMA 35403
(205) 344-5000

AND

Michael M. Partain, General Attorney
UNITED STATES STEEL CORPORATION
LAW DEPARTMENT - FAIRFIELD OFFICE
P.O. BOX 599 – SUITE 192
FAIRFIELD, ALABAMA 35064
(205) 783-2515

AFTER RECORDING RETURN TO:

James J. Sledge
ROSEN, COOK, SLEDGE, DAVIS
CADE & SHATTUCK, P.A.
2117 JACK WARNER PARKWAY (35401)
POST OFFICE BOX 2727
TUSCALOOSA, ALABAMA 35403
(205) 344-5000

EXHIBIT A

PROPERTIES FOR WHICH GRANTOR OWNS SURFACE RIGHTS

SHELBY COUNTY, ALABAMA GREEN SURFACE USE DESCRIPTION

Item	Section	Township	Range	Description	Acres
1	13	21S	4W	The west 30 acres of the North-West quarter of the North-East quarter; the North half of the North-West quarter; the Southwest diagonal half of the South-West quarter.	190.00
2	14	21S	4W	The North-East quarter; the West half of the South-East quarter.	240.00
3	15	21S	4W	The North-West quarter of the North-East quarter; the South half of the North-East quarter; the North-West quarter; the North-East quarter of the South-West quarter; the South-East quarter.	480.00
4	17	21S	4W	The North-East quarter; the West half of the North-West quarter; the East half of the South-West quarter; the North-East quarter of the South-East quarter.	360.00
5	19	21S	4W	The East half of the North-East quarter; the South half of the North-West quarter; the North-East quarter of the South-East quarter; the South half of the South-East quarter.	280.00
6	20	21S	4W	The entire Section except that part in the South half of the South-East quarter described as follows: commence at the Southeast corner; thence run northwesterly 290 feet, more or less, along the North line of the Southwest diagonal half of the South half of the South-East quarter of the South-East quarter to the east right-of-way line of the Southern Railroad Company, said point being the point of beginning; thence continue northwesterly 1,201 feet, more or less, along the last described line to the Northwest corner of the South-West quarter of the South-East quarter of the South-East quarter; thence run southwesterly 932 feet, more or less, along a diagonal line to the Southwest corner of the South-East quarter of the South-West quarter of the South-East quarter, said point also being on the South line of said Section; thence run east 1,695 feet, more or less, along the South boundary of said Section to a point on the east right-of-way line of the Southern Railway Company; thence turn northeasterly and run along the said east right-of-way line 135 feet, more or less, to the point of beginning.	626.00
7	21	21S	4W	The entire Section except the following described tract: commence at the Southwest corner of the North-East quarter of the North-West quarter; thence east along the South boundary of said quarter-quarter 90.5 feet; thence turning an angle of 68 degrees 37 minutes to the left northeast 341.9 feet to the point beginning of boundary of tract herein excepted; thence turning an angle of 90 degrees 00 minutes to the right southeast 200.0 feet; thence turning an angle of 90 degrees 00 minutes to the left northeast 400 feet; thence turning an angle of 90 degrees 00 minutes to the left northwest 200.0 feet; thence turning an angle of 90 degrees 00 minutes to the left southwest 400.0 feet to the point of beginning.	638.20
8	22	21S	4W	The North half of the North-East quarter of the North-East quarter; the Northeast diagonal half of the South half of the North-East quarter of the North-East quarter; the North half of the North-West quarter of the North-East quarter; the North-East quarter of the North-West quarter except the Southeast diagonal half of the South-East quarter of the North-East quarter of the North-West quarter; the West half of the North-West quarter; the Northwest diagonal half of the West half of the South-East quarter of the North-West quarter; the North-West diagonal half of the West half of the South-West quarter; the Southeast diagonal half of the South-East quarter of the South-West quarter of the South-West quarter; the South half of the South-East quarter of the South-West quarter; the Southeast diagonal half	370.00

				of the North half of the South-East quarter of the South-West quarter; the Southeast diagonal half of the North half of the South-East quarter; the South half of the South-East quarter.	
9	23	21S	4W	The entire Section except the West half of the West half of the South-West quarter of the North-West quarter.	630.00
10	24	21S	4W	West Half of Section.	320.00
11	25	21S	4W	The Northwest diagonal half of the North-East quarter of the North-West quarter; the North-West quarter of the North-West quarter; the West half of the South-West quarter of the North-West quarter; the West half of the North-West quarter of the South-West quarter.	100.00
12	26	21S	4W	Entire Section EXCEPT South Half of Southeast Quarter.	560.00
13	27	21S	4W	The entire Section.	640.00
14	28	21S	4W	The entire Section EXCEPT Southeast Quarter of Southwest Quarter.	600.00
15	29	21S	4W	The North half of the Section except that part in the North-East quarter of said Section described as follows: commence at the Northeast corner of said Section; thence west along the North boundary of Section to a point on the east right-of-way line of the Southern Railway Company, said point being the point of beginning of the tract herein excepted; thence west along the last described course 1,814.91 feet, more or less, to the Northwest corner of the North-East quarter of the North-West quarter of the North-East quarter; thence run southwesterly on a diagonal 1,361.87 feet, more or less, to the Southeast corner of the South-West quarter of the South-West quarter of the North-West quarter of the North-East quarter, said point also being on the South line of the North half of the North-East quarter; thence run easterly 1,127.96 feet, more or less, along the South line of said North half of the North-East quarter to a point on the West line of a tract of land quitclaimed by USX Corporation to Oak Mountain Energy Corporation by deed dated August 24, 1996; said point also lying on the west side of a right-of-way of Southern Railway Company; thence turn and run southwesterly along West side of said tract 328.51 feet to the Southwest corner of said right-of-way by deed dated August 24, 1996; thence turning an angle of 91 degrees 40 minutes 24 seconds to the left in a southeasterly direction a distance of 258.54 feet; thence turning an angle of 55 degrees 21 minutes 07 seconds to the left in a northeasterly direction a distance of 303.15 feet; thence an angle of 20 degrees 57 minutes 16 seconds to the left in a northeasterly direction a distance of 801.74 feet; thence turning an angle of 16 degrees 19 minutes 28 seconds to the left in a northeasterly direction a distance of 323.04 feet; thence turning an angle of 61 degrees 53 minutes 18 seconds to the left in a northwesterly direction to a point on the East right of way boundary of the Southern Railway Company; thence Northeasterly along said right of way boundary to the point of beginning; North half of the North-East quarter of the South-West quarter; the South-West quarter of the North-East quarter of the South-West quarter; the North-West quarter of the South-West quarter; the North half of the North half of the South-West quarter of the South-West quarter; the East half of the South-East quarter of the South-West quarter of the South-West quarter; the South-East quarter of the North-East quarter of the South-West quarter of the South-West quarter; the South-East quarter of the South-West quarter; North half of the North-West quarter of the South-East quarter; South half of the South-West quarter of the South-East quarter; East half of the South-East quarter.	510.36
16	30	21S	4W	That 6.75 acres lying in the North half of the North-East quarter described as follows: begin at the Northeast corner of the North-East quarter of the North-West quarter; thence east 221.0 feet to a point on the North Section boundary; thence turn an angle of 90 degrees 24 minutes 30 seconds to the right in a southerly direction to a point on the South boundary of the said North half of the North-East quarter; thence west 221.78 feet to the Southeast corner of the North-East quarter of the North-West quarter; thence north along a straight line to the	373.25

				point of beginning; the North-West quarter; the North-East quarter of the South-West quarter; the West half of the South-West quarter; that part of the North-East quarter of the South-East quarter described as follows: begin at the North-East corner of Lot 7 of Subdivision of the Booth Estate; thence south along the East boundary of Lots 7 and 2 of said subdivision to a point on the South boundary of said quarter-quarter 335 feet west of the Southeast corner of said quarter-quarter; thence west along the South boundary to the Southwest corner of said quarter-quarter; thence north along the West boundary 210 feet; thence east parallel with the South boundary of said quarter-quarter 334.8 feet to the West boundary of Lot 3 of said subdivision of the Booth Estate; thence north along the West boundary of Lot 3 and Lot 6 to the North boundary of said North-East quarter of the South-East quarter; thence east 667.6 feet along said North boundary to point of beginning; the North-West quarter of the South-East quarter except the North-East quarter of said quarter-quarter; the South-East quarter of the South-East quarter except for the Southeast diagonal half of the South-East quarter of said quarter-quarter.	
17	31	21S	4W	The Northwest diagonal half of the West half of the North-East quarter of the North-East quarter; the West half of the North-East quarter; the North-East quarter of the North-West quarter; the West half of the North-West quarter; the North-West quarter of the South-West quarter; the North Half of the South-East quarter; Southwest Quarter of Southeast Quarter of Northeast Quarter.	340.00
18	32	21S	4W	The North half of the Section except the West half of the West half of the North-West quarter; the North half of the South-West quarter; the North half of the South-East quarter except that part of the North-East quarter of the South-East quarter lying south of the center line of Antioch-Marvel public road; the South half of the South-East quarter of the Southeast quarter.	390.50
19	33	21S	4W	The entire Section except the following four (4) tracts: (1) the North-East quarter of the North-West quarter; (2) the West half of the South-West quarter of the South-West quarter; (3) that part of the West half of the North-East quarter described as follows: commence at the Southwest corner of the North-West quarter of the North-East quarter of said Section 33; thence east along the South boundary of said North-West quarter of the North-East quarter 499.6 feet to point of beginning of boundary of said excepted tract; thence turning an angle of 55 degrees 47 minutes to the left northeast 472.5 feet; thence turning an angle of 134 degrees 00 minutes to the right in a southeasterly direction 271.1 feet; thence turning an angle of 46 degrees 00 minutes to the right in a southwest direction 618.45 feet; thence turning an angle of 90 degrees 00 minutes to the right in a northwest direction 195.0 feet; thence turning an angle of 90 degrees 00 minutes to the right in a northeast direction 334.25 feet to point of beginning; (3.20 acres); (4) that part of the West Half of the North-East quarter described as follows: commence at the Southwest corner of the North-West quarter of the North-East quarter of said Section 33; thence in an easterly direction along the South boundary of said North-West quarter of North-East quarter 499.60 feet; thence turning an angle of 55 degrees and 47 minutes to the left in a northeasterly direction along a straight line which is the Northwest boundary of a 3.20 acre tract of land conveyed by Tennessee Coal, Iron and Railroad Company to Antioch Baptist Church by deed dated the 7th day of July 1948, a distance of 472.50 feet to the most northerly corner of said 3.20 acre tract of land; said most northerly corner being the point of beginning of boundary of said excepted tract herein described; thence continuing in a northeasterly direction along said straight line 48.90 feet to intersection with the centerline of right of way for a public road conveyed by United States Steel Corporation to Shelby County, Alabama by deed dated the 1st day of June, 1955; thence turning an angle of 134 degrees 10 minutes to the right in a southeasterly direction along a straight line which is the center line of said right of way 513.16 feet to the point of beginning of the arc of a curve tangent to said straight line, said arc turning to the left having a radius of	572.40

				1,910.08 feet, being subtended by a central angle of 15 degrees and 28 minutes and having a chord 514.04 feet in length; thence southeasterly along said arc which is the center line of said right of way 515.62 feet; thence turning an angle of 125 degrees and 22 minutes to the right from said chord in a northwesterly direction 617.66 feet to the most Southerly corner of said 3.20 acre tract of land; thence turning an angle of 108 degrees and 13 minutes to the right in a northeasterly direction along the Southeast boundary of said 3.20 acre tract of land 618.45 feet; thence turning an angle of 46 degrees and 00 minutes to the left in a northerly direction along a boundary of said 3.20 acre tract of land 271.1 feet to the point of beginning.	
20	34	21S	4W	The North half of the North-East quarter; the North-West quarter of the North-West quarter; the South half of the North-West quarter; the North half of the South-West quarter; the South-West quarter of the South-West quarter; the North-West quarter of the South-East quarter.	360.00
21	35	21S	4W	The North half of the Section except the Southeast diagonal half of the South half of the North-East quarter; the Northwest diagonal half of the South-West quarter.	360.00
22	24	21S	5W	Southwest Quarter of Southeast Quarter.	40.00
23	25	21S	5W	The West half of the North-East quarter; the South-East quarter of the North-East quarter; the South-East quarter of the South-West quarter; the West half of the South-East quarter.	240.00
24	36	21S	5W	The West half of the North-East quarter; the North-East quarter of the North-West quarter; the South half of the North-West quarter.	200.00
				TOTAL ACRES FOR SHELBY COUNTY	9325.21

**EXHIBIT D
CURRENT LEASES**

All leases of record in the Probate Office of the counties in which the Minerals in the Lands are located and/or unrecorded leases on file in the land records of United States Steel Corporation located in Fairfield, Alabama, that affect the Minerals in the Lands, including but not limited to the following listed leases:

MINERAL AGREEMENTS

DOCUMENT	LANDLORD	LICENSEE/LESSEE	DATE	REFERENCE #	COUNTY
Occluded Gas Lease	United States Steel Corporation	DE-GAS, Inc.	5/20/1983	C&A 7574	Jefferson
Amendment to Occluded Gas Lease	USX Corporation	DE-GAS, Inc. & Jem, Ltd.	4/14/1989	C&A 7574-B	Jefferson
2nd Amendment to Occluded Gas Lease	USX Corporation	DE-GAS, Inc. & Jem, Ltd.	5/20/1990	C&A 7574-E	Jefferson
Lease Agreement	USX Corporation	McKenzie Methane	4/26/1991	No C&A	Jefferson
Letter Agreement	USX Corporation	McKenzie Methane	1/1/1996	No C&A	Jefferson
Consent to Assign	United States Steel Corporation	Kukui, Inc.	3/14/2003	No C&A	Jefferson
Mining Lease	United States Steel Corporation	United States Pipe and Foundry Company	1/5/1984	C&A 7549	Jefferson
Occluded Gas Lease	United States Steel Corporation	Taurus Exploration, Inc.	1/1/1986	C&A 7613	Jefferson, Tuscaloosa
Internal Letter	United States Steel Corporation		5/19/1986	No C&A	Jefferson, Tuscaloosa
Letter agreement to confirm rights of Basin Pipeline	United States Steel Corporation	Taurus, Energen, Basin	5/16/1986	No C&A	Jefferson, Tuscaloosa
1st Amendment to Occluded Gas Lease	USX Corporation	Taurus Exploration, Inc.	4/30/1987	C&A 7613-A	Jefferson, Tuscaloosa
2nd Amendment to Occluded Gas Lease	USX Corporation	Taurus Exploration, Inc.	1/1/1989	C&A 7613-E	Jefferson, Tuscaloosa
3rd Amendment to Occluded Gas Lease	USX Corporation	Taurus Exploration, Inc.	6/1/1990	C&A 7613-F	Jefferson, Tuscaloosa
4th Amendment to Occluded Gas Lease	USX Corporation	Taurus Exploration, Inc.	12/11/1990	C&A 7613-G	Jefferson, Tuscaloosa
5th Amendment to Occluded Gas Lease	USX Corporation	Taurus Exploration, Inc. & Amoco Production	1/1/1993	C&A 7613-J	Jefferson, Tuscaloosa
6th Amendment to Occluded Gas Lease	United States Steel Corporation	Energen Resources Corporation	12/16/2002	C&A 7613-K	Jefferson, Tuscaloosa
7th Amendment to Occluded Gas Lease	United States Steel Corporation	Energen Resources Corporation	3/1/2003	C&A 7613-L	Jefferson, Tuscaloosa
Mined-through Well Reimbursement Agreement	Jim Walter Resources, Inc.	Energen Resources Corporation	5/16/2002		Jefferson, Tuscaloosa
JWR-Taurus Settlement Agreement for mine through wells	Taurus/Jim Walters/USX/U.S. Mining		7/30/1998		Tuscaloosa
Underground Coal Mining and Gob Gas Lease	USX Corporation	United States Pipe and Foundry Company	1/1/1988	C&A 7646	Jefferson, Tuscaloosa
Coal Mining Lease	USX Corporation	Drummond Company, Inc.	5/29/1991	C&A 7737-B	Jefferson
Amendment	USX Corporation	Drummond Company, Inc.	5/5/1992	C&A 7737-C	Jefferson
2nd Amendment	USX Corporation	Drummond Company, Inc.	7/19/2000	C&A 7737-H	Jefferson
Coal Seam Gas Lease	USX Corporation	GeoMet Operating Company, Inc.	12/21/1994	C&A 7821	Tuscaloosa, Walker
Coal Seam Gas Lease	USX Corporation	Sonat Exploration Company	12/17/1996	C&A 7904	Tuscaloosa, Walker
1st Amendment to Coal Seam Gas Lease	USX Corporation	Sonat Exploration Company	11/3/1997	C&A 7917	Tuscaloosa, Walker
Coal Seam Gas Lease	USX Corporation	Kukui, Inc.	4/28/1998	C&A 7932	Jefferson
Agreement for Option to Lease Oil and Natural Gas	USX Corporation	CDX Gas, LLC	4/14/2000	C&A 7962	Jefferson, Tuscaloosa, Walker
Letter	United States Steel LLC	CDX Gas, LLC	10/25/2001	No C&A	Jefferson, Tuscaloosa, Walker
Letter	United States Steel Corporation	CDX Gas, LLC	1/30/2002	No C&A	Jefferson, Tuscaloosa, Walker
Letter	USX Corporation	CDX Gas, LLC	3/5/2002	No C&A	Jefferson, Tuscaloosa, Walker
First Amendment for Option to Lease Oil and Natural Gas	United States Steel Corporation	CDX Gas, LLC	10/24/2003	C&A 7962-C	Jefferson, Tuscaloosa, Walker
Second Amendment for Option to Lease Oil and Natural Gas	United States Steel Corporation	CDX Gas, LLC	1/14/2004	No C&A yet assigned	Jefferson, Tuscaloosa, Walker
Coal Mining Contract	USX Corporation	The Whitt Group of West Virginia, Inc.	4/24/2000	C&A 7966	Shelby, Bibb
Coal Mining Contract Amendment	USX Corporation	The Whitt Group of West Virginia, Inc.	6/13/2001	C&A 7966-A	Shelby, Bibb
Agreement for Option to Lease Coal Refuse	USX Corporation	Hargrove, Inc.	10/20/2000	C&A 7983	Bibb
Amendment of Option to Lease Coal Refuse	United States Steel LLC	Hargrove, Inc.	11/2/2001	C&A 7983-A	Bibb
2nd Amendment of Agreement for Option to Lease Coal Refuse	United States Steel Corporation	Hargrove, Inc.	10/20/2002	C&A 7983-B	Bibb
Coal Refuse Recovery Lease	United States Steel Corporation	Hargrove, Inc.	1/20/2004	No C&A yet assigned	Bibb
Gob Gas Agreement	USX Corporation	Drummond Company, Inc. and Kukui, Inc.	5/10/2000	C&A 7980	Jefferson
Gob Gas Agreement	United States Steel, LLC	Drummond Company, Inc. and El Paso Production	8/15/2001	C&A 8001	Walker
Gob Gas Agreement	Drummond Company, Inc.	Saga Petroleum, LLC	5/19/2003	No C&A	Jefferson
Coal Mining Lease	USX Corporation	Coosa Coal Sales, Inc. (Moss Coal Sales)	6/6/2001	C&A 7993	Shelby
Coal Seam Gas Lease	USX Corporation	Kukui, Inc.	6/21/2001	C&A 7998	Jefferson
Agreement for Option to Lease Coal Seam Gas	United States Steel LLC	CDX Gas, LLC	12/20/2001	C&A 8007	Jefferson, Tuscaloosa
First Amendment to Option to Lease Coal Seam Gas	United States Steel LLC	CDX Gas, LLC	2/21/2003	C&A 8007-A	Jefferson, Tuscaloosa
Second Amendment to Option to Lease Coal Seam Gas	United States Steel LLC	CDX Gas, LLC	5/12/2003	C&A 8007-B	Jefferson, Tuscaloosa
Third Amendment to Option to Lease Coal Seam Gas	United States Steel Corporation	CDX Gas, LLC	10/20/2003	C&A 8007-C	Jefferson, Tuscaloosa
Fourth Amendment to Option to Lease Coal Seam Gas	United States Steel Corporation	CDX Gas, LLC	1/20/2004	No C&A yet assigned	Jefferson, Tuscaloosa
Coal Seam Gas Lease	United States Steel LLC	CDX Gas, LLC	12/20/2001	C&A 8008	Jefferson
Quarry Stone Option	United States Steel, LLC	Birmingham Aggregates, LLC	3/21/2002	C&A 8010	Jefferson
First Amendment to Quarry Stone Option	United States Steel Corporation	Birmingham Aggregates, LLC	3/12/2003	C&A 8010-A	Jefferson
Second Amendment to Quarry Stone Option	United States Steel Corporation	Birmingham Aggregates, LLC	8/12/2003	C&A 8010-B	Jefferson
Quarry Stone Mining Lease	United States Steel Corporation	Birmingham Aggregates, LLC	8/14/2003	C&A 8054	Jefferson
Coal Seam Gas Lease	United States Steel Corporation	GeoMet, Inc.	4/9/2002	C&A 8009	Shelby, Bibb
Coal Seam Gas Lease Amendment	United States Steel Corporation	GeoMet, Inc.	3/24/2003	C&A 8009-B	Shelby, Bibb
Coal Seam Gas Lease Amendment	United States Steel Corporation	GeoMet, Inc.	8/14/2003	C&A 8009-C	Shelby, Bibb
Coal Mining Lease	United States Steel Corporation	A2M LLC	6/14/2002	C&A 8021	Jefferson
Coal Mining Lease	United States Steel Corporation	Jim Walter Resources, Inc.	2/6/2003	C&A 8034	Tuscaloosa

EXHIBIT 1.11

FORM OF SURFACE MINING LEASE

This form of lease covers the surface mining of coal. For surface mining of other Minerals which can be mined by surface mining methods, changes shall be made to this form to reflect terms and conditions commercially reasonable for the mining of such Minerals.

