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DME: DL INTERSTATE COMMERCE COMMISSION

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June 20, 1990

INTERSTATE COMMERCE COMMISSION

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Office of the Secretary  
Recordation Unit  
Room 2303  
Interstate Commerce Commission  
12th and Constitution Avenue, N.W.  
Washington, DC 20423

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RECORDATION NO FILED 1425

JUN 20 1990 - 2:59 PM

INTERSTATE COMMERCE COMMISSION

JUN 20 1990 2 11 PM

Attention: Ms. Mildred Lee

Dear Ms. Lee:

Enclosed are one original and one certified true copy of each of the documents described below, to be recorded pursuant to § 11303 of Title 49 of the U.S. Code.

The first document, Lease Agreement, dated as of May 1, 1990, is a primary document. The names and addresses of the parties to such document are as follows:

Connell Finance Company, Inc.  
45 Cardinal Drive  
Westfield, NJ 07092

*Besson*  
*Besson*

Coal Supply Corporation  
45 Cardinal Drive  
Westfield, NJ 07092

The second document, Lease Assignment, dated as of May 1, 1990, is a secondary document. The primary document to which this is connected is the Lease Agreement, listed above. The names and addresses of the parties to such document are as follows:

*Handwritten signature/initials on the left margin.*

The Connecticut Bank and Trust Company,  
National Association  
One Constitution Plaza  
Hartford, CT 06115

Connell Finance Company, Inc.  
45 Cardinal Drive  
Westfield, NJ 07092

We request that this Lease Assignment be cross-indexed.

The third document, Assignment, Assumption, Acknowledgment, and Agreement, dated as of May 1, 1990, is a secondary document. The primary document to which this is connected is the Lease Agreement, listed above. The names and addresses of the parties to such documents are as follows:

Consumers Power Company  
212 West Michigan Avenue  
Jackson, MI 49201

Coal Supply Corporation  
45 Cardinal Drive  
Westfield, NJ 07092

Connell Finance Company, Inc.  
45 Cardinal Drive  
Westfield, NJ 07092

The Connecticut Bank and Trust Company,  
National Association  
One Constitution Plaza  
Hartford, CT 06115

We request that this Assignment, Assumption, Acknowledgment, and Agreement be cross-indexed.

The fourth document, Trust Indenture, Mortgage and Security Agreement, dated as of May 1, 1990, is a primary document. The names and addresses of the parties to such document are as follows:

Connell Finance Company, Inc.  
45 Cardinal Drive  
Westfield, NJ 07092

The Connecticut Bank and Trust Company,  
National Association  
One Constitution Plaza  
Hartford, CT 06115

The fifth document, Memorandum of Coal Supply Service Agreement, dated as of May 1, 1990, is a primary document. The names and addresses of the parties to such document are as follows:

Coal Supply Corporation  
45 Cardinal Drive  
Westfield, NJ 07092

Consumers Power Company  
212 West Michigan Avenue  
Jackson, MI 49201

The sixth document, Memorandum of Coal Supply Service Agreement Supplement No. 1, dated June 20, 1990, is a secondary document. The primary document to which this is connected is the Memorandum of Coal Supply Service Agreement, listed above. The names and addresses of the parties to such document are as follows:

Coal Supply Corporation  
45 Cardinal Drive  
Westfield, NJ 07092

Consumers Power Company  
212 West Michigan Avenue  
Jackson, MI 49201

A description of the equipment covered by each of these documents follows: 190 110-Ton Aluminum/Steel BethGon Coalporter Cars, Serial Numbers CSCX 3001-3190 (inclusive).

A filing fee of \$90 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the undersigned.

A short summary of the documents to appear in the index follows:

Lease Agreement dated as of May 1, 1990 between Connell Finance Company, Inc., as Lessor, and Coal Supply Corporation, as Lessee, covering 190 110-Ton Aluminum/Steel BethGon Coalporter Cars, Serial Numbers CSCX 3001-3190 (inclusive).

Lease Assignment dated as of May 1, 1990 between The Connecticut Bank and Trust Company, National Association, as Assignee, and Connell Finance Company, Inc., as Assignor, covering 190 110-Ton Aluminum/Steel BethGon Coalporter Cars and connected to Lease Agreement dated as of May 1, 1990 between Connell Finance Company, Inc., as Lessor, and Coal Supply Corporation, as Lessee, covering 190 110-Ton Aluminum/Steel BethGon Coalporter Cars, Serial Numbers 3001-3190 (inclusive).