COAL MINING LEASE

BY AND BETWEEN

UNITED STATES STEEL CORPORATION

AND

_____, 20____

TABLE OF CONTENTS

<u>PARAGRAPH</u>	<u>PAGE</u>
(1) GRANTING CLAUSE.....	1
(2) USS'S OWNERSHIP.....	1
(3) EFFECTIVE DATE INITIAL TERM.....	1
(4) ACTUAL PRODUCTION ROYALTY.....	1
(5) GROSS SALES PRICE.....	2
(6) LOADING POINT.....	2
(7) BONA FIDE PURCHASER.....	3
(8) BLENDED COAL.....	3
(9) ADVANCE ROYALTY.....	4
(10) MINIMUM ROYALTY.....	4
(11) CESSATION AND RECOVERY OF MINIMUM ROYALTY.....	4
(12) WHEELAGE ROYALTY.....	5
(13) ROYALTY PAYMENTS AND REPORTS.....	5
(14) FAILURE TO REPORT AND PAY.....	5
(15) BEST PRACTICE IN MINING.....	6
(16) COMMENCEMENT OF OPERATIONS.....	6
(17) SUBMITTAL OF MINING PROJECTIONS.....	7
(18) MINING PROGRESS MAPS.....	7
(19) USE OF THE SURFACE.....	7
(20) POST MINING LAND USE.....	8
(21) REMOVAL OF TIMBER.....	8
(22) LESSEE'S LIABILITY AND INDEMNIFICATION FOR INJURIES.....	8

(23) INSURANCE.....	9
(24) ESTIMATE OF COAL QUANTITY	9
(25) AUDIT	9
(26) FORCE MAJEURE.....	9
(27) FINANCIAL STATEMENTS.....	10
(28) ENVIRONMENTAL.....	10
(29) POLLUTION PREVENTION AND ENVIRONMENTAL INDEMNIFICATION	11
(30) MINING LICENSES AND PERMITS.....	12
(31) WORKER'S COMPENSATION	12
(32) PAYMENT OF LEVIES AND TAXES	12
(33) CHALLENGE OF TITLE	13
(34) RIGHT OF ACCESS.....	13
(35) PRIOR LEASES.....	13
(36) ZONING	13
(37) CONDEMNATION OF PREMISES.....	14
(38) TERMINATION BY LESSEE.....	14
(39) REMOVAL OF EQUIPMENT	14
(40) INTEREST	15
(41) ASSIGNMENT	15
(42) OWNERSHIP OF THE PREMISES	16
(43) WAIVER OR BAR	16
(44) ENTIRE AGREEMENT	16
(45) CONFIDENTIALITY	16
(46) RECORDING.....	16
(47) NOTICE TO PARTIES	17
(48) FAILURE TO COMPLY	17
(49) SECURITY PROTECTION.....	17
(50) FIRE AND/OR FLOOD	17
(51) PARAGRAPH HEADINGS.....	18
(52) ACKNOWLEDGMENT	18
SIGNATURE PAGE.....	19
EXHIBIT A	
EXHIBIT B	
ATTACHMENT I	

THIS LEASE, entered into this _____ day of _____, 20___, by and between **UNITED STATES STEEL CORPORATION**, a Delaware corporation, hereinafter referred to as "USS", and _____, a _____ corporation, hereinafter referred to as "Lessee". RGGGS Land & Minerals, Ltd., L.P. hereinafter referred to as "RGGGS".

WITNESSETH

1. GRANTING CLAUSE

USS, as a contemporaneous exchange in consideration of the covenants of Lessee, as hereinafter expressed to be kept and performed, hereby grants to Lessee, to the extent of USS's interests, the right to mine and remove coal by **surface mining methods**, and Lessee agrees to mine by such stated methods only, all the Economically Mineable and Merchantable Coal which can be mined by such methods from the _____ **Seams of coal** as may exist in those certain lands of USS located in _____, _____ **County, Alabama**, as described more fully in the attached "**EXHIBIT A**" and as shown on the map labeled "**EXHIBIT B**", both attached hereto and made a part hereof, said lands hereinafter referred to as the "**Premises**".

2. USS'S OWNERSHIP

A. USS owns **All Interests in the Surface**, subject to a **surface Use Agreement between USS and RGGGS**, of the above referenced Premises as indicated on the attached Exhibits.

B. It is hereby understood, and Lessee irrevocably agrees, that **USS does not warrant** either the **title** to any of the above referenced Premises or the **condition, quality, quantity, economic mineability, merchantability**, or the **existence** of any coal which may occur or exist on the Premises described herein, and that Lessee has satisfied itself as to the sufficiency of USS's title to the Premises and as to the sufficiency, recoverability, and existence of any coal which may exist on the Premises prior to entering into this Lease.

3. EFFECTIVE DATE AND TERM

Except as provided for in Paragraph 48 below, this Lease shall become effective upon the date of execution hereof and shall continue in effect for a term of _____ () years, unless sooner terminated, as otherwise provided herein.

4. ACTUAL PRODUCTION ROYALTY

The Actual Production Royalty which shall be paid to USS, when due and without demand by USS, for each ton of two thousand (2,000.0) pounds of coal mined from the Premises and sold by Lessee, its agents or assigns, to Bona Fide Purchasers during the term hereof shall be the greater of 37.5% of _____ [to be negotiated by RGG, same as in mineral lease] _____ Dollars and _____ Cents (\$ _____) or:

1) 37.5% of (_____ [to be negotiated by RGG same as in mineral lease] _____ .0%) of the Gross Sales Price, all f.o.b. the Loading Point. for coal mined from lands where USS owns Surface Rights Only or for coal mined from the _____ Seam of coal.

5. GROSS SALES PRICE

A. For the purposes of reporting coal tonnages mined, shipped, and sold and for the calculation and payment of any royalty (Actual Production, Minimum, Wheelage, or otherwise) due USS for coal mined, shipped and sold under this Lease, the term "Gross Sales Price", as used herein, shall mean the final and actual sales price at which any and all coal mined under or pursuant to this Lease, is sold in an arms'-length transaction to a Bona Fide Purchaser, f.o.b. the Loading Point, after final preparation and loading, plus any premium payments or minus any penalties received by the Lessee from the purchaser and/or final consumer of the coal.

B. No deductions from said Gross Sales Price shall be made by Lessee, or recognized by USS, for any and all on-site or pre-Loading Point transportation charges, loading charges, handling charges, washing costs or charges, blending or preparation charges, or fees of any kind whatsoever, brokerage charges or fees, sales commissions, coal analysis charges or fees, sales tax, severance tax, license tax, privilege tax, occupational tax, advertising, credit losses or any other charges or fees of any description whatsoever. Except, however, in the case of coal mined from the Premises hereunder and sold to Bona Fide Purchasers f.o.b. some point other than the mine or preparation plant, the Gross Sales Price of such coal may be reduced by deducting from the final and actual Gross Sales Price at which such coal is sold to Bona Fide Purchasers, all transportation, loading and handling charges beyond the mine or preparation plant, as the case may be, as long as Lessee can justify such deductions from the Gross Sales Price to the satisfaction of USS. Any deviation from the use of the Gross Sales Price, as defined and as used herein, for the reporting and calculation of any royalty (Actual Production, Minimum, Wheelage, or otherwise) due USS for coal mined and sold from the Premises under or pursuant to this Lease shall not be recognized or allowed unless said deductions are first approved in writing by USS, which approval may be withheld without cause.

C. For any coal mined from the Premises under this Lease and used or consumed, for any reason or purpose whatsoever, by Lessee, its principals, employees, agents, associates, affiliates, or assigns, without sales by Lessee, the Gross Sales Price used for calculation of any and all royalty (Actual Production, Minimum, Wheelage, or otherwise) due and payable to USS for such coal shall be the prevailing open market Gross Sales Price of coal of comparable and similar quality and quantity recently sold by Lessee and others, f.o.b. the Loading Point to Bona Fide Purchasers in arms'-length transactions.

6. LOADING POINT

The term "Loading Point", as used herein, shall mean the point at which coal mined from the Premises by Lessee, its principals, employees, agents, associates, affiliates or assigns under this Lease leaves the possession and control of Lessee, its principals, employees, agents, associates, affiliates or assigns to be shipped to market or the final consumer of the coal, as the case may be, whether from the mine or preparation plant of Lessee, its principals, employees, agents, associates, affiliates or assigns, as the case may be. Any deviation from the use of the Loading Point, as defined and as used herein, for the reporting and calculation of any royalty (Actual Production, Minimum, Wheelage, or otherwise) due USS for coal mined and sold from the Premises under or pursuant to this Lease shall not be recognized or allowed unless said use is first approved in writing by USS, which approval may be withheld without cause.

7. BONA FIDE PURCHASER

A. The term "Bona Fide Purchaser", as used herein, shall mean a non-related and unaffiliated third-party independent purchaser who pays valuable consideration in good faith in an arms'-length transaction without intending to take or inadvertently taking unfair advantage of USS or Lessee. Further, a Bona Fide Purchaser shall not, in any instance whatsoever, include any persons, parties, companies, corporations or entities affiliated, associated, or related, in any manner whatsoever, with the Lessee, its principals, employees, agents, associates, affiliates or assigns.

B. For the purposes of reporting the sales and Gross Sales Prices of coal mined under or pursuant to this Lease, and for the purposes of calculating and paying any and all royalties (Actual Production, Minimum, Wheelage, or otherwise) due USS for coal sold under or pursuant to this Lease, It is specifically understood and irrevocably agreed by Lessee that this Lease **DOES NOT RECOGNIZE** and **DOES NOT ALLOW** sales of coal mined from the Premises under or pursuant to this Lease, or sales of coal transported onto, over, under, across, or through the Premises by Lessee, its principals, employees, agents, associates, affiliates, or assigns, to any persons, parties, companies, corporations, or any other entities which do not specifically comply with the definitions of Gross Sales Price, Loading Point, and Bona Fide Purchaser as defined and as used in this Lease. It is hereby further specifically understood and irrevocably agreed by Lessee that it is the specific intent of this Lease that all sales of coal mined by the Lessee, its principals, employees, agents, associates, affiliates, or assigns, from the Premises under or pursuant to this Lease shall be made and reported to USS, at the final and actual Gross Sales Price of the coal sold on the open market to a non-related and unaffiliated third party Bona Fide Purchaser and/or final consumer of the coal in an arms'-length transaction, and further that the royalty due and payable to USS under this Lease shall be based upon the final and actual Gross Sales Price of coal sold on the open market to a non-related and unaffiliated Bona Fide Purchaser and/or final consumer of the coal in an arms'-length transaction without intending to take or inadvertently taking unfair advantage of USS or Lessee.

C. If Lessee, its principals, employees, agents, affiliates, or assigns, should sell coal to a purchaser, and USS gives notice in writing to Lessee that, in USS's sole judgment, said purchaser is not a **Bona Fide Purchaser**, as defined and used herein, and thereafter Lessee does not or is not able to justify to USS's satisfaction, within thirty (30) days from the date of said written notice, that said purchaser is, in actuality, a Bona Fide Purchaser, as defined and used herein, Lessee hereby irrevocably agrees that USS shall have the right, at its sole option, to elect to:

(1) Substitute for the reported sales price of all such coal mined from the Premises under this Lease and sold to said purchaser, the actual Gross Sales Price of all such coal sold to said purchaser as determined by USS's agents or representatives using the definitions stated herein;
or

(2) Substitute for the reported sales price of all such coal mined from the Premises under or pursuant to this Lease and sold to said purchaser, the prevailing market price of coal of similar quality and quantity recently sold, by Lessee or others, f.o.b. the Loading Point, to Bona Fide Purchasers in arms'-length transactions as determined by USS or USS's agents or assigns.

Lessee covenants and irrevocably agrees that in the event of a situation as aforescribed, USS's judgment shall be final and binding upon Lessee, and Lessee shall, upon demand, reimburse USS for any and all amounts of royalties (Actual Production, Minimum, Wheelage, or otherwise) resulting from any such Gross Sales Price adjustment and that Lessee's failure to reimburse USS for any such Gross Sales Price adjustment shall entitle USS to terminate this Lease upon written notice to Lessee.

D. Any deviation whatsoever by the Lessee, its principals, employees, agents, affiliates, associates, or assigns, in sales of coal that do not comply with the definition of a "Bona Fide Purchaser" as described above, and as used herein, must first be approved in writing by USS.

8. BLENDED COAL

If coal mined from the Premises by Lessee under this Lease by Lessee, its principals, employees, agents, associates, affiliates, or assigns, shall be mixed, blended or commingled, in any proportion whatsoever, with coal mined elsewhere than from the Premises prior to the Loading Point, as defined herein, the Gross Sales Price used for calculation of royalty (Actual Production, Minimum, Wheelage, or otherwise) payable to USS for its proportionate share of any and all such mixed, blended, or commingled coal shall be that Gross Sales Price of the final mixed, blended, or commingled coal product sold to Bona Fide Purchasers, f.o.b. the Loading Point, in arms'-length transactions, **regardless** of any respective difference(s) in or between the quality and/or quantity of the coal mined from the Premises and the quality and/or quantity of the coal with which coal mined from the Premises is mixed, blended, or commingled.

9. ADVANCE ROYALTY

Upon execution of this Lease, Lessee shall pay to USS, as a contemporaneous exchange, the sum of 37.5% of ___ [to be negotiated by RGGGS, same as in mineral lease] ___ Thousand Dollars (\$___,000.00) which shall be considered as Advance Royalty. Said Advance Royalty shall be recoverable by Lessee only against Actual Production Royalty due USS for coal mined from the Premises during the term of this Lease. Any and all Advance Royalty which is not recovered against Actual Production Royalty due USS during the term hereof shall be forfeited by Lessee and retained by USS.

10. MINIMUM ROYALTY

Except as provided for in Section 16, the Minimum Royalty which shall be paid to USS by Lessee, when due and without demand by USS, on or before the twentieth (20th) day of each month beginning the _____ (___)th month after execution of this Lease and every month thereafter during the term hereof shall be 37.5% of ___ [to be negotiated by RGGGS, same as in mineral lease] Thousand Dollars (\$___,000.00). Minimum Royalty paid by Lessee during the term of this Lease shall be recoverable only against Actual Production Royalty during the term hereof. Any and all Minimum Royalty paid by Lessee to USS during the term of this Lease and not recovered against Actual Production Royalty prior to the extension, expiration, or termination of the term of this Lease, for any reason whatsoever, shall be forfeited by Lessee and retained by USS

11. CESSATION AND RECOVERY OF MINIMUM ROYALTY

Except as otherwise provided herein, if at any time during the _____ (___) year term of this Lease, Lessee shall have paid USS an amount of Minimum Royalty which is then equal to the number of tons of mineable coal remaining to be mined on the Premises multiplied times the average Actual Production Royalty rate paid per ton by Lessee during the then most recent six (6) months of this Lease, Lessee may, upon written notification to USS and only after receipt by USS of said written notification, for a period of time cease payment of further Minimum Royalty and apply any and all future Actual Production Royalty due USS against any unrecovered Minimum Royalty until such time as said amount of unrecovered Minimum Royalty has been reduced to zero (0), so long as said period of time does not exceed twelve (12) months from the date of Lessee's written notification to USS of the existence of said condition. In the above described instance, Lessee's payment of Minimum Royalty required hereunder shall resume when the amount of all unrecovered Minimum Royalty has been reduced to zero (0). In the event this Lease is terminated, for any reason whatsoever, and the Lessee has not recovered all of the outstanding Minimum Royalty paid by Lessee hereunder against Actual Production Royalty, as set out above, said unrecovered Minimum Royalty shall be irrevocably forfeited by Lessee.

12. WHEELAGE ROYALTY

If Lessee should bring coal, coal products, or coal by-products onto the Premises for sale to third parties, which coal has been mined, obtained or purchased elsewhere than from the Premises, Lessee shall pay to USS a Wheelage royalty of 37.5% of Twenty Five Cents (\$0.25) per ton for each ton of Two Thousand Pounds of such coal (hereinafter referred to as "Foreign Coal") which is:

1. transported into, on, over, across or through the surface of the Premises regardless of whether or not said Foreign Coal is transported on a public road or public easement,
2. washed, processed, treated or blended (in any manner whatsoever) through any facility of Lessee, its contractors, affiliates, subsidiaries, employees, agents, or assigns on the surface of the Premises, or
3. stored, stockpiled on the surface of the Premises or loaded for sale to third parties from the surface of the Premises.

Foreign Coal shall include any and all coal and/or coal products and by-products mined, recovered, obtained or purchased by Lessee, its contractors, affiliates, subsidiaries, employees, agents, or assigns from any location off the Premises, except for other lands of USS or RGGGS leased by Lessee. Lessee shall report all tonnages of Foreign Coal as separate items on the monthly report of production and royalty described in Paragraph 13 below. The provisions of this Paragraph shall apply in every case except for Foreign Coal of significantly different quality and characteristics brought by Lessee or others onto the Premises for the specific purpose of blending with coal mined by Lessee from the Premises in order to enhance the characteristics or increase the value of USS's or RGGGS coal in the final blended product. Any exception(s) to the provisions of this Paragraph **shall not be recognized or allowed** unless said exception(s) are first approved in writing by USS, which approval may be withheld without cause.

13. ROYALTY PAYMENTS AND REPORTS

Payments for coal mined and sold hereunder shall be made on a timely basis, when due and without demand by USS, on or before the twentieth (20th) day of each month for all coal, including Foreign Coal, mined, shipped, and sold by the Lessee, its principals, employees, agents, associates, affiliates, or assigns, during the preceding month, as evidenced by a report or reports furnished by the Lessee to USS on a timely basis, when due and without demand by

USS, on or before the **twentieth** (20th) day of each month for all coal, including Foreign Coal, mined, shipped, and sold by Lessee, its principals, employees, agents, associates, affiliates, or assigns, during the preceding month. Such report or reports shall be made either on a form or forms of USS supplied to Lessee or on a form or forms of Lessee which are approved by USS. Such reports shall, at USS's request, be accompanied by copies of invoices, purchase orders, sales receipts, bills of lading, truck weight tickets, railroad weight tickets, barge weight tickets, statements of transportation, washing and handling charges, and other forms of verification as may be deemed necessary by USS showing the actual amount of coal mined, processed, stockpiled, loaded, shipped, and sold from the Premises by Lessee, its agents, affiliates, and assigns during the preceding month and shall also include individual sales of coal by Lessee, the customers to which coal was sold, the Gross Sales Prices of coal for each sale, itemization of allowable deductions for each sale, calculations of Actual Production Royalty due USS for each sale and for the preceding month, and the location, by Quarter-Quarter Section, Township, and Range, of the lands of USS from which such coal was mined. Each report shall be certified to be true, accurate, and correct by Lessee and shall be to the satisfaction of USS. In any event, all of the aforementioned items shall be made available to USS by Lessee, at all times upon USS's request, for any month during the term of this Lease.

14. FAILURE TO REPORT AND PAY

A. In the event of failure of Lessee to report all coal mined, transported, stockpiled, processed, shipped, and sold on or before the **twentieth** (20th) day of the month in which such report is due, as provided for in **Paragraph 13** above, and upon the further failure of Lessee to report such coal mined, transported, stockpiled, processed, shipped, and sold within **ten** (10) days after receipt from USS of written notice of Lessee's failure to make such report, USS shall have the right to irrevocably terminate this Lease upon written notice to Lessee.

B. In the event of failure of Lessee to pay any royalty (Actual Production, Minimum, Wheelage, or otherwise) or to pay any other sum due to USS under this Lease on or before the **twentieth** (20th) day of the month in which such royalty or other sum is due, and upon the further failure of Lessee to pay such royalty or other sum within **ten** (10) days after receipt from USS of written notice of non-payment USS shall have the right, without further notice to Lessee, to:

- (1) Exercise any of the remedies set forth herein to collect from Lessee any sum of money due USS hereunder; and
- (2) Terminate this Lease at the end of said **ten** (10) day period without further notice or demand from USS.

C. As stated in **Paragraph 13** above, all reports for all coal mined, shipped, and sold by Lessee, its principals, employees, agents, associates, affiliates and assigns, and payments of the royalty due USS therefor, shall be made on a timely basis when due and without notice or demand by USS. It is therefore understood and irrevocably agreed by Lessee that if Lessee should fail to make any **three** (3) reports or payments of royalty due USS on a timely basis, when due and without notice or demand by USS, within any consecutive **twelve** (12) month period during the term of this Lease, such failures of Lessee to report and pay timely shall give USS the right to irrevocably terminate this Lease upon **ten** (10) days written notice to Lessee.

15. BEST PRACTICE IN MINING

For the purpose of maximizing Actual Production Royalties due USS hereunder and conserving natural resources, Lessee shall conduct its coal mining operations on USS's Premises in accordance with the Best Mining Practice of a prudent operator, so that there will be no needless or avoidable loss or waste of coal. The term "**Best Mining Practice**", as used herein, shall mean those modern mining methods and practices employed by a prudent mining operator using modern mining equipment and techniques in the conduct of diligent and aggressive mining operations in an attempt to recover the maximum amount of economically mineable and merchantable coal on the Premises. If Lessee should fail to mine all coal on the Premises with the Best Mining Practice and fail to mine all which could be economically mined prior to the expiration or termination of this Lease and, by Lessee's actions or omissions, Lessee makes the subsequent recovery of such unmined coal impossible or uneconomical, Lessee shall promptly pay USS for all such unmined coal at the same Actual Production Royalty rate paid for coal mined hereunder, which amount of such unmined coal shall be determined by USS, its agents, or assigns. Lessee shall not, however, be held liable for rendering any coal unmineable or uneconomically recoverable when such act is caused by the normal reclamation of the Premises mined hereunder by a prudent operator using the Best Mining Practice, as defined herein, and as required by state and/or federal law. Lessee agrees to use its best efforts to employ Best Mining Practices. Should Lessee fail to mine all coal by not employing Best Mining Practices, it shall have **thirty** (30) days to improve its mining practice after written notice from USS. Failure by Lessee to improve its mining practice after written notice from USS may result in cancellation of this Lease.

16. COMMENCEMENT OF OPERATIONS

It is understood and agreed by and between the parties hereto that, as a part of the consideration for USS's entering into this Lease, Lessee shall promptly commence and actively pursue an aggressive coal mining operation in order to maximize the benefits of current coal market conditions. If Lessee's mining operations hereunder includes the leased seam or seams of coal described herein not only on the Premises but also on adjoining lands of others, the diligent, aggressive, and continuous operations required of Lessee hereunder shall include all operations within Lessee's mine area boundaries, whether on the Premises or lands of others, which are the normal mining operations of a prudent operator. If Lessee should fail to commence bona fide continuous mining operations within one (1) year after the effective date of this Lease then the Minimum Royalty due each month shall escalate to 37.5% of ___ [to be negotiated by RGGGS, same as in mineral lease] ___ **Thousand Dollars** (\$___,000.00), unless such failure to commence mining operations is caused by Lessee's inability, after diligent and aggressive efforts, to obtain the necessary permits relating to the start-up of mining activities from state and/or federal regulatory agencies.

17. SUBMITTAL OF MINING PROJECTIONS

A. Lessee shall furnish USS with a map or maps showing the area(s) of the Premises on which Lessee intends to conduct coal mining operations. Lessee shall furnish such map or maps of Lessee's intended mining operations to USS no less than **thirty** (30) days prior to the commencement of operations and thereafter on an annual basis on the anniversary date of this Lease or at any time during the term hereof that the mining projections are changed, amended, or altered in any way. Said maps of mining projections shall include, but shall not be limited to, such information as:

- (1) the seam or seams which Lessee intends to mine;
- (2) the estimated maximum and minimum highwall height or limit(s) that Lessee intends to mine to on said seam(s);
- (3) the area(s) where Lessee intends to stockpile or blend coal mined from the Premises;
- (4) the access roads and routes of transportation in the mine; and
- (5) the location(s) of any washing or preparation facility(s), sediment ponds, water impoundments,

mine gob areas, slurry ponds, and power transmission lines located on the Premises.

B. Upon submittal by Lessee, USS shall have **thirty (30) days** in which to review said mining projections for the purpose of ascertaining Lessee's intention to operate according to Best Mining Practice and to coordinate Lessee's mining projections with other USS operations or uses of the Premises. During said **thirty (30) day period**, USS may question or comment on Lessee's mining projections, however, if USS does not respond to Lessee within said **thirty (30) day period**, Lessee may assume that said mining projections so submitted are satisfactory to USS. Should USS notify Lessee of a conflict between Lessee's mining projections and other USS operations or uses of the Premises, USS will notify Lessee within said **thirty (30) day period**, and USS and Lessee shall meet to discuss modifications to said mining projections. It is recognized by the parties hereto that the rights herein reserved to USS as described in **Paragraph 19** below, may possibly conflict with the rights granted to Lessee hereunder. In the event of such conflict or potential conflict, the parties shall negotiate in good faith and attempt to resolve the issue to their mutual satisfaction.

18. MINING PROGRESS MAPS

Lessee shall, not later than the **twentieth (20th) day** of each **January, April, July, and October**, respectively, during the term hereof furnish USS with a **map or maps** made by an **Alabama Registered Professional Land Surveyor** showing Lessee's mining progress during the preceding **three (3) month period**. The maps shall include, but shall not be limited to, a legend containing leaseholder name and address, numeric and bar scale, north arrow, location (i.e. section- township-range, county, state), subcontractor name and address, mine name, mining permit number, surveyor's name and place of business, date of map, and time period of map. The map shall also indicate sufficient coal thickness measurements to determine the actual amount of coal mined by Lessee, the areal extent of mining, the location and date of highwalls (if applicable), township and range lines with section numbers, state plane coordinate line (if available) and the calculations of the number of tons removed from each seam by quarter- quarter section. The maps shall be color coded so as to discern production from separate seams and individual production months. The map to be furnished by the **twentieth (20th) day of January** must be reproducible. In all cases, the maps and the information supplied by Lessee thereon shall be to the reasonable satisfaction of USS.

19. USE OF THE SURFACE

On all of the lands described in this Lease where USS owns surface rights (as described in Exhibit A attached hereto), Lessee shall have the right, except as otherwise provided herein, to use the surface of said lands in any way which may be necessary for the mining, removal, stockpiling, transportation, processing, blending, or marketing of any and all coal mined from the Premises hereunder, showing those areas of USS's surface that Lessee desires to use and detailing Lessee's specific use of said surface lands. Lessee specifically and irrevocably agrees that it shall not use said surface until USS has approved in writing Lessee's desired land use and the location of such use. It is understood and irrevocably agreed that Lessee shall not have the right to grant easements or rights-of-way for railroads, private roads, or other roads of any description, telegraph, telephone, electrical or other transmission lines or easements, or to grant others the right to use the surface of the Premises for any reason whatsoever. Lessee further irrevocably agrees that Lessee, its agents, associates, affiliates, or assigns will not close or restrict access to any road(s) existing on or crossing the surface of the Premises without the express prior written permission of USS. USS reserves for itself, its successors and assigns, the absolute and paramount right to the use of the surface of the Premises in which Lessee is granted the right to use hereunder.

20. POST MINING LAND USE

The post mining land use of all surface lands of USS disturbed by mining hereunder shall be timber reproduction, unless otherwise specified by USS. Lessee agrees that such post mining land use shall be specified in any application that Lessee may make for permit(s) to mine on the Premises hereunder. Lessee further agrees that, prior to filing Lessee's application for such permit(s), Lessee will consult with USS as to the species of trees and ground cover plants to be planted and seeded on the mined Premises and shall specify such species in the permit application. Lessor shall not, however, by designating such species, assume any liability for the success or failure of the planting or growing thereof and Lessee shall be solely responsible for complying with all requirements hereunder in this regard.

21. REMOVAL OF TIMBER AND VALUATION

Lessee shall provide USS with its proposed plans for each area of the Lands where the Minerals will be developed at least sixty (60) days in advance of operations which will impact timber, which plans shall show the surface area of the Lands that is reasonably expected to be affected by operations, access Roads, pipelines, surface equipment, any diversion or impoundment of water, etc. The surface area of the Lands to be affected by the operations and activities of Lessee and/or its licensees or lessees shall be plainly visible and identifiable in the field. During the Notice Period, USS's foresters shall cruise the area to be affected and shall consult with Lessee to suggest modifications of Lessee's surface locations which would minimize damage to Merchantable Timber. All tree values shall be based on current market prices as determined for the local area. USS will attempt to contract for removal and marketing of the Merchantable Timber during the Notice Period; and, if USS fails to do so during the Notice Period, Lessee may thereafter attempt to contract (for the account of the USS) for removal and marketing of the Merchantable Timber after the Notice Period on commercially and economically reasonable terms; provided, however, that USS shall not be required to remove and market the Merchantable Timber if it cannot do so on commercially and economically reasonable terms. If USS (or Lessee, for the account of the USS) is able to remove and market the Merchantable Timber on commercially and economically reasonable terms during or after the Notice Period or an extended period approved in writing by Lessee, no payment shall be due USS for Merchantable Timber damage, and USS shall be entitled to the net proceeds of the sale of such Merchantable Timber. Should Lessee, at Lessee's election, decide to proceed with clearance of such surface area on the Lands before the Notice Period elapses or if commercially and economically reasonable sale of the Merchantable Timber is not available during the Notice Period or an extended period approved by Lessee, then a payment for the fair market value of the Merchantable Timber shall become due USS by Lessee within thirty (30) days after the value of same is established as provided herein. It is hereby acknowledged by Lessee that this Agreement and all timber on the Lands may be subject to various timber sale agreements between USS and third parties, who shall be bound by the provisions hereof. The term "**Merchantable Timber**" shall include all timber having an age of at least fifteen (15) years and having commercial value at the time such timber is harvested. Fair market value of Merchantable Timber shall be agreed upon or if agreement is not reached, determined by the Appraisal Procedure. As used herein, "**Pre-Merchantable Timber**" shall mean all timber which is not Merchantable Timber. With respect to any Pre-Merchantable Timber which will be damaged by Lessee's and/or its contractors', agents', licensees' or lessees' operations, Lessee shall purchase all such Pre-Merchantable Timber at an estimate agreed by Lessee and USS of its present value, based on the pre-tax value the timber is expected to have at the time it most likely would be harvested in the ordinary course of USS's timber management program, discounted from that time to the present at a rate of ten percent (10%) per annum. If Lessee and USS are unable to agree on a value for the Merchantable Timber and/or the Pre-Merchantable Timber, the value of such timber shall be determined utilizing the Appraisal Procedure. After paying for the Merchantable Timber and/or the Pre-Merchantable Timber, Lessee may destroy or salvage it, with Lessee to retain the proceeds of any salvage, but must do so with reasonable care to avoid damage to adjoining timber stands not being purchased. For purposes hereof, the "Appraisal Procedure" shall consist of the following: all appraisals shall be made by an Alabama State Registered Forester who shall determine the fair market value of the Merchantable Timber and the present value, determined in accord with the formula set forth above, of the Pre-Merchantable Timber thereon. The appraisal shall be conducted at the joint expense of USS and Lessee by an independent forester agreed upon by Lessee and USS. If Lessee and

USS are unable to agree upon an appraiser, Lessee and USS shall each appoint and pay for an independent appraiser. Each appraiser shall deliver an appraisal to Lessee and USS within fourteen (14) days of appointment. If the difference in appraised values is five percent (5%) or less, the value shall be the average of the two appraised values. If the difference in appraised values set forth in the two appraisals is more than five percent (5%), each of Lessee and USS shall instruct the appraisers previously selected to select a third independent appraiser to deliver an appraisal of such parcels within fourteen (14) days, which appraisal shall be binding and conclusive on the Lessee and USS. In the event Lessee and USS do not agree on an appraiser, each party shall bear the cost of the appraisal furnished by its chosen appraiser. If a third appraisal is required, each party shall bear one-half of the cost for such appraisal.

22. LESSEE'S LIABILITY AND INDEMNIFICATION FOR INJURIES

A. Lessee is an independent contractor under this Lease, and USS in no way shall be liable for any injury or damage, or claims of injury or damage, whatsoever to persons or property which may result from Lessee's exercise of the rights granted Lessee hereunder or from Lessee's operations on the Premises under this Lease and/or from the lack of safety (latent or patent) of the Premises, and Lessee assumes all risk of personal injury, death, and/or property damage from any cause whatsoever. Lessee irrevocably agrees that it shall indemnify, protect, hold harmless, save, and defend USS, its directors, officers, employees and agents (each a "Protected Party") from and against any and all suits, actions, legal proceedings, claims, demands, court costs, litigation expenses, attorneys fees, consultants fees, judgments, awards, and other costs or expenses whatsoever, in any manner caused by, arising from, incident to, related to, connected with, or growing out of Lessee's or Lessee's principals, employees', contractors' agents', or assigns' activities and/or operations hereunder, or the use or occupation of the Premises by Lessee, its principals, employees, contractors, agents or assigns. Lessee's obligations of defense and indemnification to a Protected Party shall survive indefinitely the termination or expiration of this Lease.

B. It is hereby understood and irrevocably agreed by Lessee that it is the intent of USS in this Lease, that in the event and to the extent a claim is made by an employee of Lessee against a Protected Party hereunder, that Lessee, its successors and assigns will indemnify the Protected Party to the same extent as if the claim were made by a non-employee of Lessee, notwithstanding any statute or judicial decision otherwise disallowing such indemnification. It is the intent of this Lease that, as a part of the consideration of Lessee to USS under this Lease, and regardless of any defense the Lessee might have, Lessee, its successors and assigns, shall indemnify the Protected Party against all claims of any nature whatsoever, and hereby specifically, expressly and without reservation waives any defense it might have under the Worker's Compensation Act of Alabama, or any statute or judicial decision.

23. INSURANCE

A. Lessee agrees that before it or any of its contractors enter upon the Premises, it will obtain and maintain in full force and effect, or will cause its contractors to do so, Commercial General Liability insurance under an occurrence policy form in an insurance company or companies satisfactory to USS, and possessing an A.M. Best Company rating of A-, Class VII or better, for bodily injury, including death, and property damage in a minimum amount of [high risk: Two Million / low risk: One Million] Dollars (\$____.00) per occurrence and [high risk: Four Million / low risk: Two Million] Dollars (\$____.00) in the aggregate. Lessee agrees to procure and maintain insurance policies in accordance with the terms and provisions outlined in Attachment "I" attached hereto and incorporated herein, including without limitation, adding USS as an Additional Insured; obtaining waiver of subrogation; agreeing to give USS sixty (60) days' prior written notice upon policy cancellation or change; and providing subcontractor coverage (if applicable). Lessee further agrees to immediately provide a copy of Attachment "I" to its insurance company and/or insurance agent.

B. If Lessee bears witness to or receives information from any third party of personal injury, property damage, or environmental release occurring adjacent to or adjoining the Premises, Lessee shall provide Lessor with immediate notice of any such event.

C. The obligations set forth in this Section and in Attachment "I" shall continue after the termination of this Lease as to any matters that occurred during or resulted from the term of this Lease.

24. ESTIMATE OF COAL QUANTITY

In making any estimate of the quantity of coal mined by Lessee, its agents or assigns under this Lease, one (1) ton of two thousand (2,000) pounds of coal shall be considered as occupying or containing twenty-five (25) cubic feet of coal in-place.

25. AUDIT

In order to determine the accuracy or correctness of Lessee's mining, reporting, and sales procedures or of any financial and accounting report required of Lessee for coal mined from the Premises under this Lease, Lessee shall keep adequate financial and accounting books, records, and reports concerning any and all coal mined, blended, processed, transported, and sold hereunder, and USS, through its employees, representatives, agents and assigns, shall have the right to review and audit, at all reasonable times, said books, records, and reports of Lessee, its agents, contractors, and assigns. All of said books, records, and reports of Lessee, its agents, contractors, and assigns, shall be kept open and available for inspection for not less than three (3) years following the date of expiration or termination of this Lease.

26. FORCE MAJEURE

Should the Lessee be unable to mine coal from the Premises during a period of fourteen (14) or more consecutive calendar days during the term hereof, as a result of a Force Majeure, the Minimum Royalty payment for the subsequent period in which Minimum Royalty is due USS hereunder shall be adjusted and prorated to waive the Minimum Royalty for such days in which Lessee was unable to mine coal. The term "Force Majeure", as used herein, shall mean a nationwide strike in the coal industry (but not strikes or labor disturbances otherwise), acts of God, acts of a public enemy, wars, or insurrections, earthquakes, floods, loss of utility, and other causes beyond the reasonable control of Lessee. In order for Lessee to be eligible for the relief granted by this Paragraph, Lessee must and shall immediately notify USS, in writing, of any condition qualifying as Force Majeure hereunder. For the purposes of this Lease, and notwithstanding anything herein elsewhere provided to the contrary, Lessee irrevocably agrees that no Force Majeure condition shall exist under this Lease until USS shall have acknowledged, in writing, receipt of Lessee's written notice of a condition qualifying as a Force Majeure hereunder. Lessee shall notify USS, in writing, immediately upon cessation of any such condition qualifying as a Force Majeure hereunder. Failure to notify USS of the cessation of such condition shall constitute a default of Lessee under this Lease. It is specifically understood and agreed by Lessee that Lessee's inability to sell coal mined from the Premises under or pursuant to this Lease due to depressed coal market conditions shall not qualify as a Force Majeure conditions hereunder.

27. FINANCIAL STATEMENTS

Lessee shall from time to time, at USS's request, furnish USS with copies of information verifying Lessee's financial stability and of Lessee's ability to perform its covenants and obligations under this Lease. USS and Lessee shall agree on the form(s) of financial verification to be submitted at the time such information is due or requested by USS. Thereafter, Lessee shall submit such information to USS within thirty (30) days from the date such financial information is due or requested by USS.

28. ENVIRONMENTAL

A. Should the discharge, leakage, spillage, or emission of any flammable, explosive, caustic, corrosive, or radioactive substance or Hazardous Material (as defined in Paragraph 29(c) below) occur upon or from the Premises which is due or in any manner attributable to Lessee's actions or inactions during the Lease Term, Lessee, at its sole cost and expense, shall be obligated to clean up and remediate the Premises and any other property affected thereby, to the satisfaction of Lessor and all governmental authorities having jurisdiction thereover. If such leakage, spillage, or emission should occur in reportable quantities during the Lease Term, Lessee shall promptly inform Lessor of such occurrence, and the Lessee shall promptly commence any notification and necessary cleanup action.

B. Lessor may make written demand on Lessee for cleanup of the Premises or other affected property, and if Lessee does not undertake to comply with that demand within ten (10) days, then Lessor shall have the right to clean up the Premises and such other affected property to Lessor's satisfaction, and Lessor's costs shall all be chargeable to Lessee, provided that Lessor's exercise or failure to exercise such right shall not be a waiver of any other rights it might have under this subsection or at law.

C. As used in this Lease, the term "Hazardous Material" shall mean any substance or material (including without limitation "liquid sewage sludge") which has been determined to be capable of posing a risk of injury or damage to health, person, safety, or property under any applicable federal, state, and local laws, codes, ordinances, rules, decrees, order, judgments, implementing regulations, and applicable regulatory permits relating to pollution or protection of the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act of 1976, the Superfund Amendments and Reauthorization Act of 1986, and all other laws and regulations relating to hazardous and toxic substances, emissions, releases, and discharges of pollutants, wastes, and other substances into ambient air, surface water, ground water, or land, whether such requirements exist on the date hereof or are adopted in the future.

D. The Lessee, as an independent contractor hereunder, in the exercise of any of the rights granted to Lessee by this Lease, irrevocably agrees that it will, at its sole efforts and expense, comply with all applicable past, present and future laws, ordinances, rules, and regulations enacted by any federal, state, county, or municipal governmental agency(s) having jurisdiction or control over mining, reclamation, storm water discharge, wetlands, and environmental pollution or any other aspect or facet of this Lease, including but not limited to:

- (1) the Surface Mining Control and Reclamation Act of 1977;
 - (2) the Alabama Surface Mining Act of 1969;
 - (3) the Alabama Surface Mining Control and Reclamation Act of 1981, as amended 1983 and 1990;
 - (4) the Alabama Water Pollution Control Act, as amended 1982;
 - (5) the Alabama Solid Wastes Disposal Act of 1969;
 - (6) the Alabama Air Pollution Control Act, of 1971, as amended 1982;
 - (7) the Alabama Hazardous Wastes Management and Minimization Act of 1978, as amended 1985 and 1987;
 - (8) the Federal Toxic Substances Control Act of 1976;
 - (9) the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986;
 - (10) the Federal Water Pollution Control Act, as amended 1987;
 - (11) the Federal Clean Air Act, as amended 1990;
 - (12) the Federal Resource Conservation and Recovery Act;
 - (13) the Hazardous Materials Transportation Act; and
 - (14) the Best Management Practices of the Alabama Department of Environmental Management
- (herein "Environmental Laws") together with any amendments, additions, changes, or deletions thereto, or similar laws, to the extent that they may be applicable, and Lessee irrevocably agrees that it shall indemnify, protect, defend, save, and hold USS harmless from any loss or claims of loss, expense or claims of expense, or damage(s) or claims of damage(s) resulting from or related to any failure, omission, or claims of failure or omission of Lessee, its principals, employees, agents, contractors, or assigns to comply therewith. All of Lessee's obligations of defense and indemnification to USS hereunder shall survive the termination or expiration of this Lease.

E. Lessee shall notify Lessor of the receipt of any notice, order, or citation alleging the violation of any Environmental Law, and shall provide Lessor with copies of any citations, permits, or licenses issued by governmental authorities required by any Environmental Law, copies of all materials filed by Lessee with governmental authorities relating to Hazardous Materials, copies of any environmental reports or assessments relating to the Premises, and any other material or document relating to the presence of Hazardous Materials on the Premises.

F. This Paragraph shall survive the expiration or termination of this Lease.

29. POLLUTION PREVENTION AND ENVIRONMENTAL INDEMNIFICATION

A. Except for the materials listed in "Exhibit ____" which are necessary for Lessee's business operations, Lessee, in order to prevent the pollution, contamination, waste, or other damage to the Premises, its improvements, its fixtures, and its personal property, and to adjacent properties and to non-adjacent properties, is prohibited at all times from storing, treating, discharging, disposing, transporting, generating, emitting, handling, or otherwise having on the Premises any chemicals, raw materials, products, or byproducts. During the Lease Term the materials listed, in "Exhibit ____", will be updated by the Lessee and approved by the Lessor in writing prior to the use of any other materials on the Premises. Lessee is also prohibited from storing, treating, discharging, disposing, transporting, generating, emitting, handling, or otherwise having on the Premises any wastes or the like in any form (including gases, liquids, semi-solids, and solids), that cause or tend to cause pollution, contamination, nuisances of any kind, or that pose a threat to human health and the environment, if introduced into the environment by any means. The Lessee is specifically precluded, without limiting the foregoing, from having on the Premises "hazardous waste", as defined under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6901 *et seq.*, as amended; "hazardous substances" as defined under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §§9601 *et seq.*, as amended; "pollutants and contaminants", as defined under CERCLA; "extremely hazardous substances, hazardous chemicals, and toxic chemicals", as defined under the Emergency Planning and Community Right-to-know Act, 42 U.S.C. §11001, *et seq.*, as amended; "toxic substances", as defined under the Toxic Substances

Control Act, as amended; and "regulated substances", as defined under RCRA, 40 C.F.R. §280.12, as amended. The Lessee is also prohibited from allowing others to have any of the preceding materials on the Premises. In addition to the **indemnification** of Lessor set forth in paragraph 30(b) below, the Lessee shall be liable to the Lessor for any damages to the Premises or to any persons or other property, real or personal, for a breach or violation of this paragraph. Nothing in this paragraph is intended to limit any rights or causes of action Lessor may have elsewhere within this Lease or in general.

B. Lessee agrees to defend and indemnify Lessor against and to hold Lessor harmless from all claims, actions, proceedings, judgments, awards, liability, cost, or expense (including attorneys fees, consultants fees, and other legal costs), for death, injury, loss, or damage to any person or property, brought by any person, firm, corporation, or governmental entity, resulting from any cause whatsoever including, but not limited to those resulting or arising from or in connection with the active or passive effects or existence of petroleum products or any physical substance of any nature or character, on, under or in the land, water, air, structures, fixtures, or personal property comprising the Premises, from and after the date hereof, whether resulting from Lessee's use of the Premises or otherwise. In addition to claims supported by other theories of liability, the foregoing indemnification applies to claims for injuries, damages, penalties, cleanup, and restoration costs resulting from contamination of any property, its surface, subsurface, groundwater, soil, or air, arising from environmental laws, regulations, or common law of the United States or state or local authorities, including provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9601, *et seq.*, as amended, and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901, *et seq.*, as amended.

C. This paragraph shall survive the expiration of the Lease Term, and is specifically intended to apply to discovery of any of the above described events or circumstances that occurred during the Lease Term or any extension thereof of this Lease whenever discovered.

30. MINING LICENSES AND PERMITS

A. The Lessee, shall comply with all past, present, and future laws, ordinances, rules, and regulations enacted by any federal, state, county, or municipal governmental agency(s) having jurisdiction or control over mining, reclamation, storm water discharge, wetlands, and environmental pollution or any other aspect or facet of this Lease and shall, at its sole efforts and expense, procure all necessary licenses and permits pertaining to its operations on the Premises, including but not limited to all mining licenses and mining permits required by any municipal, county, state, or federal governmental agency(s). Lessee shall, upon execution hereof, or as soon thereafter as is possible, furnish USS with copies of the following information:

- (1) Lessee's or Lessee's assigns' current and valid mining license; and
- (2) Lessee's or Lessee's assigns' approved mining permit(s); and
- (3) Lessee's or Lessee's assigns' reclamation bonds.