Assignment, Assumption, Acknowledgment, and Agreement dated as of May 1, 1990 among Consumers Power Company, Inc., Coal Supply Corporation and The Connecticut Bank and Trust Company, National Association, covering 190 110-Ton Aluminum/Steel BethGon Coalporter Cars, Serial Numbers 3001-3190 (inclusive).

Trust Indenture, Mortgage and Security Agreement dated as of May 1, 1990 between Connell Finance Company, Inc., as Owner, and The Connecticut Bank and Trust Company, National Association, as Trustee, covering 190 110-Ton Aluminum/Steel BethGon Coalporter Cars, Serial Numbers 3001-3190 (inclusive).

Memorandum of Coal Supply Service Agreement dated as of May 1, 1990 between Coal Supply Corporation, as Contractor, and Consumers Power Company, as Customer, covering 190 110-Ton Aluminum/Steel BethGon Coalporter Cars, Serial Numbers 3001-3190 (inclusive).

Memorandum of Coal Supply Service Agreement Supplement No. 1 dated June 20, 1990 between Coal Supply Corporation, as Contractor, and Consumers Power Company, as Customer, covering 190 110-Ton Aluminum/Steel BethGon Coalporter Cars, Serial Numbers 3001-3190 (inclusive), and connected to Coal Supply Service Agreement entered into as of May 1, 1990

between Coal Supply Corporation, as Contractor, and  
Consumers Power Company, as Customer.

Very truly yours,



David M. Eisenberg

Enclosures

cc: J. Truman Bidwell, Jr., Esq.  
Donna M. Mazzaferro, Esq.

**Interstate Commerce Commission**  
Washington, D.C. 20423

6/20/90

OFFICE OF THE SECRETARY

David M Eisenberg  
White & Case  
1155 Avenue Of The Americas  
New York, N.Y. 10036-2787

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6/20/90 at 2:20pm and assigned recordation number(s). 16899,16899-A,16899-B,16899-C,16899-D & 16899-E

Sincerely yours,



Noreta R. McGee  
Secretary

Enclosure(s)

RECORDATION NO **16899** FILED 1990

JUN 20 1990 -2:20 PM

INTERSTATE COMMERCE COMMISSION

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LEASE AGREEMENT

Dated as of May 1, 1990

between

CONNELL FINANCE COMPANY, INC.,  
as Lessor

and

COAL SUPPLY CORPORATION,  
as Lessee

---

190 110-TON ALUMINUM/STEEL BETHGON COALPORTER CARS

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CERTAIN RIGHTS, TITLE AND INTEREST IN AND TO THIS LEASE AGREEMENT AND TO THE COAL CARS COVERED HEREBY ON THE PART OF THE LESSOR HAVE BEEN ASSIGNED TO AND ARE SUBJECT TO A LIEN AND SECURITY INTEREST IN FAVOR OF THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, AS ASSIGNEE, UNDER A SECURITY DOCUMENT DATED AS OF MAY 1, 1990. TO THE EXTENT, IF ANY, THAT THIS LEASE AGREEMENT CONSTITUTES CHATTEL PAPER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE JURISDICTION), NO SECURITY INTEREST IN THIS LEASE AGREEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL COUNTERPART THAT CONTAINS THE RECEIPT THEREFOR EXECUTED BY THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, AS ASSIGNEE, ON OR IMMEDIATELY FOLLOWING THE SIGNATURE PAGE THEREOF.

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FILED WITH THE INTERSTATE COMMERCE COMMISSION  
PURSUANT TO 49 U.S.C. § 11303  
ON JUNE \_\_, 1990 AT \_\_\_\_ .M.,  
RECORDATION NUMBER \_\_\_\_\_

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LEASE AGREEMENT dated as of May 1, 1990 between CONNELL FINANCE COMPANY, INC., a New Jersey corporation (the "Lessor"), and COAL SUPPLY CORPORATION, a New Jersey corporation (the "Lessee").

W I T N E S S E T H :

WHEREAS, the Lessor will purchase the Coal Cars from the Permitted Designee; and

WHEREAS, the Lessee desires to lease the Coal Cars from the Lessor and the Lessor is willing to lease the Coal Cars to the Lessee on the terms and conditions set forth herein; and

WHEREAS, Lessee intends to furnish use of the Coal Cars to the Permitted Designee;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the Lessor and the Lessee agree as follows:

SECTION 1. Definitions. The following terms shall have the following meanings for all purposes of this Lease:

(a) unless otherwise expressly provided, all references herein to Sections or other subdivisions refer to the corresponding Sections and other subdivisions of this Lease;

(b) the terms "hereof," "herein," "hereby," "hereto," "hereunder," "hereinafter" and "herewith" refer to this Lease; and

(c) all terms used herein which are defined in or by reference in Schedule X hereto (including all terms defined by reference therein to other instruments or to Sections and other subdivisions of this Lease) shall have the respective meanings stated or referred to in said Schedule X.