B. If, at any time during the term of this Lease, any of Lessee's or Lessee's assigns' mining licenses, mining permits, or reclamation bonds should be changed, amended, or altered in any way, Lessee shall immediately furnish USS with copies of the same specifically depicting such changes, alterations, or amendments. Lessee or Lessee's assigns shall not, for any reason whatsoever, obtain or seek to obtain any waivers from the original mining and reclamation plans and permits without first notifying USS in writing and obtaining written permission from USS.

C. If, at any time during the term of this Lease, any of Lessee's or Lessee's assigns' mining licenses, mining permits, or reclamation bonds should be canceled, revoked, terminated, or in any other manner rendered permanently inoperative, null or void, for any reason whatsoever, by any act of any federal, state, county, or municipal governmental agency, which act would operate to defeat Lessee's or Lessee's assigns' rights or ability to mine coal on the Premises, as is the intent of this Lease, USS may, at its sole discretion and option, terminate this Lease upon ten (10) days written notice to Lessee.

31. WORKERS' COMPENSATION

Lessee irrevocably agrees that in its exercise of any of the rights granted to Lessee herein and in all of its operations hereunder, Lessee is and shall be an independent contractor and shall be exclusively liable for the payment of all sums of money and benefits due to all persons legally entitled thereto who are properly engaged in Lessee's or Lessee's agents' and assigns' operations, including any amounts due its employees under the **Alabama Workers' Compensation Act**, or any other law, and Lessee shall indemnify, protect, defend, and save USS harmless against Lessee's or Lessee's agents' or assigns' failure to pay any and all payments due to and claims for payments made by persons engaged by Lessee or Lessee's agents and assigns in any work conducted hereunder, including those specific instances as described in **Paragraph 23** above.

32. PAYMENT OF LEVIES AND TAXES

Lessee, in the exercise of any of the rights granted to Lessee under this Lease, specifically and irrevocably agrees:

(1) To pay all contributions, levies, taxes, or other sums, by whatever name called, for which USS might otherwise become liable with reference to all wages, benefits, or other sums paid employees of the Lessee, its agents, contractors, and assigns, whose labor enters into the mining, transportation, production, treatment, shipment, or sale of any coal or other materials of any kind whatsoever, produced under this Lease or reclamation of mining on the Premises in all cases where such contributions, levies, taxes, or other sums are or shall be required to be paid under any federal, state, county, or municipal unemployment act or Social Security Act, by whatever name called, and to indemnify, protect, save, defend, and hold USS harmless against Lessee's or Lessee's agents', contractors', or assigns' failure to comply therewith and also against any federal, state, county, municipal, or personal claims whatsoever fixed or levied with reference to the wages of employees of Lessee, its agents, contractors, or assigns; and

(2) That USS shall, in accordance with law, assess and pay taxes on the interests owned and/or leased by USS in the Premises ; and

(3) That Lessee shall, in accordance with law, assess and pay taxes on all machinery, structures, equipment, improvements, and other property of Lessee now or hereafter located or placed by Lessee in its mines or on the Premise. Lessee shall also pay any so-called severance, tonnage, license, privilege, or occupational taxes on coal which Lessee has the right to mine or in fact mines from the Premises and shall indemnify, protect, save, defend, and hold USS harmless from and against any liability or claims of liability, or damages or claims of damages arising from or related to Lessee's failure to pay such taxes. Lessee shall have the right in good faith to contest or review, at its sole efforts and expense, in such manner as it deems suitable, and in USS's name if desirable, any tax, charge, levy, or assessment whether general, special, ordinary, or extra-ordinary, layed, levied, assessed, or imposed upon Lessee.

33. CHALLENGE OF TITLE

It is understood and irrevocably agreed by Lessee that USS does not warrant the title to the Premises or to any coal which may exist thereon. In the event that any claim(s) be made or litigation instituted by any third party as to the title or ownership of USS in or to any portion or interest of the Premises described herein, USS shall have the right, but not the obligation, to defend the same. Should USS choose not to defend USS's title, Lessee shall have the right, at its option and its sole expense, to defend USS's title. Upon determination, by a court of competent jurisdiction in a proceeding to which USS is a party that USS's title to any part or interest in the Premises described herein is defective to such extent as to defeat Lessee's right or ability to mine coal thereon under this Lease, notice by USS to Lessee of such determination shall operate to eliminate from this Lease any and all acreage of the Premises so determined to be defective. In such case, USS's sole liability and responsibility to Lessee shall be to refund to Lessee any royalties paid to USS by Lessee for coal mined from said defective acreage, and in no event shall USS be liable to Lessee for any direct or consequential damages sustained or assessed against Lessee as a result of the mining of the coal in any land as to which USS's title fails. It is specifically understood and irrevocably agreed by Lessee that Lessee, its agents and assigns, have satisfied themselves as to the competency and sufficiency of USS's title to the Premises and the interests contained therein prior to entering into this Lease.

34. RIGHT OF ACCESS

USS, through its employees, representatives, agents, and assigns, shall have, at all times during the term of this Lease and without limitation, the free, unrestricted and unobstructed access to the Premises.

35. PRIOR LEASES

This Lease is made subject to all easements, rights-of-way, leases, leases, agreements, or other rights of third parties now existing which affect USS's lands covered by this Lease.

36. ZONING

This Lease and Lessee's rights hereunder are subject to all applicable zoning and subdivision laws, rules, regulations, and ordinances, including any and all blasting covenants and restrictions related thereto, and the burden and cost(s) of compliance therewith shall be solely upon Lessee. Under no circumstances whatsoever, shall Lessee, its agents, employees, or assigns, seek to change any zoning and/or subdivision regulations or classifications concerning the Premises described herein without the express prior written approval of USS. Lessee shall protect, defend, indemnify, save, and hold USS harmless against any consequence arising from Lessee's failure to comply with any and all applicable zoning and/or subdivision regulations, including but not limited to any and all blasting covenants and restrictions related thereto.

37. CONDEMNATION OF PREMISES

If the Premises in whole or in part, or any portion thereof or interest therein, shall be acquired or condemned by any action of eminent domain or sold in lieu thereof by or for any public or quasi-public use or purpose, which action shall serve to defeat USS's or Lessee's rights or ability to mine coal from the Premises, then USS shall give notice of any such action to Lessee in writing. Such notice by USS to Lessee of such action or determination shall operate to eliminate from this Lease any and all acreage of the Premises so determined by such action or determination. In any such case, Lessee irrevocably agrees that USS shall have no responsibility or liability, either directly or indirectly, to Lessee to refund, reimburse, or compensate Lessee for any direct, indirect, incidental, or consequential damage(s) or claims of such damage(s), by Lessee or others for such action or determination. If the Premises in its entirety shall be acquired or condemned by any aforesaid action or determination, then this Lease, and all of the rights granted to Lessee herein, shall cease and terminate as of the date of title vesting in any such action, determination, or proceeding, and all Actual Production Royalties due USS by Lessee for coal mined and sold prior to such termination shall be paid up to said date, but any unearned Advance Royalties or Minimum Royalties paid shall be refunded to Lessee. Lessee shall have no claim against USS for any value of any unexpired term of this Lease other than the refund of the unearned portion of Advance or Minimum Royalties paid. Lessee shall have the right, at its sole efforts and expense, to contest such eminent domain action or determination and to make claim against the condemning authority (but not USS) for damages incurred by Lessee as a result of such action.

38. TERMINATION BY LESSEE

Should Lessee complete the mining of all Economically Mineable and Merchantable Coal hereby to be mined by Lessee, and if Lessee is not in default of any of the covenants, terms, and conditions of this Lease, thereafter Lessee shall have the right to terminate this Lease upon **thirty (30) days'** written notice to USS. The term "**Economically Mineable and Merchantable Coal**", as used herein, is defined as that coal which can be economically mined by a prudent Lessee using modern mining methods, practices, techniques, and equipment in accordance with generally accepted industry standards and mining limits used by prudent operators mining similar quantities of similar quality coals and as mutually determined by USS and Lessee hereunder.

39. REMOVAL OF EQUIPMENT

A. In the event of expiration or termination of this Lease, for any reason whatsoever, and upon condition that:

- (1) All sums of money due USS by the Lessee under this Lease shall have been paid to and acknowledged by USS; and
- (2) All of Lessee's covenants and obligations to USS under this Lease have been fully kept and performed to the satisfaction of USS; then

the Lessee shall have the right to remove from the Premises described herein, within **three (3) months** after said expiration or termination, all of Lessee's structures, equipment, machinery, improvements, and other property of Lessee which the Lessee may have placed upon the Premises during the term of this Lease.

B. If Lessee does not remove said structures, equipment, machinery, improvements, and other property of Lessee from the Premises, as provided above, Lessee irrevocably agrees that USS, at its sole option, shall be deemed the 37.5% owner of said property remaining on the Premises.

C. If at the expiration or termination of this Lease, for any reason whatsoever, Lessee is in default in the payment of any sum of money due USS under this Lease, Lessee irrevocably agrees that USS shall have the right, and may at its sole option, sell such of Lessee's unencumbered structures, equipment, machinery, improvements, or other property of Lessee on the Premises as may be deemed necessary by USS to cure such default.

40. INTEREST

In the event of failure of Lessee to pay any royalty (Actual Production, Minimum, Wheelage or otherwise) or to pay any other sum of money due USS under this Lease, when due and without demand by USS, and in addition to all other rights of USS hereunder, USS shall have the right, without further

notice to Lessee, to assess interest on all such past due royalties (Actual Production, Minimum, Wheelage or otherwise) at the rate of **one and one-half percent (1-1/2%)** per month of the unpaid delinquent balance from the date of delinquency until paid. Assessment of interest by USS shall in no way be deemed or construed, by Lessee or others, to be a waiver of Lessee's obligation to promptly pay all royalties (Actual Production, Minimum, Wheelage or otherwise) due USS, when due and without demand, or to be a waiver or bar to the subsequent exercise or enforcement by USS of any other provisions of this Lease or any other right of USS hereunder.

41. ASSIGNMENT

A. Except as otherwise contemplated in paragraph 1.13 of the surface Use Agreement RGGGS may assign this lease to a mineral operator who shall be considered the "Lessee" for the remainder of this Section 41 A. and all rights, obligations, liabilities, responsibilities shall pass to said mineral operator; additionally such Lessee may freely assign this lease back to RGGGS upon written notification to USS. It is specifically understood and irrevocably agreed by and between USS and Lessee that this Lease, the rights granted to Lessee hereby, and the mining contemplated hereunder is personal to Lessee and that USS is relying on the mining expertise personal to Lessee (or if Lessee is a corporation or partnership, then to the expertise of its principals) and that mining by the Lessee is of the essence hereof. It is hereby understood and irrevocably agreed that Lessee shall not have the right and shall not sell, transfer, mortgage, pledge, collateralize, pass, assign, or sublease this Lease or any interest in the Premises, in whole or in part, without the express prior written consent of USS, and Lessee hereby specifically and irrevocably waives and relinquishes all rights to make any such sale, transfer, mortgage, pledge, collateralization, pass, assignment, or sublease without such written consent and expressly and irrevocably agree that USS's decision, for whatever reason, shall be final and binding upon the Lessee. Lessee may, however, allow the mining of coal on the Premises hereunder by other parties, only on a lease or sub-lease basis, upon condition that Lessee shall promptly notify USS in writing of such intent or desire and that Lessee shall remain fully liable and responsible for the full performance, actions, and behavior of such party(ies) and for the performance of all of Lessee's covenants, duties, and obligations to USS hereunder. For the purposes of this Lease, a transfer of stock which would result in another entity or entities other than Lessee (or its principals) gaining a controlling interest in Lessee's company, companies, or corporation, or any operating division thereof, and thereby gaining control of this Lease or the Premises or any of USS's interest(s) therein, in whole or in part, by virtue of such transfer, shall be considered as an assignment and is specifically prohibited by this Lease without the express prior written consent of USS. If in the event an assignment of this Lease or any interest in the Premises, in whole or in part, is consented to by USS, it is understood and Lessee irrevocably agrees that both Lessee and its assignee shall remain liable to USS for the full performance and discharge of every obligation owed USS hereunder.

B. Except as herein otherwise provided, this Lease shall inure to and be binding upon the respective successors and assigns of the parties hereto, as well as the parties themselves, however:

(1) if Lessee should sell, transfer, mortgage, pledge, collateralize, pass, assign, or sublease this Lease, or the rights granted Lessee herein, or the Premises or any interest therein, in whole or in part, without first procuring, in writing, the prior express consent of USS; or

(2) if Lessee's assigns should sell, transfer, mortgage, pledge, collateralize, pass, assign, or sublease this Lease, or the rights granted Lessee herein, or the Premises or any interest therein, in whole or in part, without first procuring, in writing, the prior express consent of USS; or

(3) if the interests of the Lessee hereunder should be sold under execution or other legal process without USS's express written consent, as aforescribed; or

(4) if the Lessee should, at any time during the term of this Lease, become insolvent; or

(5) if proceedings in bankruptcy should be instituted by or against the Lessee, or its principals, which proceedings are not dismissed within one hundred twenty (120) days; or

(6) if a receiver or trustee should be appointed by or for Lessee by third parties, for the property of Lessee; or

(7) if Lessee is a corporation and any owner of five percent (5%) or more of the voting stock of such corporation shall sell or otherwise transfer said five percent (5%) or more of the voting stock of such corporation to any other entity(s) or person(s); or

(8) if this Lease or the rights herein granted Lessee should, by law or any other method whatsoever, devolve or pass to others than the Lessee without the express written consent of USS; then in each of the aforesaid cases, USS shall have the right to irrevocably terminate this Lease, and all rights granted to Lessee herein, by giving Lessee **ten (10) days'** written notice of its intention to do so, and at the expiration of said **ten (10) days**, after mailing such written notice, this Lease and all of the rights granted to Lessee herein, shall be deemed terminated, null, and void.

42. OWNERSHIP OF THE PREMISES

Any and all of USS's interests in the Premises and to all of the animal, vegetable, substances, and any other substances of value, contained or located therein or thereon, are solely the property and possessions of USS, and the rights and privileges granted to Lessee under this Lease are solely by virtue of lease, and that neither the rights granted to Lessee by this Lease, nor any interest(s) of USS in the Premises, whatever they may be, in whole or in part, nor any portion of the aforescribed, is considered to be, and in no way shall be construed by Lessee or others to be a possession, asset, or chattel of Lessee, its principals, employees, agents, contractors, or assigns which can be sold, transferred, mortgaged, pledged, collateralized, passed, assigned, subleased, or given out in any manner whatsoever, including proceedings of a bankruptcy, without the express prior written consent of USS, which consent may be withheld for any reason whatsoever, and whose decision shall be final and binding upon the Lessee.

43. WAIVER OR BAR

Neither failure or failures to exercise any right of USS under this Lease nor any delay or delays in exercising any such right, nor any delay in giving nor any failure to give any notice to Lessee hereunder shall be deemed by Lessee or others to be a waiver of any right of USS hereunder or any bar to the subsequent exercise or enforcement by USS of any of the provisions of this Lease or any right of USS hereunder. Furthermore, no waiver or forgiving by USS, for any reason whatsoever, of any default of Lessee under this Lease shall be construed, by Lessee or others, to operate as a waiver of any other default of Lessee under this Lease or the same default of Lessee on a future occasion.

44. ENTIRE AGREEMENT

This Lease constitutes the entire agreement between the parties hereto and supersedes, voids, and nullifies any and all other written or oral understandings or agreements between the parties hereto concerning the subject matter hereof. No modification, alteration, or amendment to this Lease shall be valid unless made in writing and duly executed by the proper parties hereto.

45. CONFIDENTIALITY

This Lease, and the terms, conditions, provisions, and covenants hereof are personal and confidential between USS and Lessee, and their respective affiliates, successors, and assigns. It is therefore understood and irrevocably agreed by Lessee that none of the aforesaid terms, conditions, provisions, and covenants shall be divulged, given out, or made public in any manner whatsoever, except by an act or order of a court of law, to any person(s), party(s),

company(s), corporation(s), or organization(s) whatsoever without first obtaining the express prior written consent of USS, which consent may be withheld for any reason whatsoever, and whose decision in such matter shall be final and binding upon Lessee.

46. RECORDING

This Lease, and the terms, conditions, provisions, and covenants hereof are personal and confidential between USS and Lessee, and their respective affiliates, successors, and assigns. It is therefore understood and irrevocably agreed by Lessee that if Lessee desires to record this Lease with any probate court of any county in which the Premises described herein are a part, Lessee will notify USS, in writing, of such desire and USS shall within **thirty (30) days**, provide Lessee with a "short form" of this Lease for recording purposes. The costs and efforts of recording said short form of this Lease shall be solely upon Lessee

47. NOTICE TO PARTIES

Any notice provided for or permitted herein to be given by either party to the other party shall be conclusively deemed to have been given upon deposit thereof in United States Certified mail (return receipt requested), postage prepaid, and addressed to the parties as follows:

(1) If by USS to Lessee:

or to any changed address of which Lessee shall give USS written notice.

(2) If by Lessee to USS:
Manager - Southern Lands & Minerals
United States Steel Corporation
P.O. Box 599, Room B-126
Fairfield, Alabama 35064

General Attorney-Fairfield Office
Law Department
6200 E. J. Oliver Boulevard - Suite 192
P. O. Box 599
Fairfield, Alabama 35064

or to any changed address of which USS shall give Lessee written notice.

48. FAILURE TO COMPLY

Notwithstanding any time period set forth hereinabove, in the event Lessee fails to comply with any of its material covenants or obligations to USS under this Lease, USS shall promptly send written notice to Lessee specifying the nature of such default. If Lessee does not remedy such failure within **twenty (20) days** after receipt of written notice of such failure from USS, or if such failure cannot be reasonably remedied within **twenty (20) days**, and Lessee does not commence and pursue bona fide aggressive efforts to remedy such failure within such **twenty (20) day** period and thereafter, continually, diligently, and aggressively pursue such efforts to a successful conclusion to the satisfaction of USS, then USS may, at its option, terminate this lease upon written notice to Lessee.

49. SECURITY PROTECTION

Lessee shall, upon execution of this Lease, provide USS with security protection as hereinafter set forth which will guarantee to USS that all of Lessee's or Lessee's assigns' obligations and liabilities to USS under this Lease shall be expeditiously kept and performed to the satisfaction of USS. Lessee shall provide USS with a standing irrevocable domestic Letter-of-Credit with a bank or banks acceptable to USS, or such other security as may be acceptable to USS, in an amount not less than _____ **Thousand Dollars (\$ 0,000)**, including USS, its successors and assigns, as the sole beneficiary thereof. The form of security must be acceptable to USS, must be irrevocable as long as this Lease is in effect, and must be immediately payable to USS upon demand by USS in the event Lessee should default on any monetary obligation to USS. Should USS withdraw any funds from the security provided by Lessee to satisfy a monetary obligation, Lessee agrees to replace the funds withdrawn within **Ten (10) days** following receipt of written notice from USS that funds have been withdrawn. Should Lessee fail to replace the funds, USS may terminate this Lease without further notice or demand from USS. Each year on the anniversary of the lease, the amount of security required may be adjusted upward or downward upon written notice from USS so that it shall equal the average of the three highest monthly royalty payments during the previous year rounded upward to the next higher **Ten Thousand Dollar (\$10,000) increment**. Upon receiving a written notice from USS of an adjustment to the amount of security required, Lessee shall have **Thirty (30) days** to provide said adjust security to USS.

50. FIRE AND/OR FLOOD

If a fire or flood, within or coming from the Premises and starting during the time that this Lease is in effect, causes damage to USS, Lessee shall be solely liable and responsible for such damage and shall pay USS for such damage unless Lessee can prove, to USS's satisfaction that Lessee did not cause such damage. If any claim, litigation, suit, judgment, demand, liability, costs, expenses, and attorney's fees are asserted against USS for any fire or flood starting in the Premises during the time this Lease is in effect, Lessee shall indemnify, protect, save, defend, and hold USS harmless therefrom.

51. PARAGRAPH HEADINGS

The Paragraph headings contained herein are provided and inserted for convenience only and shall not be construed to affect, control, govern, limit, or restrict the meaning, content, construction, interpretation, or applicability of any Paragraph herein or provision hereof.

52. ACKNOWLEDGMENT

Lessee expressly acknowledges and irrevocably agrees, by its signature hereon, that Lessee has read and fully understands all of the terms, provisions, covenants, conditions, restrictions and limitations of this Lease and that Lessee has entered into this Lease of its own free will, without enticement, coercion, or duress from USS, its agents or employees.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed, in duplicate, by their duly authorized officers or representatives as of the day and year first above written.

USS:

LESSEE:

By: _____

By: _____

Title: _____

Title: _____

USS Real Estate
A Division of
United States Steel Corporation

Date: _____

Date: _____

ATTACHMENT "I"
INSURANCE

Buyer shall procure and maintain, at its own expense, and shall require its Contractor(s), if any, to procure and maintain for the duration hereunder the insurance coverage meeting or exceeding the requirements set forth below:

1. **Minimum Scope of Insurance** -- Coverage shall be at least as broad as the following:

A. **Commercial General Liability Insurance**: Shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and liability assumed under an insured lease (including the tort liability of another assumed in a business lease). If a 1973 edition ISO form must be used by the insurer, the broad form comprehensive general liability (BFCGL) endorsement shall be included. Additionally, the policy shall not contain a sunset provision, commutation clause or any other provision which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy. The policy of insurance shall contain or be endorsed to include the following:

- (i) Premises/Operations;
- (ii) Products/Completed Operations;
- (iii) Contractual;
- (iv) Independent Contractors;
- (v) Broad form property damage;
- (vi) Personal Injury;
- (vii) Cross liability/severability of interest;
- (viii) The policy shall be endorsed using ISO form CG 20 10 11 85 (or a substitute form providing equivalent coverage) so as to include United States Steel Corporation (hereinafter "USS"), and its affiliates, including all units, divisions and subsidiaries as Additional Insureds on a Primary and Non-contributory basis. The coverage shall contain no special limitations on the scope of protection afforded to said Additional Insured.
- (ix) Waiver of subrogation shall be provided to the benefit of all Additional Insureds, as aforesaid.
- (x) No XCU (explosion, collapse, underground) exclusion.
- (xi) For any claims related herein, the Buyer's and/or its Contractor's insurance shall be primary and non-contributory respecting the aforesaid Additional Insureds. Any insurance or self-insurance maintained by USS shall be in excess of the Buyer's and/or Contractor's insurance and shall not contribute with it.
- (xii) The policy shall not contain any provision, definition, or endorsement which would serve to eliminate third-party action over claims.
- (xiii) Self-funded, or other non-risk transfer insurance mechanism are not acceptable to USS. If the Buyer has such a program, full disclosure must be made to USS prior to any consideration being given.

B. **Automobile Liability Insurance**: As specified by ISO form number CA 0001, Symbol I (any auto), with an MCS 90 endorsement and a CA 99 48 endorsement attached if hazardous materials or waste are to be transported. This policy shall be endorsed to include USS, its affiliates, including all units, divisions and subsidiaries as Additional Insureds, and to include waiver of subrogation to the benefit of all Additional Insureds, as aforesaid.

C. **Workers' Compensation Insurance**: As required by the State or Commonwealth in which work is being done, and in accordance with any applicable Federal laws, including Employer's Liability Insurance and/or Stop Gap Liability coverage as per below limits. Where not otherwise prohibited by law, this policy shall be endorsed to include waiver of subrogation to the benefit of USS, its affiliates, including all units, divisions and subsidiaries

D. **Employer's Liability and/or Stop Gap Liability Coverage**: Coverages per accident, disease-policy limit, and disease each employee.

Check if applicable

E. **Errors and Omissions Professional Liability Insurance (If made applicable by USS)**: Coverage should be for a professional error, act or omission arising out of the Contractor's performance of work hereunder. The policy form may not exclude coverage for Bodily Injury, Property Damage, claims arising out of laboratory analysis, pollution or the operations of a treatment facility, to the extent these items are applicable under the scope of work hereunder. This policy shall be endorsed to include waiver of subrogation to the benefit of USS, its subsidiaries, and/or affiliates. If coverage is on a claims-made form, Contractor shall maintain continuous coverage or exercise an extended discovery period for a period of no less than five (5) years from the time that the work hereunder has been completed.

Check if applicable

F. **Environmental Impairment Insurance (If made applicable by USS)** Covering damage to the environment, both sudden and non-sudden, caused by the emission, disposal, release, seepage, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquid or gases, waste materials or other irritants, contaminants or pollutants, into or upon land, the atmosphere or any water course or body of water; or the generation of odor, noises, vibrations, light, electricity, radiation, changes in temperature, or any other sensory phenomena. Such insurance shall contain or be endorsed to include:

- (i) Property damage, including loss of use, injury to or destruction of property;
- (ii) Cleanup costs which shall include operations designed to analyze, monitor, remove, remedy, neutralize, or clean up any released or escaped substance which has caused environmental impairment or could cause environmental impairment if not removed, neutralized or cleaned up.
- (iii) Personal injury, which shall include bodily injury, sickness, disease, mental anguish, shock or disability sustained by any person, including death resulting therefrom.

- (iv) USS, its affiliates, including all units, divisions and subsidiaries as Additional Insureds, on a primary and non-contributory basis.
- (v) Waiver of Subrogation in favor of USS, its affiliates, including all units, divisions and subsidiaries.

If the Environmental Impairment Insurance is on a claims-made form, Buyer and its Contractor(s) shall maintain continuous coverage or exercise on an extended discovery period for a period of no less than five (5) years from the time that the work hereunder has been completed.

2. **Minimum Limits of Insurance** -- Buyer and its Contractor(s) shall maintain limits *no less than*:

A. **Commercial General Liability**: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$2,000,000 each occurrence for bodily injury and property damage; \$2,000,000 each occurrence and aggregate for products and completed operations; \$4,000,000 general aggregate. The limits and coverage requirements may be revised at the option of USS, except if the parties agree otherwise.

B. **Automobile Liability Insurance**: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$2,000,000 per accident for bodily injury and property damage, \$5,000,000 if hazardous materials or substances are to be transported.

C. **Workers' Compensation**: As required by the State or Commonwealth in which the work will be performed, and as required by any applicable Federal laws.

D. **Employer's Liability and/or Stop Gap Liability Coverage**: \$1,000,000 per accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease each employee. (May include Umbrella coverage.)

E. **Errors and Omissions Professional Liability Insurance**: (If applicable) \$2,000,000 per loss; \$4,000,000 annual aggregate limit.

F. **Environmental Impairment Insurance**: (If applicable) \$5,000,000 combined single limit per loss, except if the parties agree otherwise.

3. **Deductibles and Self-Insured Retentions** -- All insurance coverage carried by Buyer and its Leaseor(s) shall extend to and protect USS, its affiliates, including all units, divisions and subsidiaries to the full amount of such coverage, and all deductibles and/or self-insured retentions (if any), including those relating to defense costs, are the sole responsibility of Buyer and its Contractor(s).

4. **Rating of Insurer** -- The Buyer and its Contractor(s) will only use insurance companies acceptable to USS and authorized to do business in the state or area in which the work hereunder is to be performed. Insurers must have a minimum rating of a A-, Class VII as evaluated by the most current A.M. Best rating guide. If the insurer has a rating less than an A-, Class VII, the Contractor must receive specific written approval from USS prior to proceeding.

5. **Other Insurance Provisions**

A. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by United States first class certified mail, return receipt requested, has been given to USS.

B. These insurance provisions are intended to be a separate and distinct obligation on the part of the Buyer. Therefore, these provisions shall be enforceable and Buyer and/or Contractor(s) shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

C. The above-described insurance coverage to be provided by Buyer and/or its Leaseor(s) hereunder will extend coverage to all work or services performed hereunder.

D. The obligation of the Buyer and its Contractor(s) to provide the insurance herein above specified shall not limit in any way the liability or obligations assumed by the Buyer and its Leaseor(s) hereunder.

E. In the event Buyer and its Contractor(s), or its insurance carrier defaults on any obligations hereunder, Buyer and its Contractor(s) agree that they will be liable for all reasonable expenses and attorneys' fees incurred by USS to enforce the provisions hereunder.

6. **Evidence of Coverage**

A. Buyer and its Contractor(s) shall furnish USS with copies of the endorsements effecting the coverage required by this specification. Additionally, *prior to the commencement of any work or services on USS' Premises*, Buyer and its Contractor(s) and all subcontractors, if any, shall furnish to USS satisfactory Certificates of Insurance evidencing full compliance with the requirements herein. The Certificates of Insurance must show that the required insurance is in force, the amount of the carrier's liability thereunder, and must further provide that USS will be given thirty (30) days advance written notice of any cancellation of coverage or deletion of the certificate holder herein as an Additional Insured under the policies.

B. All Certificates of Insurance shall be in form and content acceptable to USS and shall be submitted to USS in a timely manner so as to confirm Buyer and its Contractor(s) full compliance with the stated insurance requirements hereunder.

C. Any failure on the part of USS to pursue or obtain the Certificates of Insurance required hereunder from Buyer and its Contractor(s) and/or the failure of USS to point out any non-compliance of such Certificates of Insurance shall not constitute a waiver of any of the insurance requirements hereunder, nor relieve Buyer or its Contractor(s) of any of its obligations or liabilities hereunder. Moreover, acceptance by USS of insurance submitted by the Buyer and its Contractors does not relieve or decrease in any manner the liability of the Buyer and its Contractor(s) for performance hereunder. The Buyer and its Leaseor(s) are responsible for any losses, claims, and/or costs of any kind which their insurance does not cover.

7. **Subcontractors** -- Contractor(s) shall be responsible to obtain separate certificates from each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

EXHIBIT 1.11(a)

FORM OF MINERAL LEASE

This form of lease covers the surface mining of coal. For surface mining of other Minerals which can be mined by surface mining methods, changes shall be made to this form to reflect terms and conditions commercially reasonable for the mining of such Minerals.

COAL MINING LEASE

BY AND BETWEEN

RGGS LAND & MINERALS LTD., L.P.

AND

_____, 20____

TABLE OF CONTENTS

PARAGRAPH	PAGE
(1) GRANTING CLAUSE	1
(2) RGGS'S OWNERSHIP	1
(3) EFFECTIVE DATE INITIAL TERM.....	1
(4) ACTUAL PRODUCTION ROYALTY	1
(5) GROSS SALES PRICE	2
(6) LOADING POINT.....	2
(7) BONA FIDE PURCHASER	3
(8) BLENDED COAL	3
(9) ADVANCE ROYALTY	4
(10) MINIMUM ROYALTY	4
(11) CESSATION AND RECOVERY OF MINIMUM ROYALTY	4
(12) WHEELAGE ROYALTY	5
(13) ROYALTY PAYMENTS AND REPORTS	5
(14) FAILURE TO REPORT AND PAY	5
(15) BEST PRACTICE IN MINING	6
(16) COMMENCEMENT OF OPERATIONS.....	6
(17) SUBMITTAL OF MINING PROJECTIONS	7
(18) MINING PROGRESS MAPS.....	7
(19) RESERVATIONS	7
(20) LESSEE'S LIABILITY AND INDEMNIFICATION FOR INJURIES	8
(21) INSURANCE	8
(22) ESTIMATE OF COAL QUANTITY	8
(23) AUDIT	9
(24) FORCE MAJEURE	9
(25) FINANCIAL STATEMENTS	9
(26) ENVIRONMENTAL	9
(27) POLLUTION PREVENTION AND ENVIRONMENTAL INDEMNIFICATION.....	10
(28) MINING LICENSES AND PERMITS	11
(29) WORKER'S COMPENSATION	12
(30) PAYMENT OF LEVIES AND TAXES	12
(31) CHALLENGE OF TITLE.....	12
(32) RIGHT OF ACCESS	13
(33) PRIOR LEASES	13
(34) ZONING	13
(35) CONDEMNATION OF PREMISES	13
(36) TERMINATION BY LESSEE	13
(37) REMOVAL OF EQUIPMENT	13
(38) INTEREST	14
(39) ASSIGNMENT.....	14
(40) OWNERSHIP OF THE PREMISES.....	15

(41) WAIVER OR BAR.....	15
(42) ENTIRE AGREEMENT.....	16
(43) CONFIDENTIALITY.....	16
(44) RECORDING.....	16
(45) NOTICE TO PARTIES.....	16
(46) FAILURE TO COMPLY.....	16
(47) SECURITY PROTECTION.....	16
(48) FIRE AND/OR FLOOD.....	17
(49) PARAGRAPH HEADINGS.....	17
(50) ACKNOWLEDGMENT.....	17
SIGNATURE PAGE.....	18
EXHIBIT A	
EXHIBIT B	
ATTACHMENT I	

THIS LEASE, entered into this _____ day of _____, 20____, by and between RGGGS Land & Minerals, Ltd., L.P. a Delaware limited partnership, hereinafter referred to as "RGGGS", and _____, a _____, hereinafter referred to as "Lessee". United States Steel Corporation is hereinafter referred to as USS.

WITNESSETH

1. GRANTING CLAUSE

RGGGS, as a contemporaneous exchange in consideration of the covenants of Lessee, as hereinafter expressed to be kept and performed, hereby grants to Lessee, to the extent of RGGGS's interests, the right to mine and remove coal by **surface mining methods**, and Lessee agrees to mine by such stated methods only, all the Economically Mineable and Merchantable Coal which can be mined by such methods from the _____ Seams of coal as may exist in those certain lands of RGGGS located in _____, _____ County, Alabama, as described more fully in the attached "EXHIBIT A" and as shown on the map labeled "EXHIBIT B", both attached hereto and made a part hereof, said lands hereinafter referred to as the "Premises".

2. RGGGS'S OWNERSHIP

A. RGGGS owns **Minerals and Mining Rights Only with rights to use the surface subject to a USE AGREEMENT between USS and RGGGS** in the portions of the referenced Premises as indicated on the attached Exhibits. It is hereby understood and irrevocably agreed that Lessee shall use its best efforts to acquire, at its sole expense and efforts, the rights to the surface of said Premises as may be necessary for Lessee's operations hereunder.

B. It is hereby understood, and Lessee irrevocably agrees, that **RGGGS does not warrant** either the **title** to any of the above referenced Premises or the **condition, quality, quantity, economic mineability, merchantability, or the existence** of any coal which may occur or exist on the Premises described herein, and that Lessee has satisfied itself as to the sufficiency of RGGGS's title to the Premises and as to the sufficiency, recoverability, and existence of any coal which may exist on the Premises prior to entering into this Lease.

3. EFFECTIVE DATE AND TERM

Except as provided for in **Paragraph 45** below, this Lease shall become effective upon the date of execution hereof and shall continue in effect for a term of _____ () years, unless sooner terminated, as otherwise provided herein.

4. ACTUAL PRODUCTION ROYALTY

The **Actual Production Royalty** which shall be paid to RGGGS, when due and without demand by RGGGS, for each ton of **two thousand (2,000.0)** pounds of coal mined from the Premises and sold by Lessee, its agents or assigns, to Bona Fide Purchasers during the term hereof shall be the greater of 62.5% of _____ [to be negotiated by RGGGS, same as in Surface lease] _____ Dollars and _____ Cents (\$ _____) or:

1) 62.5% of (_____ [to be negotiated by RGGGS, same as in Surface lease] _____%) of the Gross Sales Price, all f.o.b. the Loading Point. for coal mined from lands where RGGGS owns Minerals and Mining Rights Only or for coal mined from the _____ Seam of coal.

5. GROSS SALES PRICE

A. For the purposes of reporting coal tonnages mined, shipped, and sold and for the calculation and payment of any royalty (Actual Production, Minimum, Wheelage, or otherwise) due RGGGS for coal mined, shipped and sold under this Lease, the term "**Gross Sales Price**", as used herein, shall mean the final and actual sales price at which any and all coal mined under or pursuant to this Lease, is sold in an arms'-length transaction to a Bona Fide Purchaser, f.o.b. the Loading Point, after final preparation and loading, plus any premium payments or minus any penalties received by the Lessee from the purchaser and/or final consumer of the coal.

B. No deductions from said Gross Sales Price shall be made by Lessee, or recognized by RGGGS, for any and all on-site or pre-Loading Point transportation charges, loading charges, handling charges, washing costs or charges, blending or preparation charges, or fees of any kind whatsoever, brokerage charges or fees, sales commissions, coal analysis charges or fees, sales tax, severance tax, license tax, privilege tax, occupational tax, advertising, credit losses **or any other charges or fees of any description whatsoever**. Except, however, in the case of coal mined from the Premises hereunder and sold to Bona Fide Purchasers f.o.b. some point other than the mine or preparation plant, the Gross Sales Price of such coal may be reduced by deducting from the final and actual Gross Sales Price at which such coal is sold to Bona Fide Purchasers, all transportation, loading and handling charges **beyond** the mine or preparation plant, as the case may be, as long as Lessee can justify such deductions from the Gross Sales Price to the satisfaction of RGGGS. Any deviation from the use of the Gross Sales Price, as defined and as used herein, for the reporting and calculation of any royalty (Actual Production, Minimum, Wheelage, or otherwise) due RGGGS for coal mined and sold from the Premises under or pursuant to this Lease **shall not be recognized or allowed** unless said deductions are first approved in writing by RGGGS, which approval may be withheld without cause.

C. For any coal mined from the Premises under this Lease and used or consumed, for any reason or purpose whatsoever, by Lessee, its principals, employees, agents, associates, affiliates, or assigns, without sales by Lessee, the Gross Sales Price used for calculation of any and all royalty (Actual Production, Minimum or otherwise) due and payable to RGGGS for such coal shall be the prevailing open market Gross Sales Price of coal of comparable and similar quality and quantity recently sold by Lessee and others, f.o.b. the Loading Point to Bona Fide Purchasers in arms'-length transactions.

6. LOADING POINT

The term "Loading Point", as used herein, shall mean the point at which coal mined from the Premises by Lessee, its principals, employees, agents, associates, affiliates or assigns under this Lease leaves the possession and control of Lessee, its principals, employees, agents, associates, affiliates or assigns to be shipped to market or the final consumer of the coal, as the case may be, whether from the mine or preparation plant of Lessee, its principals, employees, agents, associates, affiliates or assigns, as the case may be. Any deviation from the use of the Loading Point, as defined and as used herein, for the reporting and calculation of any royalty (Actual Production, Minimum, Wheelage, or otherwise) due RGGGS for coal mined and sold from the Premises under or pursuant to this Lease **shall not be recognized or allowed** unless said use is first approved in writing by RGGGS, which approval may be withheld without cause.

7. BONA FIDE PURCHASER

A. The term "Bona Fide Purchaser", as used herein, shall mean a non-related and unaffiliated third-party independent purchaser who pays valuable consideration in good faith in an arms'-length transaction without intending to take or inadvertently taking unfair advantage of RGGGS or Lessee. Further, a Bona Fide Purchaser **shall not**, in any instance whatsoever, include any persons, parties, companies, corporations or entities affiliated, associated, or related, in any manner whatsoever, with the Lessee, its principals, employees, agents, associates, affiliates or assigns.

B. For the purposes of reporting the sales and Gross Sales Prices of coal mined under or pursuant to this Lease, and for the purposes of calculating and paying any and all royalties (Actual Production, Minimum, Wheelage, or otherwise) due RGGGS for coal sold under or pursuant to this Lease, It is specifically understood and irrevocably agreed by Lessee that this Lease **DOES NOT RECOGNIZE** and **DOES NOT ALLOW** sales of coal mined from the Premises under or pursuant to this Lease, or sales of coal transported onto, over, under, across, or through the Premises by Lessee, its principals, employees, agents, associates, affiliates, or assigns, to any persons, parties, companies, corporations, or any other entities which do not specifically comply with the definitions of Gross Sales Price, Loading Point, and Bona Fide Purchaser as defined and as used in this Lease. It is hereby further specifically understood and irrevocably agreed by Lessee that it is the specific intent of this Lease that **all** sales of coal mined by the Lessee, its principals, employees, agents, associates, affiliates, or assigns, from the Premises under or pursuant to this Lease shall be made and reported to RGGGS, at the final and actual Gross Sales Price of the coal sold on the open market to a non-related and unaffiliated third party Bona Fide Purchaser and/or final consumer of the coal in an arms'-length transaction, and further that the royalty due and payable to RGGGS under this Lease shall be based upon the final and actual Gross Sales Price of coal sold on the open market to a non-related and unaffiliated Bona Fide Purchaser and/or final consumer of the coal in an arms'-length transaction without intending to take or inadvertently taking unfair advantage of RGGGS or Lessee.

C. If Lessee, its principals, employees, agents, affiliates, or assigns, should sell coal to a purchaser, and RGGGS gives notice in writing to Lessee that, in RGGGS's sole judgment, said purchaser is not a **Bona Fide Purchaser**, as defined and used herein, and thereafter Lessee does not or is not able to justify to RGGGS's satisfaction, within **thirty (30)** days from the date of said written notice, that said purchaser is, in actuality, a Bona Fide Purchaser, as defined and used herein, Lessee hereby irrevocably agrees that RGGGS shall have the right, at its sole option, to elect to:

(1) Substitute for the reported sales price of all such coal mined from the Premises under this Lease and sold to said purchaser, the actual Gross Sales Price of all such coal sold to said purchaser as determined by RGGGS's agents or representatives using the definitions stated herein; or

(2) Substitute for the reported sales price of all such coal mined from the Premises under or pursuant to this Lease and sold to said purchaser, the prevailing market price of coal of similar quality and quantity recently sold, by Lessee or others, f.o.b. the Loading Point, to Bona Fide Purchasers in arms'-length transactions as determined by RGGGS or RGGGS's agents or assigns.

Lessee covenants and irrevocably agrees that in the event of a situation as aforescribed, RGGGS's judgment shall be final and binding upon Lessee, and Lessee shall, upon demand, reimburse RGGGS for any and all amounts of royalties (Actual Production, Minimum, Wheelage, or otherwise) resulting from any such Gross Sales Price adjustment and that Lessee's failure to reimburse RGGGS for any such Gross Sales Price adjustment shall entitle RGGGS to terminate this Lease upon **written notice** to Lessee.

D. Any deviation whatsoever by the Lessee, its principals, employees, agents, affiliates, associates, or assigns, in sales of coal that do not comply with the definition of a "**Bona Fide Purchaser**" as described above, and as used herein, must first be approved in writing by RGGGS.

8. BLENDED COAL

If coal mined from the Premises by Lessee under this Lease by Lessee, its principals, employees, agents, associates, affiliates, or assigns, shall be mixed, blended or commingled, in any proportion whatsoever, with coal mined elsewhere than from the Premises prior to the Loading Point, as defined herein, the Gross Sales Price used for calculation of royalty (Actual Production, Minimum, Wheelage, or otherwise) payable to RGGGS for its proportionate share of any and all such mixed, blended, or commingled coal shall be that Gross Sales Price of the final mixed, blended, or commingled coal product sold to Bona Fide Purchasers, f.o.b. the Loading Point, in arms'-length transactions, **regardless** of any respective difference(s) in or between the quality and/or quantity of the coal mined from the Premises and the quality and/or quantity of the coal with which coal mined from the Premises is mixed, blended, or commingled.

9. ADVANCE ROYALTY

Upon execution of this Lease, Lessee shall pay to RGGGS, as a contemporaneous exchange, the sum of 62.5% of ____ [to be negotiated by RGGGS, same as in Surface lease] ____ Thousand Dollars (\$____,000.00) which shall be considered as Advance Royalty. Said Advance Royalty shall be recoverable by Lessee only against Actual Production Royalty due RGGGS for coal mined from the Premises

during the term of this Lease. Any and all Advance Royalty which is not recovered against Actual Production Royalty due RGGGS during the term hereof shall be forfeited by Lessee and retained by RGGGS.

10. MINIMUM ROYALTY

Except as provided for in Section 16, the Minimum Royalty which shall be paid to RGGGS by Lessee, when due and without demand by RGGGS, on or before the **twentieth** (20th) day of each month beginning the **fifth** (5th) month after execution of this Lease and every month thereafter during the term hereof shall be 62.5% of ___ [to be negotiated by RGGGS, same as in Surface lease] ___ **Thousand Dollars** (\$___,000.00). Minimum Royalty paid by Lessee during the term of this Lease shall be recoverable only against Actual Production Royalty during the term hereof. Any and all Minimum Royalty paid by Lessee to RGGGS during the term of this Lease and not recovered against Actual Production Royalty prior to the extension, expiration, or termination of the term of this Lease, for any reason whatsoever, shall be forfeited by Lessee and retained by RGGGS

11. CESSATION AND RECOVERY OF MINIMUM ROYALTY

Except as otherwise provided herein, if at any time during the _____ year term of this Lease, Lessee shall have paid RGGGS an amount of Minimum Royalty which is then equal to the number of tons of mineable coal remaining to be mined on the Premises multiplied times the average Actual Production Royalty rate paid per ton by Lessee during the then most recent six (6) months of this Lease, Lessee may, upon written notification to RGGGS and only after receipt by RGGGS of said written notification, for a period of time cease payment of further Minimum Royalty and apply any and all future Actual Production Royalty due RGGGS against any unrecovered Minimum Royalty until such time as said amount of unrecovered Minimum Royalty has been reduced to zero (0), so long as said period of time does not exceed **twelve** (12) months from the date of Lessee's written notification to RGGGS of the existence of said condition. In the above described instance, Lessee's payment of Minimum Royalty required hereunder shall resume when the amount of all unrecovered Minimum Royalty has been reduced to zero (0). In the event this Lease is terminated, for any reason whatsoever, and the Lessee has not recovered all of the outstanding Minimum Royalty paid by Lessee hereunder against Actual Production Royalty, as set out above, said unrecovered Minimum Royalty shall be irrevocably forfeited by Lessee.

12. WHEELAGE ROYALTY

If Lessee should bring coal, coal products, or coal by-products onto the Premises for sale to third parties, which coal has been mined, obtained or purchased elsewhere than from the Premises, Lessee shall pay to RGGGS a Wheelage royalty of 62.5% of Twenty Five Cents (\$0.25) per ton for each ton of Two Thousand Pounds of such coal (hereinafter referred to as "Foreign Coal") which is:

1. transported into, on, over, across or through the surface of the Premises regardless of whether or not said Foreign Coal is transported on a public road or public easement,
2. washed, processed, treated or blended (in any manner whatsoever) through any facility of Lessee, its contractors, affiliates, subsidiaries, employees, agents, or assigns on the surface of the Premises, or
3. stored, stockpiled on the surface of the Premises or loaded for sale to third parties from the Premises.

Foreign Coal shall include any and all coal and/or coal products and by-products mined, recovered, obtained or purchased by Lessee, its contractors, affiliates, subsidiaries, employees, agents, or assigns from any location off the Premises, except for other lands of RGGGS leased by Lessee. Lessee shall report all tonnages of Foreign Coal as separate items on the monthly report of production and royalty described in **Paragraph 13** below. The provisions of this Paragraph shall apply in every case except for Foreign Coal of significantly different quality and characteristics brought by Lessee or others onto the Premises for the specific purpose of blending with coal mined by Lessee from the Premises in order to enhance the characteristics or increase the value of RGGGS's coal in the final blended product. Any exception(s) to the provisions of this Paragraph shall not be recognized or allowed unless said exception(s) are first approved in writing by RGGGS, which approval may be withheld without cause.

13. ROYALTY PAYMENTS AND REPORTS

Payments for coal mined and sold hereunder shall be made on a timely basis, when due and without demand by RGGGS, on or before the **twentieth** (20th) day of each month for all coal, including Foreign Coal, mined, shipped, and sold by the Lessee, its principals, employees, agents, associates, affiliates, or assigns, during the preceding month, as evidenced by a report or reports furnished by the Lessee to RGGGS on a timely basis, when due and without demand by RGGGS, on or before the **twentieth** (20th) day of each month for all coal, including Foreign Coal, mined, shipped, and sold by Lessee, its principals, employees, agents, associates, affiliates, or assigns, during the preceding month. Such report or reports shall be made either on a form or forms of RGGGS supplied to Lessee or on a form or forms of Lessee which are approved by RGGGS. Such reports shall, at RGGGS's request, be accompanied by copies of invoices, purchase orders, sales receipts, bills of lading, truck weight tickets, railroad weight tickets, barge weight tickets, statements of transportation, washing and handling charges, and other forms of verification as may be deemed necessary by RGGGS showing the actual amount of coal mined, processed, stockpiled, loaded, shipped, and sold from the Premises by Lessee, its agents, affiliates, and assigns during the preceding month and shall also include individual sales of coal by Lessee, the customers to which coal was sold, the Gross Sales Prices of coal for each sale, itemization of allowable deductions for each sale, calculations of Actual Production Royalty due RGGGS for each sale and for the preceding month, and the location, by Quarter-Quarter Section, Township, and Range, of the lands of RGGGS from which such coal was mined. Each report shall be certified to be true, accurate, and correct by Lessee and shall be to the satisfaction of RGGGS. In any event, all of the aforementioned items shall be made available to RGGGS by Lessee, at all times upon RGGGS's request, for any month during the term of this Lease.

14. FAILURE TO REPORT AND PAY

A. In the event of failure of Lessee to report all coal mined, transported, stockpiled, processed, shipped, and sold on or before the **twentieth** (20th) day of the month in which such report is due, as provided for in **Paragraph 12** above, and upon the further failure of Lessee to report such coal mined, transported, stockpiled, processed, shipped, and sold within **ten** (10) days after receipt from RGGGS of written notice of Lessee's failure to make such report, RGGGS shall have the right to irrevocably terminate this Lease upon written notice to Lessee.

B. In the event of failure of Lessee to pay any royalty (Actual Production, Minimum, Wheelage, or otherwise) or to pay any other sum due to RGGGS under this Lease on or before the **twentieth** (20th) day of the month in which such royalty or other sum is due, and

upon the further failure of Lessee to pay such royalty or other sum within ten (10) days after receipt from RGGGS of written notice of non-payment RGGGS shall have the right, without further notice to Lessee, to:

- (1) Exercise any of the remedies set forth herein to collect from Lessee any sum of money due RGGGS hereunder; and
- (2) Terminate this Lease at the end of said ten (10) day period without further notice or demand from RGGGS.

C. As stated in **Paragraph 12** above, all reports for all coal mined, shipped, and sold by Lessee, its principals, employees, agents, associates, affiliates and assigns, and payments of the royalty due RGGGS therefore, shall be made on a timely basis when due and without notice or demand by RGGGS. It is therefore understood and irrevocably agreed by Lessee that if Lessee should fail to make any **three (3)** reports or payments of royalty due RGGGS on a timely basis, when due and without notice or demand by RGGGS, within any consecutive **twelve (12)** month period during the term of this Lease, such failures of Lessee to report and pay timely shall give RGGGS the right to irrevocably terminate this Lease upon **ten (10)** days written notice to Lessee.

15. BEST PRACTICE IN MINING

For the purpose of maximizing Actual Production Royalties due RGGGS hereunder and conserving natural resources, Lessee shall conduct its coal mining operations on RGGGS's Premises in accordance with the Best Mining Practice of a prudent operator, so that there will be no needless or avoidable loss or waste of coal. The term "**Best Mining Practice**", as used herein, shall mean those modern mining methods and practices employed by a prudent mining operator using modern mining equipment and techniques in the conduct of diligent and aggressive mining operations in an attempt to recover the maximum amount of economically mineable and merchantable coal on the Premises. If Lessee should fail to mine all coal on the Premises with the Best Mining Practice and fail to mine all which could be economically mined prior to the expiration or termination of this Lease and, by Lessee's actions or omissions, Lessee makes the subsequent recovery of such unmined coal impossible or uneconomical, Lessee shall promptly pay RGGGS for all such unmined coal at the same Actual Production Royalty rate paid for coal mined hereunder, which amount of such unmined coal shall be determined by RGGGS, its agents, or assigns. Lessee shall not, however, be held liable for rendering any coal unmineable or uneconomically recoverable when such act is caused by the normal reclamation of the Premises mined hereunder by a prudent operator using the Best Mining Practice, as defined herein, and as required by state and/or federal law. Lessee agrees to use its best efforts to employ Best Mining Practices. Should Lessee fail to mine all coal by not employing Best Mining Practices, it shall have **thirty (30)** days to improve its mining practice after written notice from RGGGS. Failure by Lessee to improve its mining practice after written notice from RGGGS may result in cancellation of this Lease.

16. COMMENCEMENT OF OPERATIONS

It is understood and agreed by and between the parties hereto that, as a part of the consideration for RGGGS's entering into this Lease, Lessee shall promptly commence and actively pursue an aggressive coal mining operation in order to maximize the benefits of current coal market conditions. If Lessee's mining operations hereunder includes the leased seam or seams of coal described herein not only on the Premises but also on adjoining lands of others, the diligent, aggressive, and continuous operations required of Lessee hereunder shall include all operations within Lessee's mine area boundaries, whether on the Premises or lands of others, which are the normal mining operations of a prudent operator. If Lessee should fail to commence bona fide continuous mining operations within one (1) year after the effective date of this Lease then the Minimum Royalty due each month shall escalate to 62.5% of ___ [to be negotiated by RGGGS, same as in Surface lease] ___ **Thousand Dollars** (\$___,000.00), unless such failure to commence mining operations is caused by Lessee's inability, after diligent and aggressive efforts, to obtain the necessary permits relating to the start-up of mining activities from state and/or federal regulatory agencies.

17. SUBMITTAL OF MINING PROJECTIONS

A. Lessee shall furnish RGGGS with a map or maps showing the area(s) of the Premises on which Lessee intends to conduct coal mining operations. Lessee shall furnish such map or maps of Lessee's intended mining operations to RGGGS no less than **thirty (30)** days prior to the commencement of operations and thereafter on an annual basis on the anniversary date of this Lease or at any time during the term hereof that the mining projections are changed, amended, or altered in any way. Said maps of mining projections shall include, but shall not be limited to, such information as:

- (1) the seam or seams which Lessee intends to mine;
- (2) the estimated maximum and minimum highwall height or limit(s) that Lessee intends to mine to on said seam(s);
- (3) the area(s) where Lessee intends to stockpile or blend coal mined from the Premises;
- (4) the access roads and routes of transportation in the mine; and
- (5) the location(s) of any washing or preparation facility(s), sediment ponds, water impoundments, mine gob areas, slurry ponds, and power transmission lines located on the Premises.

B. Upon submittal by Lessee, RGGGS shall have **thirty (30)** days in which to review said mining projections for the purpose of ascertaining Lessee's intention to operate according to Best Mining Practice. During said **thirty (30)** day period, RGGGS may question or comment on Lessee's mining projections, however, if RGGGS does not respond to Lessee within said **thirty (30)** day period, Lessee may assume that said mining projections so submitted are satisfactory to RGGGS. Should RGGGS notify Lessee of a conflict between Lessee's mining projections and other RGGGS operations or uses of the Premises, RGGGS will notify Lessee within said **thirty (30)** day period, and RGGGS and Lessee shall meet to discuss modifications to said mining projections. It is recognized by the parties hereto that the rights herein reserved to RGGGS as described in **Paragraph 18** below, may possibly conflict with the rights granted to Lessee hereunder. In the event of such conflict or potential conflict, the parties shall negotiate in good faith and attempt to resolve the issue to their mutual satisfaction.

18. MINING PROGRESS MAPS

Lessee shall, not later than the **twentieth (20th)** day of each **January, April, July, and October**, respectively, during the term hereof furnish RGGGS with a **map or maps** made by an **Alabama Registered Professional Land Surveyor** showing Lessee's mining progress during the preceding **three (3)** month period. The maps shall include, but shall not be limited to, a legend containing leaseholder name and address, numeric and bar scale, north arrow, location (i.e. section- township-range, county, state), subcontractor name and address, mine name, mining permit number, surveyor's name and place of business, date of map, and time period of map. The map shall also indicate sufficient coal thickness measurements to determine the actual amount of coal mined by Lessee, the areal extent of mining, the location and

date of highwalls (if applicable), township and range lines with section numbers, state plane coordinate line (if available) and the calculations of the number of tons removed from each seam by quarter- quarter section. The maps shall be color coded so as to discern production from separate seams and individual production months. The map to be furnished by the **twentieth (20th)** day of **January** must be reproducible. In all cases, the maps and the information supplied by Lessee thereon shall be to the reasonable satisfaction of RGGGS.

19. RESERVATIONS

RGGGS hereby reserves to itself, its successors and assigns, the absolute and paramount right, at all times during the term of this Lease, to explore for, drill test, mine, and remove from the Premises all oil, gas, casinghead gas, hydrocarbons, coal seam gas, gob gas, petrochemicals, rocks, minerals, mineral substances, non-mineral substances, and any other substance(s) other than the coal which Lessee is granted the right to mine and remove from the Premises under this Lease. It is understood and irrevocably agreed that the intent of this Paragraph is that RGGGS reserves unto itself, its successors and assigns, all substances presently known or those substances which may come to be known or identified in the future, including without limitation those substances recited above, together with the absolute and paramount right to explore for, mine, and remove said reserved substances other than the coal and those specific rights to mine and remove coal which may occur in, on, or under the Premises described in this Lease. It is recognized by the parties hereto that the rights herein reserved to RGGGS may possibly conflict with the rights granted to Lessee hereunder. In the event of such conflict or potential conflict, the parties shall negotiate in good faith and attempt to resolve the issue to their mutual satisfaction. Should an amicable mutually satisfactory resolution not be reached, it is irrevocably agreed by Lessee that RGGGS may, at any time and in any manner required, take whatever action which in RGGGS's sole determination is required including, without limitation, the deletion from this Lease of all rights of Lessee in any part or parts of the Premises in which RGGGS desires to explore for, mine, and remove those substances reserved by RGGGS herein.

20. LESSEE'S LIABILITY AND INDEMNIFICATION FOR INJURIES

A. Lessee is an independent contractor under this Lease, and RGGGS in no way shall be liable for any injury or damage, or claims of injury or damage, whatsoever to persons or property which may result from Lessee's exercise of the rights granted Lessee hereunder or from Lessee's operations on the Premises under this Lease and/or from the lack of safety (latent or patent) of the Premises, and Lessee assumes all risk of personal injury, death, and/or property damage from any cause whatsoever. Lessee irrevocably agrees that it shall indemnify, protect, hold harmless, save, and defend RGGGS, its directors, officers, employees and agents (each a "Protected Party") from and against any and all suits, actions, legal proceedings, claims, demands, court costs, litigation expenses, attorneys fees, consultants fees, judgments, awards, and other costs or expenses whatsoever, in any manner caused by, arising from, incident to, related to, connected with, or growing out of Lessee's or Lessee's principals, employees', contractors' agents', or assigns' activities and/or operations hereunder, or the use or occupation of the Premises by Lessee, its principals, employees, contractors, agents or assigns. Lessee's obligations of defense and indemnification to a Protected Party shall survive indefinitely the termination or expiration of this Lease.

B. It is hereby understood and irrevocably agreed by Lessee that it is the intent of RGGGS in this Lease, that in the event and to the extent a claim is made by an employee of Lessee against a Protected Party hereunder, that Lessee, its successors and assigns will indemnify the Protected Party to the same extent as if the claim were made by a non-employee of Lessee, notwithstanding any statute or judicial decision otherwise disallowing such indemnification. It is the intent of this Lease that, as a part of the consideration of Lessee to RGGGS under this Lease, and regardless of any defense the Lessee might have, Lessee, its successors and assigns, shall indemnify the Protected Party against all claims of any nature whatsoever, and hereby specifically, expressly and without reservation waives any defense it might have under the Worker's Compensation Act of Alabama, or any statute or judicial decision.

21. INSURANCE

(A) Lessee agrees that before it or any of its contractors enter upon the Premises, it will obtain and maintain in full force and effect, or will cause its contractors to do so, Commercial General Liability insurance under an occurrence policy form in an insurance company or companies satisfactory to RGGGS, and possessing an A.M. Best Company rating of A-, Class VII or better, for bodily injury, including death, and property damage in a minimum amount of [high risk: Two Million / low risk: One Million] Dollars (\$____.00) per occurrence and [high risk: Four Million / low risk: Two Million] Dollars (\$____.00) in the aggregate. Lessee agrees to procure and maintain insurance policies in accordance with the terms and provisions outlined in **Attachment "I"** attached hereto and incorporated herein, including without limitation, adding RGGGS Land & Minerals Ltd., LP as an Additional Insured; obtaining waiver of subrogation; agreeing to give United States Steel Corporation sixty (60) days' prior written notice upon policy cancellation or change; and providing subcontractor coverage (if applicable). Lessee further agrees to immediately provide a copy of **Attachment "I"** to its insurance company and/or insurance agent.

(B) If Lessee bears witness to or receives information from any third party of personal injury, property damage, or environmental release occurring adjacent to or adjoining the Premises, Lessee shall provide Lessor with immediate notice of any such event.

(C) The obligations set forth in this Section and in **Attachment "I"** shall continue after the termination of this Lease as to any matters that occurred during or resulted from the term of this Lease.

22. ESTIMATE OF COAL QUANTITY

In making any estimate of the quantity of coal mined by Lessee, its agents or assigns under this Lease, **one (1) ton of two thousand (2,000) pounds of coal shall be considered as occupying or containing twenty-five (25) cubic feet of coal in-place.**

23. AUDIT

In order to determine the accuracy or correctness of Lessee's mining, reporting, and sales procedures or of any financial and accounting report required of Lessee for coal mined from the Premises under this Lease, Lessee shall keep adequate financial and accounting books, records, and reports concerning any and all coal mined, blended, processed, transported, and sold hereunder, and RGGGS, through its employees, representatives, agents and assigns, shall have the right to review and audit, at all reasonable times, said books, records, and reports of Lessee, its agents, contractors, and assigns. All of said books, records, and reports of Lessee, its agents, contractors, and assigns, shall be kept open and available for inspection for not less than **three (3) years** following the date of expiration or termination of this Lease.

24. FORCE MAJEURE

Should the Lessee be unable to mine coal from the Premises during a period of **fourteen (14) or more consecutive calendar days** during the term hereof, as a result of a Force Majeure, the Minimum Royalty payment for the subsequent period in which Minimum Royalty is due RGGGS hereunder shall be adjusted and prorated to waive the Minimum Royalty for such days in which Lessee was unable to mine coal. The term "**Force Majeure**", as used herein, shall mean a nationwide strike in the coal industry (but not strikes or labor disturbances

otherwise), acts of God, acts of a public enemy, wars, or insurrections, earthquakes, floods, loss of utility, and other causes beyond the reasonable control of Lessee. In order for Lessee to be eligible for the relief granted by this Paragraph, Lessee must and shall immediately notify RGGGS, in writing, of any condition qualifying as Force Majeure hereunder. For the purposes of this Lease, and notwithstanding anything herein elsewhere provided to the contrary, Lessee irrevocably agrees that no Force Majeure condition shall exist under this Lease until RGGGS shall have acknowledged, in writing, receipt of Lessee's written notice of a condition qualifying as a Force Majeure hereunder. Lessee shall notify RGGGS, in writing, immediately upon cessation of any such condition qualifying as a Force Majeure hereunder. Failure to notify RGGGS of the cessation of such condition shall constitute a default of Lessee under this Lease. It is specifically understood and agreed by Lessee that Lessee's inability to sell coal mined from the Premises under or pursuant to this Lease due to depressed coal market conditions shall not qualify as a Force Majeure conditions hereunder.

25. FINANCIAL STATEMENTS

Lessee shall from time to time, at RGGGS's request, furnish RGGGS with copies of information verifying Lessee's financial stability and of Lessee's ability to perform its covenants and obligations under this Lease. RGGGS and Lessee shall agree on the form(s) of financial verification to be submitted at the time such information is due or requested by RGGGS. Thereafter, Lessee shall submit such information to RGGGS within thirty (30) days from the date such financial information is due or requested by RGGGS.

26. ENVIRONMENTAL

(a) Should the discharge, leakage, spillage, or emission of any flammable, explosive, caustic, corrosive, or radioactive substance or Hazardous Material (as defined in Paragraph 29(c) below) occur upon or from the Premises which is due or in any manner attributable to Lessee's actions or inactions during the Lease Term, Lessee, at its sole cost and expense, shall be obligated to clean up and remediate the Premises and any other property affected thereby, to the satisfaction of Lessor and all governmental authorities having jurisdiction thereover. If such leakage, spillage, or emission should occur in reportable quantities during the Lease Term, Lessee shall promptly inform Lessor of such occurrence, and the Lessee shall promptly commence any notification and necessary cleanup action.

(b) Lessor may make written demand on Lessee for cleanup of the Premises or other affected property, and if Lessee does not undertake to comply with that demand within ten (10) days, than Lessor shall have the right to clean up the Premises and such other affected property to Lessor's satisfaction, and Lessor's costs shall all be chargeable to Lessee, provided that Lessor's exercise or failure to exercise such right shall not be a waiver of any other rights it might have under this subsection or at law.

(c) As used in this Lease, the term "Hazardous Material" shall mean any substance or material (including without limitation "liquid sewage sludge") which has been determined to be capable of posing a risk of injury or damage to health, person, safety, or property under any applicable federal, state, and local laws, codes, ordinances, rules, decrees, order, judgments, implementing regulations, and applicable regulatory permits relating to pollution or protection of the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act of 1976, the Superfund Amendments and Reauthorization Act of 1986, and all other laws and regulations relating to hazardous and toxic substances, emissions, releases, and discharges of pollutants, wastes, and other substances into ambient air, surface water, ground water, or land, whether such requirements exist on the date hereof or are adopted in the future.

(d) The Lessee, as an independent contractor hereunder, in the exercise of any of the rights granted to Lessee by this Lease, irrevocably agrees that it will, at its sole efforts and expense, comply with all applicable past, present and future laws, ordinances, rules, and regulations enacted by any federal, state, county, or municipal governmental agency(s) having jurisdiction or control over mining, reclamation, storm water discharge, wetlands, and environmental pollution or any other aspect or facet of this Lease, including but not limited to:

- (1) the Surface Mining Control and Reclamation Act of 1977;
- (2) the Alabama Surface Mining Act of 1969;
- (3) the Alabama Surface Mining Control and Reclamation Act of 1981, as amended 1983 and 1990;
- (4) the Alabama Water Pollution Control Act, as amended 1982;
- (5) the Alabama Solid Wastes Disposal Act of 1969;
- (6) the Alabama Air Pollution Control Act, of 1971, as amended 1982;
- (7) the Alabama Hazardous Wastes Management and Minimization Act of 1978, as amended 1985 and 1987;
- (8) the Federal Toxic Substances Control Act of 1976;
- (9) the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986;
- (10) the Federal Water Pollution Control Act, as amended 1987;
- (11) the Federal Clean Air Act, as amended 1990;
- (12) the Federal Resource Conservation and Recovery Act;
- (13) the Hazardous Materials Transportation Act; and
- (14) the Best Management Practices of the Alabama Department of Environmental Management

(herein "Environmental Laws") together with any amendments, additions, changes, or deletions thereto, or similar laws, to the extent that they may be applicable, and Lessee irrevocably agrees that it shall indemnify, protect, defend, save, and hold RGGGS harmless from any loss or claims of loss, expense or claims of expense, or damage(s) or claims of damage(s) resulting from or related to any failure, omission, or claims of failure or omission of Lessee, its principals, employees, agents, contractors, or assigns to comply therewith. All of Lessee's obligations of defense and indemnification to RGGGS hereunder shall survive the termination or expiration of this Lease.

(e) Lessee shall notify Lessor of the receipt of any notice, order, or citation alleging the violation of any Environmental Law, and shall provide Lessor with copies of any citations, permits, or licenses issued by governmental authorities required by any Environmental Law, copies of all materials filed by Lessee with governmental authorities relating to Hazardous Materials, copies of any environmental reports or assessments relating to the Premises, and any other material or document relating to the presence of Hazardous Materials on the Premises.

(f) This Paragraph shall survive the expiration or termination of this Lease.

27. POLLUTION PREVENTION AND ENVIRONMENTAL IDEMNIFICATION

(a) Except for the materials listed in "Exhibit ____" which are necessary for Lessee's business operations, Lessee, in order to prevent the pollution, contamination, waste, or other damage to the Premises, its improvements, its fixtures, and its personal property, and to adjacent properties and to non-adjacent properties, is prohibited at all times from storing, treating, discharging, disposing, transporting, generating, emitting, handling, or otherwise having on the Premises any chemicals, raw materials, products, or byproducts. During the Lease Term the materials listed, in "Exhibit ____", will be updated by the Lessee and approved by the Lessor in writing prior to the use of any other materials on the Premises. Lessee is also prohibited from storing, treating, discharging, disposing, transporting, generating, emitting, handling, or otherwise having on the Premises any wastes or the like in any form (including gases, liquids, semi-solids, and solids), that cause or tend to cause pollution, contamination, nuisances of any kind, or that pose a threat to human health and the environment, if introduced into the environment by any means. The Lessee is specifically precluded, without limiting the foregoing, from having on the Premises "hazardous waste", as defined under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6901 et seq., as amended; "hazardous substances" as defined under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §§9601 et seq., as amended; "pollutants and contaminants", as defined under CERCLA; "extremely hazardous substances, hazardous chemicals, and toxic chemicals", as defined under the Emergency Planning and Community Right-to-know Act, 42 U.S.C. §11001, et seq., as amended; "toxic substances", as defined under the Toxic Substances Control Act, as amended; and "regulated substances", as defined under RCRA, 40 C.F.R. §280.12, as amended. The Lessee is also prohibited from allowing others to have any of the preceding materials on the Premises. In addition to the indemnification of Lessor set forth in paragraph 30(b) below, the Lessee shall be liable to the Lessor for any damages to the Premises or to any persons or other property, real or personal, for a breach or violation of this paragraph. Nothing in this paragraph is intended to limit any rights or causes of action Lessor may have elsewhere within this Lease or in general.

(b) Lessee agrees to defend and indemnify Lessor against and to hold Lessor harmless from all claims, actions, proceedings, judgments, awards, liability, cost, or expense (including attorneys fees, consultants fees, and other legal costs), for death, injury, loss, or damage to any person or property, brought by any person, firm, corporation, or governmental entity, resulting from any cause whatsoever including, but not limited to those resulting or arising from or in connection with the active or passive effects or existence of petroleum products or any physical substance of any nature or character, on, under or in the land, water, air, structures, fixtures, or personal property comprising the Premises, from and after the date hereof, whether resulting from Lessee's use of the Premises or otherwise. In addition to claims supported by other theories of liability, the foregoing indemnification applies to claims for injuries, damages, penalties, cleanup, and restoration costs resulting from contamination of any property, its surface, subsurface, groundwater, soil, or air, arising from environmental laws, regulations, or common law of the United States or state or local authorities, including provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9601, et seq., as amended, and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901, et seq., as amended.

(c) This paragraph shall survive the expiration of the Lease Term, and is specifically intended to apply to discovery of any of the above described events or circumstances that occurred during the Lease Term or any extension thereof of this Lease whenever discovered.

28. MINING LICENSES AND PERMITS

A. The Lessee, shall comply with all past, present, and future laws, ordinances, rules, and regulations enacted by any federal, state, county, or municipal governmental agency(s) having jurisdiction or control over mining, reclamation, storm water discharge, wetlands, and environmental pollution or any other aspect or facet of this Lease and shall, at its sole efforts and expense, procure all necessary licenses and permits pertaining to its operations on the Premises, including but not limited to all mining licenses and mining permits required by any municipal, county, state, or federal governmental agency(s). Lessee shall, upon execution hereof, or as soon thereafter as is possible, furnish RGGGS with copies of the following information:

- (1) Lessee's or Lessee's assigns' current and valid mining license; and
- (2) Lessee's or Lessee's assigns' approved mining permit(s); and
- (3) Lessee's or Lessee's assigns' reclamation bonds.

B. If, at any time during the term of this Lease, any of Lessee's or Lessee's assigns' mining licenses, mining permits, or reclamation bonds should be changed, amended, or altered in any way, Lessee shall immediately furnish RGGGS with copies of the same specifically depicting such changes, alterations, or amendments. Lessee or Lessee's assigns shall not, for any reason whatsoever, obtain or seek to obtain any waivers from the original mining and reclamation plans and permits without first notifying RGGGS in writing and obtaining written permission from RGGGS

C. If, at any time during the term of this Lease, any of Lessee's or Lessee's assigns' mining licenses, mining permits, or reclamation bonds should be canceled, revoked, terminated, or in any other manner rendered permanently inoperative, null or void, for any reason whatsoever, by any act of any federal, state, county, or municipal governmental agency, which act would operate to defeat Lessee's or Lessee's assigns' rights or ability to mine coal on the Premises, as is the intent of this Lease, RGGGS may, at its sole discretion and option, terminate this Lease upon ten (10) days written notice to Lessee.

29. WORKERS' COMPENSATION

Lessee irrevocably agrees that in its exercise of any of the rights granted to Lessee herein and in all of its operations hereunder, Lessee is and shall be an independent contractor and shall be exclusively liable for the payment of all sums of money and benefits due to all persons legally entitled thereto who are properly engaged in Lessee's or Lessee's agents' and assigns' operations, including any amounts due its employees under the **Alabama Workers' Compensation Act**, or any other law, and Lessee shall indemnify, protect, defend, and save RGGGS harmless against Lessee's or Lessee's agents' or assigns' failure to pay any and all payments due to and claims for payments made by persons engaged by Lessee or Lessee's agents and assigns in any work conducted hereunder, including those specific instances as described in **Paragraph 19** above.

30. PAYMENT OF LEVIES AND TAXES

Lessee, in the exercise of any of the rights granted to Lessee under this Lease, specifically and irrevocably agrees:

(1) To pay all contributions, levies, taxes, or other sums, by whatever name called, for which RGGGS might otherwise become liable with reference to all wages, benefits, or other sums paid employees of the Lessee, its agents, contractors, and assigns, whose labor enters into the mining, transportation, production, treatment, shipment, or sale of any coal or other materials of any kind whatsoever, produced under this Lease or reclamation of mining on the Premises in all cases where such contributions, levies, taxes, or other sums are or shall be required to be paid under any federal, state, county, or municipal unemployment act or Social Security Act, by whatever name called, and to indemnify, protect, save, defend, and hold RGGGS harmless against Lessee's or Lessee's agents', contractors', or assigns' failure to comply therewith and also against any federal, state, county, municipal, or personal claims whatsoever fixed or levied with reference to the wages of employees of Lessee, its agents, contractors, or assigns; and

(2) That RGGGS shall, in accordance with law, assess and pay taxes on the interests owned and/or leased by RGGGS in the Premises, including unmined coal therein contained. However, Lessee shall reimburse RGGGS for any and all unmined coal taxes on the Premises; and

(3) That Lessee shall, in accordance with law, assess and pay taxes on all machinery, structures, equipment, improvements, and other property of Lessee now or hereafter located or placed by Lessee in its mines or on the Premise. Lessee shall also pay any so-called severance, tonnage, license, privilege, or occupational taxes on coal which Lessee has the right to mine or in fact mines from the Premises and shall indemnify, protect, save, defend, and hold RGGGS harmless from and against any liability or claims of liability, or damages or claims of damages arising from or related to Lessee's failure to pay such taxes. Lessee shall have the right in good faith to contest or review, at its sole efforts and expense, in such manner as it deems suitable, and in RGGGS's name if desirable, any tax, charge, levy, or assessment whether general, special, ordinary, or extra-ordinary, layed, levied, assessed, or imposed upon Lessee.

31. CHALLENGE OF TITLE

It is understood and irrevocably agreed by Lessee that RGGGS does not warrant the title to the Premises or to any coal which may exist thereon. In the event that any claim(s) be made or litigation instituted by any third party as to the title or ownership of RGGGS in or to any portion or interest of the Premises described herein, RGGGS shall have the right, but not the obligation, to defend the same. Should RGGGS choose not to defend RGGGS's title, Lessee shall have the right, at its option and its sole expense, to defend RGGGS's title. Upon determination, by a court of competent jurisdiction in a proceeding to which RGGGS is a party that RGGGS's title to any part or interest in the Premises described herein is defective to such extent as to defeat Lessee's right or ability to mine coal thereon under this Lease, notice by RGGGS to Lessee of such determination shall operate to eliminate from this Lease any and all acreage of the Premises so determined to be defective. In such case, RGGGS's sole liability and responsibility to Lessee shall be to refund to Lessee any royalties paid to RGGGS by Lessee for coal mined from said defective acreage, and in no event shall RGGGS be liable to Lessee for any direct or consequential damages sustained or assessed against Lessee as a result of the mining of the coal in any land as to which RGGGS's title fails. It is specifically understood and irrevocably agreed by Lessee that Lessee, its agents and assigns, have satisfied themselves as to the competency and sufficiency of RGGGS's title to the Premises and the interests contained therein prior to entering into this Lease.

32. RIGHT OF ACCESS

RGGGS, through its employees, representatives, agents, and assigns, shall have, at all times during the term of this Lease and without limitation, the free, unrestricted and unobstructed access to the Premises.

33. PRIOR LEASES

This Lease is made subject to all easements, rights-of-way, leases, leases, agreements, or other rights of third parties now existing which affect RGGGS's lands covered by this Lease.

34. ZONING

This Lease and Lessee's rights hereunder are subject to all applicable zoning and subdivision laws, rules, regulations, and ordinances, including any and all blasting covenants and restrictions related thereto, and the burden and cost(s) of compliance therewith shall be solely upon Lessee. Under no circumstances whatsoever, shall Lessee, its agents, employees, or assigns, seek to change any zoning and/or subdivision regulations or classifications concerning the Premises described herein without the express prior written approval of RGGGS. Lessee shall protect, defend, indemnify, save, and hold RGGGS harmless against any consequence arising from Lessee's failure to comply with any and all applicable zoning and/or subdivision regulations, including but not limited to any and all blasting covenants and restrictions related thereto.

35. CONDEMNATION OF PREMISES

If the Premises in whole or in part, or any portion thereof or interest therein, shall be acquired or condemned by any action of eminent domain or sold in lieu thereof by or for any public or quasi-public use or purpose, which action shall serve to defeat RGGGS's or Lessee's rights or ability to mine coal from the Premises, then RGGGS shall give notice of any such action to Lessee in writing. Such notice by RGGGS to Lessee of such action or determination shall operate to eliminate from this Lease any and all acreage of the Premises so determined by such action or determination. In any such case, Lessee irrevocably agrees that RGGGS shall have no responsibility or liability, either directly or indirectly, to Lessee to refund, reimburse, or compensate Lessee for any direct, indirect, incidental, or consequential damage(s) or claims of such damage(s), by Lessee or others for such action or determination. If the Premises in its entirety shall be acquired or condemned by any aforesaid action or determination, then this Lease, and all of the rights granted to Lessee herein, shall cease and terminate as of the date of title vesting in any such action, determination, or proceeding, and all Actual Production Royalties due RGGGS by Lessee for coal mined and sold prior to such termination shall be paid up to said date, but any unearned Advance Royalties or Minimum Royalties paid shall be refunded to Lessee. Lessee shall have no claim against RGGGS for any value of any unexpired term of this Lease other than the refund of the unearned portion of Advance or Minimum Royalties paid. Lessee shall have the right, at its sole efforts and expense, to contest such eminent domain action or determination and to make claim against the condemning authority (but not RGGGS) for damages incurred by Lessee as a result of such action.

36. TERMINATION BY LESSEE

Should Lessee complete the mining of all Economically Mineable and Merchantable Coal required hereby to be mined by Lessee, and if Lessee is not in default of any of the covenants, terms, and conditions of this Lease, thereafter Lessee shall have the right to terminate this Lease upon **thirty (30) days'** written notice to RGGGS. The term "**Economically Mineable and Merchantable Coal**", as used herein, is

defined as that coal which can be economically mined by a prudent Lessee using modern mining methods, practices, techniques, and equipment in accordance with generally accepted industry standards and mining limits used by prudent operators mining similar quantities of similar quality coals and as mutually determined by RGGGS and Lessee hereunder.

37. REMOVAL OF EQUIPMENT

A. In the event of expiration or termination of this Lease, for any reason whatsoever, and upon condition that:

(1) All sums of money due RGGGS by the Lessee under this Lease shall have been paid to and acknowledged by RGGGS; and

(2) All of Lessee's covenants and obligations to RGGGS under this Lease have been fully kept and performed to the satisfaction of RGGGS; then

the Lessee shall have the right to remove from the Premises described herein, within three (3) months after said expiration or termination, all of Lessee's structures, equipment, machinery, improvements, and other property of Lessee which the Lessee may have placed upon the Premises during the term of this Lease.

B. If Lessee does not remove said structures, equipment, machinery, improvements, and other property of Lessee from the Premises, as provided above, Lessee irrevocably agrees that RGGGS, at its sole option, shall be deemed the 62.5% owner of said property remaining on the Premises, and RGGGS shall have the additional right, at its sole option, to sell such of Lessee's property remaining on the Premises as is necessary to defray the cost(s) of removal of all or any part of the remaining aforementioned property.

C. If at the expiration or termination of this Lease, for any reason whatsoever, Lessee is in default in the payment of any sum of money due RGGGS under this Lease, Lessee irrevocably agrees that RGGGS shall have the right, and may at its sole option, sell such of Lessee's unencumbered structures, equipment, machinery, improvements, or other property of Lessee on the Premises as may be deemed necessary by RGGGS to cure such default.

38. INTEREST

In the event of failure of Lessee to pay any royalty (Actual Production, Minimum, Wheelage or otherwise) or to pay any other sum of money due RGGGS under this Lease, when due and without demand by RGGGS, and in addition to all other rights of RGGGS hereunder, RGGGS shall have the right, without further notice to Lessee, to assess interest on all such past due royalties (Actual Production, Minimum, Wheelage or otherwise) at the rate of **one and one-half percent (1-1/2%)** per month of the unpaid delinquent balance from the date of delinquency until paid. Assessment of interest by RGGGS shall in no way be deemed or construed, by Lessee or others, to be a waiver of Lessee's obligation to promptly pay all royalties (Actual Production, Minimum, Wheelage or otherwise) due RGGGS, when due and without demand, or to be a waiver or bar to the subsequent exercise or enforcement by RGGGS of any other provisions of this Lease or any other right of RGGGS hereunder.

39. ASSIGNMENT

A. Except as otherwise contemplated in paragraph 1.13 of the Surface Use Agreement RGGGS may assign this lease to a mineral operator who shall be considered the "Lessee" for the remainder of this Section 39. and all rights, obligations, liabilities, responsibilities shall pass to said mineral operator; additionally such Lessee may freely assign this lease back to RGGGS upon written notification to USS. It is specifically understood and irrevocably agreed by and between RGGGS and Lessee that this Lease, the rights granted to Lessee hereby, and the mining contemplated hereunder is personal to Lessee and that RGGGS is relying on the mining expertise personal to Lessee (or if Lessee is a corporation or partnership, then to the expertise of its principals) and that mining by the Lessee is of the essence hereof. It is hereby understood and irrevocably agreed that Lessee shall not have the right and shall not sell, transfer, mortgage, pledge, collateralize, pass, assign, or sublease this Lease or any interest in the Premises, in whole or in part, without the express prior written consent of RGGGS, and Lessee hereby specifically and irrevocably waives and relinquishes all rights to make any such sale, transfer, mortgage, pledge, collateralization, pass, assignment, or sublease without such written consent and expressly and irrevocably agree that RGGGS's decision, for whatever reason, shall be final and binding upon the Lessee. Lessee may, however, allow the mining of coal on the Premises hereunder by other parties, only on a lease or sub-lease basis, upon condition that Lessee shall promptly notify RGGGS in writing of such intent or desire and that Lessee shall remain fully liable and responsible for the full performance, actions, and behavior of such party(ies) and for the performance of all of Lessee's covenants, duties, and obligations to RGGGS hereunder. For the purposes of this Lease, a transfer of stock which would result in another entity or entities other than Lessee (or its principals) gaining a controlling interest in Lessee's company, companies, or corporation, or any operating division thereof, and thereby gaining control of this Lease or the Premises or any of RGGGS's interest(s) therein, in whole or in part, by virtue of such transfer, shall be considered as an assignment and is specifically prohibited by this Lease without the express prior written consent of RGGGS. If in the event an assignment of this Lease or any interest in the Premises, in whole or in part, is consented to by RGGGS, it is understood and Lessee irrevocably agrees that both Lessee and its assignee shall remain liable to RGGGS for the full performance and discharge of every obligation owed RGGGS hereunder.

B. Except as herein otherwise provided, this Lease shall inure to and be binding upon the respective successors and assigns of the parties hereto, as well as the parties themselves, however:

(1) if Lessee should sell, transfer, mortgage, pledge, collateralize, pass, assign, or sublease this Lease, or the rights granted Lessee herein, or the Premises or any interest therein, in whole or in part, without first procuring, in writing, the prior express consent of RGGGS; or

(2) if Lessee's assigns should sell, transfer, mortgage, pledge, collateralize, pass, assign, or sublease this Lease, or the rights granted Lessee herein, or the Premises or any interest therein, in whole or in part, without first procuring, in writing, the prior express consent of RGGGS; or

(3) if the interests of the Lessee hereunder should be sold under execution or other legal process without RGGGS's express written consent, as aforescribed; or

(4) if the Lessee should, at any time during the term of this Lease, become insolvent; or

(5) if proceedings in bankruptcy should be instituted by or against the Lessee, or its principals, which proceedings are not dismissed within one hundred twenty (120) days; or

(6) if a receiver or trustee should be appointed by or for Lessee by third parties, for the property of Lessee; or

(7) if Lessee is a corporation and any owner of five percent (5%) or more of the voting stock of such corporation shall sell or otherwise transfer said five percent (5%) or more of the voting stock of such corporation to any other entity(s) or person(s); or

(8) if this Lease or the rights herein granted Lessee should, by law or any other method whatsoever, devolve or pass to others than the Lessee without the express written consent of RGGGS; then

in each of the aforesaid cases, RGGGS shall have the right to irrevocably terminate this Lease, and all rights granted to Lessee herein, by giving Lessee **ten** (10) days' written notice of its intention to do so, and at the expiration of said **ten** (10) days, after mailing such written notice, this Lease and all of the rights granted to Lessee herein, shall be deemed terminated, null, and void.

40. OWNERSHIP OF THE PREMISES

Any and all of RGGGS's interests in the Premises and to all of the mineral, and non-mineral substances, and any other substances of value, contained or located therein or thereon, are solely the property and possessions of RGGGS, and the rights and privileges granted to Lessee under this Lease are solely by virtue of lease, and that neither the rights granted to Lessee by this Lease, nor any interest(s) of RGGGS in the Premises, whatever they may be, in whole or in part, nor any portion of the aforescribed, is considered to be, and in no way shall be construed by Lessee or others to be a possession, asset, or chattel of Lessee, its principals, employees, agents, contractors, or assigns which can be sold, transferred, mortgaged, pledged, collateralized, passed, assigned, subleased, or given out in any manner whatsoever, including proceedings of a bankruptcy, without the express prior written consent of RGGGS, which consent may be withheld for any reason whatsoever, and whose decision shall be final and binding upon the Lessee.

41. WAIVER OR BAR

Neither failure or failures to exercise any right of RGGGS under this Lease nor any delay or delays in exercising any such right, nor any delay in giving nor any failure to give any notice to Lessee hereunder shall be deemed by Lessee or others to be a waiver of any right of RGGGS hereunder or any bar to the subsequent exercise or enforcement by RGGGS of any of the provisions of this Lease or any right of RGGGS hereunder. Furthermore, no waiver or forgiving by RGGGS, for any reason whatsoever, of any default of Lessee under this Lease shall be construed, by Lessee or others, to operate as a waiver of any other default of Lessee under this Lease or the same default of Lessee on a future occasion.

42. ENTIRE AGREEMENT

This Lease constitutes the entire agreement between the parties hereto and supersedes, voids, and nullifies any and all other written or oral understandings or agreements between the parties hereto concerning the subject matter hereof. No modification, alteration, or amendment to this Lease shall be valid unless made in writing and duly executed by the proper parties hereto.

43. CONFIDENTIALITY

This Lease, and the terms, conditions, provisions, and covenants hereof are personal and confidential between RGGGS and Lessee, and their respective affiliates, successors, and assigns. It is therefore understood and irrevocably agreed by Lessee that none of the aforesaid terms, conditions, provisions, and covenants shall be divulged, given out, or made public in any manner whatsoever, except by an act or order of a court of law, to any person(s), party(s), company(s), corporation(s), or organization(s) whatsoever without first obtaining the express prior written consent of RGGGS, which consent may be withheld for any reason whatsoever, and whose decision in such matter shall be final and binding upon Lessee.

44. RECORDING

This Lease, and the terms, conditions, provisions, and covenants hereof are personal and confidential between RGGGS and Lessee, and their respective affiliates, successors, and assigns. It is therefore understood and irrevocably agreed by Lessee that if Lessee desires to record this Lease with any probate court of any county in which the Premises described herein are a part, Lessee will notify RGGGS, in writing, of such desire and RGGGS shall within **thirty** (30) days, provide Lessee with a "short form" of this Lease for recording purposes. The costs and efforts of recording said short form of this Lease shall be solely upon Lessee.

45. NOTICE TO PARTIES

Any notice provided for or permitted herein to be given by either party to the other party shall be conclusively deemed to have been given upon deposit thereof in United States Certified mail (return receipt requested), postage prepaid, and addressed to the parties as follows:

(1) If by RGGGS to Lessee:

or to any changed address of which Lessee shall give RGGGS written notice.

(2) If by Lessee to RGGGS:

RGGGS Lands & Minerals, Ltd., L.P.
1331 Lamar, Suite 501
Houston, Texas 77010

or to any changed address of which RGGGS shall give Lessee written notice.

46. FAILURE TO COMPLY

Notwithstanding any time period set forth hereinabove, in the event Lessee fails to comply with any of its material covenants or obligations to RGGGS under this Lease, RGGGS shall promptly send written notice to Lessee specifying the nature of such default. If Lessee does not remedy such failure within **twenty** (20) days after receipt of written notice of such failure from RGGGS, or if such failure cannot be reasonably remedied within **twenty** (20) days, and Lessee does not commence and pursue bona fide aggressive efforts to remedy such failure within such **twenty** (20) day period and thereafter, continually, diligently, and aggressively pursue such efforts to a successful conclusion to the satisfaction of RGGGS, then RGGGS may, at its option, terminate this lease upon written notice to Lessee.

47. SECURITY PROTECTION

Lessee shall, upon execution of this Lease, provide RGGGS with security protection as hereinafter set forth which will guarantee to RGGGS that all of Lessee's or Lessee's assigns' obligations and liabilities to RGGGS under this Lease shall be expeditiously kept and performed to the satisfaction of RGGGS. Lessee shall provide RGGGS with a standing irrevocable domestic Letter-of-Credit with a bank or banks acceptable to RGGGS, or such other security as may be acceptable to RGGGS, in an amount not less than _____ **Thousand Dollars** (\$__0,000), including RGGGS, its successors and assigns, as the sole beneficiary thereof. The form of security must be acceptable to RGGGS, must be irrevocable as long as this Lease is in effect, and must be immediately payable to RGGGS upon demand by RGGGS in the event Lessee should default on any monetary obligation to RGGGS. Should RGGGS withdraw any funds from the security provided by Lessee to satisfy a monetary obligation, Lessee agrees to replace the funds withdrawn within Ten (10) days following receipt of written notice from RGGGS that funds have been withdrawn. Should Lessee fail to replace the funds, RGGGS may terminate this Lease without further notice or demand from RGGGS. Each year on the anniversary of the lease, the amount of security required may be adjusted upward or downward upon written notice from RGGGS so that it shall equal the average of the three highest monthly royalty payments during the previous year rounded upward to the next higher Ten Thousand Dollar (\$10,000) increment. Upon receiving a written notice from RGGGS of an adjustment to the amount of security required, Lessee shall have Thirty (30) days to provide said adjust security to RGGGS.

48. FIRE AND/OR FLOOD

If a fire or flood, within or coming from the Premises and starting during the time that this Lease is in effect, causes damage to RGGGS, Lessee shall be solely liable and responsible for such damage and shall pay RGGGS for such damage unless Lessee can prove, to RGGGS's satisfaction that Lessee did not cause such damage. If any claim, litigation, suit, judgment, demand, liability, costs, expenses, and attorney's fees are asserted against RGGGS for any fire or flood starting in the Premises during the time this Lease is in effect, Lessee shall indemnify, protect, save, defend, and hold RGGGS harmless therefrom.

49. PARAGRAPH HEADINGS

The Paragraph headings contained herein are provided and inserted for convenience only and shall not be construed to affect, control, govern, limit, or restrict the meaning, content, construction, interpretation, or applicability of any Paragraph herein or provision hereof.

50. ACKNOWLEDGMENT

Lessee expressly acknowledges and irrevocably agrees, by its signature hereon, that Lessee has read and fully understands all of the terms, provisions, covenants, conditions, restrictions and limitations of this Lease and that Lessee has entered into this Lease of its own free will, without enticement, coercion, or duress from RGGGS, its agents or employees.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed, in duplicate, by their duly authorized officers or representatives as of the day and year first above written.

RGGS:

LESSEE:

By: _____
Title: _____

By: _____
Title: _____

RGGS Land & Minerals Ltd. L.P.

Date: _____

Date: _____

ATTACHMENT "I"
INSURANCE

Buyer shall procure and maintain, at its own expense, and shall require its Contractor(s), if any, to procure and maintain for the duration hereunder the insurance coverage meeting or exceeding the requirements set forth below:

1. **Minimum Scope of Insurance** -- Coverage shall be at least as broad as the following:

A. **Commercial General Liability Insurance**: Shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and liability assumed under an insured lease (including the tort liability of another assumed in a business lease). If a 1973 edition ISO form must be used by the insurer, the broad form comprehensive general liability (BFCGL) endorsement shall be included. Additionally, the policy shall not contain a sunset provision, commutation clause or any other provision which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy. The policy of insurance shall contain or be endorsed to include the following:

- (i) Premises/Operations;
- (ii) Products/Completed Operations;
- (iii) Contractual;
- (iv) Independent Contractors;
- (v) Broad form property damage;
- (vi) Personal Injury;
- (vii) Cross liability/severability of interest;
- (viii) The policy shall be endorsed using ISO form CG 20 10 11 85 (or a substitute form providing equivalent coverage) so as to include RGGGS Land & Minerals Ltd., LP (hereinafter "RGGGS"), and its affiliates, including all units, divisions and subsidiaries as Additional Insureds on a Primary and Non-contributory basis. The coverage shall contain no special limitations on the scope of protection afforded to said Additional Insured.
- (ix) Waiver of subrogation shall be provided to the benefit of all Additional Insureds, as aforesaid.
- (x) No XCU (explosion, collapse, underground) exclusion.
- (xi) For any claims related herein, the Buyer's and/or its Contractor's insurance shall be primary and non-contributory respecting the aforesaid Additional Insureds. Any insurance or self-insurance maintained by RGGGS shall be in excess of the Buyer's and/or Contractor's insurance and shall not contribute with it.
- (xii) The policy shall not contain any provision, definition, or endorsement which would serve to eliminate third-party action over claims.
- (xiii) Self-funded, or other non-risk transfer insurance mechanism are not acceptable to RGGGS. If the Buyer has such a program, full disclosure must be made to RGGGS prior to any consideration being given.

B. **Automobile Liability Insurance**: As specified by ISO form number CA 0001, Symbol I (any auto), with an MCS 90 endorsement and a CA 99 48 endorsement attached if hazardous materials or waste are to be transported. This policy shall be endorsed to include RGGGS, its affiliates, including all units, divisions and subsidiaries as Additional Insureds, and to include waiver of subrogation to the benefit of all Additional Insureds, as aforesaid.

C. **Workers' Compensation Insurance**: As required by the State or Commonwealth in which work is being done, and in accordance with any applicable Federal laws, including Employer's Liability Insurance and/or Stop Gap Liability coverage as per below limits. Where not otherwise prohibited by law, this policy shall be endorsed to include waiver of subrogation to the benefit of RGGGS, its affiliates, including all units, divisions and subsidiaries

D. **Employer's Liability and/or Stop Gap Liability Coverage**: Coverages per accident, disease-policy limit, and disease each employee.

Check if applicable

E. **Errors and Omissions Professional Liability Insurance (If made applicable by RGGGS)**: Coverage should be for a professional error, act or omission arising out of the Contractor's performance of work hereunder. The policy form may not exclude coverage for Bodily Injury, Property Damage, claims arising out of laboratory analysis, pollution or the operations of a treatment facility, to the extent these items are applicable under the scope of work hereunder. This policy shall be endorsed to include waiver of subrogation to the benefit of RGGGS, its subsidiaries, and/or affiliates. If coverage is on a claims-made form, Contractor shall maintain continuous coverage or exercise an extended discovery period for a period of no less than five (5) years from the time that the work hereunder has been completed.

Check if applicable

F. **Environmental Impairment Insurance (If made applicable by RGGGS)** Covering damage to the environment, both sudden and non-sudden, caused by the emission, disposal, release, seepage, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquid or gases, waste materials or other irritants, contaminants or pollutants, into or upon land, the atmosphere or any water course or body of water; or the generation of odor, noises, vibrations, light, electricity, radiation, changes in temperature, or any other sensory phenomena. Such insurance shall contain or be endorsed to include:

- (i) Property damage, including loss of use, injury to or destruction of property;
- (ii) Cleanup costs which shall include operations designed to analyze, monitor, remove, remedy, neutralize, or clean up any released or escaped substance which has caused environmental impairment or could cause environmental impairment if not removed, neutralized or cleaned up.
- (iii) Personal injury, which shall include bodily injury, sickness, disease, mental anguish, shock or disability sustained by any person, including death resulting therefrom.
- (iv) RGGGS, its affiliates, including all units, divisions and subsidiaries as Additional Insureds, on a primary and non-contributory basis.
- (v) Waiver of Subrogation in favor of RGGGS, its affiliates, including all units, divisions and subsidiaries.

If the Environmental Impairment Insurance is on a claims-made form, Buyer and its Contractor(s) shall maintain continuous coverage or exercise on an extended discovery period for a period of no less than five (5) years from the time that the work hereunder has been completed.

2. **Minimum Limits of Insurance** -- Buyer and its Contractor(s) shall maintain limits *no less than*:

A. **Commercial General Liability**: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$2,000,000 each occurrence for bodily injury and property damage; \$2,000,000 each occurrence and aggregate for products and completed operations; \$4,000,000 general aggregate. The limits and coverage requirements may be revised at the option of RGGGS, except if the parties agree otherwise.

B. **Automobile Liability Insurance**: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$2,000,000 per accident for bodily injury and property damage, \$5,000,000 if hazardous materials or substances are to be transported.

C. **Workers' Compensation**: As required by the State or Commonwealth in which the work will be performed, and as required by any applicable Federal laws.

D. **Employer's Liability and/or Stop Gap Liability Coverage**: \$1,000,000 per accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease each employee. (May include Umbrella coverage.)

E. **Errors and Omissions Professional Liability Insurance**: (If applicable) \$2,000,000 per loss; \$4,000,000 annual aggregate limit.

F. **Environmental Impairment Insurance**: (If applicable) \$5,000,000 combined single limit per loss, except if the parties agree otherwise.

3. **Deductibles and Self-Insured Retentions** -- All insurance coverage carried by Buyer and its Leaseor(s) shall extend to and protect RGGGS, its affiliates, including all units, divisions and subsidiaries to the full amount of such coverage, and all deductibles and/or self-insured retentions (if any), including those relating to defense costs, are the sole responsibility of Buyer and its Contractor(s).

4. **Rating of Insurer** -- The Buyer and its Contractor(s) will only use insurance companies acceptable to RGGGS and authorized to do business in the state or area in which the work hereunder is to be performed. Insurers must have a minimum rating of a A-, Class VII as evaluated by the most current A.M. Best rating guide. If the insurer has a rating less than an A-, Class VII, the Contractor must receive specific written approval from RGGGS prior to proceeding.

5. **Other Insurance Provisions**

A. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by United States first class certified mail, return receipt requested, has been given to RGGGS.

B. These insurance provisions are intended to be a separate and distinct obligation on the part of the Buyer. Therefore, these provisions shall be enforceable and Buyer and/or Contractor(s) shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

C. The above-described insurance coverage to be provided by Buyer and/or its Leaseor(s) hereunder will extend coverage to all work or services performed hereunder.

D. The obligation of the Buyer and its Contractor(s) to provide the insurance herein above specified shall not limit in any way the liability or obligations assumed by the Buyer and its Leaseor(s) hereunder.

E. In the event Buyer and its Contractor(s), or its insurance carrier defaults on any obligations hereunder, Buyer and its Contractor(s) agree that they will be liable for all reasonable expenses and attorneys' fees incurred by RGGGS to enforce the provisions hereunder.

6. **Evidence of Coverage**

A. Buyer and its Contractor(s) shall furnish RGGGS with copies of the endorsements effecting the coverage required by this specification. Additionally, *prior to the commencement of any work or services on RGGGS' Premises*, Buyer and its Contractor(s) and all subcontractors, if any, shall furnish to RGGGS satisfactory Certificates of Insurance evidencing full compliance with the requirements herein. The Certificates of Insurance must show that the required insurance is in force, the amount of the carrier's liability thereunder, and must further provide that RGGGS will be given thirty (30) days advance written notice of any cancellation of coverage or deletion of the certificate holder herein as an Additional Insured under the policies.

B. All Certificates of Insurance shall be in form and content acceptable to RGGGS and shall be submitted to RGGGS in a timely manner so as to confirm Buyer and its Contractor(s) full compliance with the stated insurance requirements hereunder.

C. Any failure on the part of RGGGS to pursue or obtain the Certificates of Insurance required hereunder from Buyer and its Contractor(s) and/or the failure of RGGGS to point out any non-compliance of such Certificates of Insurance shall not constitute a waiver of any of the insurance requirements hereunder, nor relieve Buyer or its Contractor(s) of any of its obligations or liabilities hereunder. Moreover, acceptance by RGGGS of insurance submitted by the Buyer and its Contractors does not relieve or decrease in any manner the liability of the Buyer and its Contractor(s) for performance hereunder. The Buyer and its Leaseor(s) are responsible for any losses, claims, and/or costs of any kind which their insurance does not cover.

7. **Subcontractors** -- Contractor(s) shall be responsible to obtain separate certificates from each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

EXHIBIT "2.1"
Insurance

Buyer shall procure and maintain, at its own expense, and shall require its Contractor(s), if any, to procure and maintain for the duration hereunder the insurance coverage meeting or exceeding the requirements set forth below:

1. **Minimum Scope of Insurance** -- Coverage shall be at least as broad as the following:

A. **Commercial General Liability Insurance**: Shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and liability assumed under an insured contract (including the tort liability of another for damages to a third party assumed in a business contract). If a 1973 edition ISO form must be used by the insurer, the broad form comprehensive general liability (BFCGL) endorsement shall be included. Additionally, the policy shall not contain a sunset provision, commutation clause or any other provision which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy. The policy of insurance shall contain or be endorsed to include the following:

- (i) Premises/Operations;
- (ii) Products/Completed Operations;
- (iii) Contractual;
- (iv) Independent Contractors;
- (v) Broad form property damage;
- (vi) Personal Injury;
- (vii) Cross liability/severability of interest;
- (viii) The policy shall be endorsed using ISO form CG 20 10 11 85 (or a substitute form providing equivalent coverage) so as to include United States Steel Corporation (hereinafter "USS"), and its affiliates, including all units, divisions and subsidiaries as Additional Insureds on a Primary and Non-contributory basis. The coverage shall contain no special limitations on the scope of protection afforded to said Additional Insured.
- (ix) Waiver of subrogation shall be provided to the benefit of all Additional Insureds, as aforesaid.
- (x) No XCU (explosion, collapse, underground) exclusion.
- (xi) For any claims related herein, the Buyer's and/or its Contractor's insurance shall be primary and non-contributory respecting the aforesaid Additional Insureds. Any insurance or self-insurance maintained by USS shall be in excess of the Buyer's and/or Contractor's insurance and shall not contribute with it.
- (xii) The policy shall not contain any provision, definition, or endorsement which would serve to eliminate third-party action over claims.
- (xiii) Self-funded, or other non-risk transfer insurance mechanism are not acceptable to USS. If the Buyer has such a program, full disclosure must be made to USS prior to any consideration being given.

B. **Automobile Liability Insurance**: As specified by ISO form number CA 0001, Symbol I (any auto), with an MCS 90 endorsement and a CA 99 48 endorsement attached if hazardous materials or waste are to be transported. This policy shall be endorsed to include USS, its affiliates, including all units, divisions and subsidiaries as Additional Insureds, and to include waiver of subrogation to the benefit of all Additional Insureds, as aforesaid.

C. **Workers' Compensation Insurance**: As required by the State or Commonwealth in which work is being done, and in accordance with any applicable Federal laws, including Employer's Liability Insurance and/or Stop Gap Liability coverage as per below limits. Where not otherwise prohibited by law, this policy shall be endorsed to include waiver of subrogation to the benefit of USS, its affiliates, including all units, divisions and subsidiaries.

D. **Employer's Liability and/or Stop Gap Liability Coverage**: Coverages per accident, disease-policy limit, and disease each employee.

Check if applicable NA

N

E. **Errors and Omissions Professional Liability Insurance (If made applicable by USS)**: Coverage should be for a professional error, act or omission arising out of the Contractor's performance of work hereunder. The policy form may not exclude coverage for Bodily Injury, Property Damage, claims arising out of laboratory analysis, pollution or the operations of a treatment facility, to the extent these items are applicable under the scope of work hereunder. This policy shall be endorsed to include waiver of subrogation to the benefit of USS, its subsidiaries, and/or affiliates. If coverage is on a claims-made form, Contractor shall maintain continuous coverage or exercise an extended discovery period for a period of no less than five (5) years from the time that the work hereunder has been completed.

Check if applicable NA

N

F. **Environmental Impairment Insurance (If made applicable by USS)** Covering damage to the environment, both sudden and non-sudden, caused by the emission, disposal, release, seepage, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquid or gases, waste materials or other irritants, contaminants or pollutants, into or upon land, the atmosphere or any water course or body of water; or the generation of odor, noises, vibrations, light, electricity, radiation, changes in temperature, or any other sensory phenomena. Such insurance shall contain or be endorsed to include:

- (i) Property damage, including loss of use, injury to or destruction of property;
- (ii) Cleanup costs which shall include operations designed to analyze, monitor, remove, remedy, neutralize, or clean up any released or escaped substance which has caused environmental impairment or could cause environmental impairment if not removed, neutralized or cleaned up.
- (iii) Personal injury, which shall include bodily injury, sickness, disease, mental anguish, shock or disability sustained by any person, including death resulting therefrom.
- (iv) USS, its affiliates, including all units, divisions and subsidiaries as Additional Insureds, on a primary and non-contributory basis.
- (v) Waiver of Subrogation in favor of USS, its affiliates, including all units, divisions and subsidiaries.

If the Environmental Impairment Insurance is on a claims-made form, Buyer and its Contractor(s) shall maintain continuous coverage or exercise on an extended discovery period for a period of no less than five (5) years from the time that the work hereunder has been completed.

2. **Minimum Limits of Insurance** -- Buyer and its Contractor(s) shall maintain limits *no less than*:

A. **Commercial General Liability**: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$1,000,000 each occurrence for bodily injury and property damage; \$1,000,000 each occurrence and aggregate for products and completed operations; \$2,000,000 general aggregate. The limits and coverage requirements may be revised at the option of USS, except if the parties agree otherwise.

B. **Automobile Liability Insurance**: Including Umbrella Liability Insurance, if necessary, limits shall be not less than \$1,000,000 per accident for bodily injury and property damage, \$2,000,000 if hazardous materials or substances are to be transported.

C. **Workers' Compensation**: As required by the State or Commonwealth in which the work will be performed, and as required by any applicable Federal laws.

D. **Employer's Liability and/or Stop Gap Liability Coverage**: \$1,000,000 per accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease each employee. (May include Umbrella coverage.)

E. **Errors and Omissions Professional Liability Insurance**: (If applicable) \$2,000,000 per loss; \$4,000,000 annual aggregate limit.

F. **Environmental Impairment Insurance**: (If applicable) \$5,000,000 combined single limit per loss, except if the parties agree otherwise.

3. **Deductibles and Self-Insured Retentions** -- All insurance coverage carried by Buyer and its Contractor(s) shall extend to and protect USS, its affiliates, including all units, divisions and subsidiaries to the full amount of such coverage, and all deductibles and/or self-insured retentions (if any), including those relating to defense costs, are the sole responsibility of Buyer and its Contractor(s).

4. **Rating of Insurer** -- The Buyer and its Contractor(s) will only use insurance companies acceptable to USS and authorized to do business in the state or area in which the work hereunder is to be performed. Insurers must have a minimum rating of a A-, Class VII as evaluated by the most current A.M. Best rating guide. If the insurer has a rating less than an A-, Class VII, the Contractor must receive specific written approval from USS prior to proceeding.

5. **Other Insurance Provisions**

A. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by United States first class certified mail, return receipt requested, has been given to USS.

B. These insurance provisions are intended to be a separate and distinct obligation on the part of the Buyer. Therefore, these provisions shall be enforceable and Buyer and/or Contractor(s) shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

C. The above-described insurance coverage to be provided by Buyer and/or its Contractor(s) hereunder will extend coverage to all work or services performed hereunder.

D. The obligation of the Buyer and its Contractor(s) to provide the insurance herein above specified shall not limit in any way the liability or obligations assumed by the Buyer and its Contractor(s) hereunder.

E. In the event Buyer and its Contractor(s), or its insurance carrier defaults on any obligations hereunder, Buyer and its Contractor(s) agree that they will be liable for all reasonable expenses and attorneys' fees incurred by USS to enforce the provisions hereunder.

6. **Evidence of Coverage**

A. Buyer and its Contractor(s) shall furnish USS with copies of the endorsements effecting the coverage required by this specification. Additionally, *prior to the commencement of any work or services on USS' Premises*, Buyer and its Contractor(s) and all subcontractors, if any, shall furnish to USS satisfactory Certificates of Insurance evidencing full compliance with the requirements herein. The Certificates of Insurance must show that the required insurance is in force, the amount of the carrier's liability thereunder, and must further provide that USS will be given thirty (30) days advance written notice of any cancellation of coverage or deletion of the certificate holder herein as an Additional Insured under the policies.

B. All Certificates of Insurance shall be in form and content acceptable to USS and shall be submitted to USS in a timely manner so as to confirm Buyer and its Contractor(s) full compliance with the stated insurance requirements hereunder.

C. Any failure on the part of USS to pursue or obtain the Certificates of Insurance required hereunder from Buyer and its Contractor(s) and/or the failure of USS to point out any non-compliance of such Certificates of Insurance shall not constitute a waiver of any of the insurance requirements hereunder, nor relieve Buyer or its Contractor(s) of any of its obligations or liabilities hereunder. Moreover, acceptance by USS of insurance submitted by the Buyer and its Contractors does not relieve or decrease in any manner the liability of the Buyer and its Contractor(s) for performance hereunder. The Buyer and its Contractor(s) are responsible for any losses, claims, and/or costs of any kind which their insurance does not cover.

7. **Subcontractors** -- Contractor(s) shall be responsible to obtain separate certificates from each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

This page is attached to allow for county recording information.