SECTION 2. Purchase and Lease; Renewal Terms; Return; Purchase Option.

(a) Purchase and Lease. Effective on the Closing Date, if the conditions set forth in any written agreement to which Lessor and Lessee are parties have been satisfied on and as of the Closing Date to the satisfaction of Lessor and Lessee (i) the Lessor shall purchase from the Permitted Designee the Coal Cars described in the Bill of Sale or Bills of Sale delivered on such Date and listed on Schedule 1 hereto, (ii) the Lessor shall tender delivery of such Coal Cars to the Lessee at West Olive, Michigan and the Lessee shall accept delivery thereof, (iii) the Lessor shall lease such Coal Cars to the Lessee and the Lessee shall lease such Coal Cars from the Lessor under this Lease for the Rent and Lease Term hereinafter stipulated and upon the other terms and conditions herein set forth and (iv) the Lessor and the Lessee shall conclusively evidence that such Coal Cars have been delivered to the Lessee and made subject to this Lease by executing and delivering a Lease Supplement substantially in the form attached hereto as Exhibit A covering the Coal Cars so purchased and leased.

This Lease shall not be terminated or cancelled for any reason or under any circumstance prior to the expiration of the Basic Term except as specifically provided in Section 11 and Section 14 hereof.

(b) Renewal Terms. Provided that no Default set forth in Section 14(a), (b), (e) or (f) hereof or Event of Default shall have occurred and then be continuing, the Lessee shall be entitled to renew this Lease pursuant to the following terms and conditions, at its or the Permitted Designee's option (provided, however, that with respect to this Section 2(b) so long as there is a Permitted Designee, the Lessee shall act only at the direction of such Permitted Designee), with respect to all, but not less than all, of the Coal Cars then being leased under this Lease on the last day of the Basic Term or any Renewal Term then in effect for one or more Renewal Terms (as provided below) commencing on the day immediately succeeding the last day of the Basic Term or any Renewal Term then in effect (the "Renewal Term Commencement Date"):

(i) Notice. The Lessee, or the Permitted Designee acting under and pursuant to the terms of the Coal Supply Service Agreement, may, by written request to the Lessor at any time at least 365 days (but not more than 420 days) prior to the expiration of the Basic Term, the final Fixed Rate Renewal Term then in effect or any Fair Market Extension Term then in effect, require that a determination be made under

clause (ii) of this paragraph (b) of the Fair Market Renewal Rent (in the case of a Fair Market Renewal Term option only) and Casualty Value for the Coal Cars for the applicable Renewal Term or, in the case of a determination to be made prior to the expiration of the Basic Term, then for the Fixed Rate Renewal Terms. In the case of a Fair Market Renewal Term option, such request shall specify the desired Fair Market Renewal Term which shall be determined in accordance with subclause (iv)(A) of this paragraph (b). No such request for a determination pursuant to this clause (i) shall be deemed an election by the Lessee for a renewal pursuant to the provisions of this paragraph (b). In the event the Lessee elects to renew this Lease, the Lessee shall provide the Lessor with a written notice irrevocably making such election at least 180 days prior to the applicable Renewal Term Commencement Date.

(ii) Determination. Within 30 days of the receipt by Lessor of Lessee's or the Permitted Designee's request pursuant to clause (i) above, Lessor shall give Lessee and, so long as there is a Permitted Designee, such Permitted Designee written notice of its proposed Fair Market Renewal Rent (in the case of a Fair Market Renewal Term option only) and Casualty Value for the proposed Renewal Term. If such proposal is unacceptable to Lessee and, so long as there is a Permitted Designee, such Permitted Designee, and if Lessor, Lessee and, so long as there is a Permitted Designee, such Permitted Designee are unable to reach agreement within 30 days after the receipt by Lessee and, so long as there is a Permitted Designee, such Permitted Designee of Lessor's proposal, a determination shall be made under subclause (v)(A) of this paragraph (b).

(iii) Fixed Rate Renewals. Any renewal pursuant to this clause (iii) shall be referred to as a "Fixed Rate Renewal" and shall be made on the following terms and conditions:

(A) The period of each Fixed Rate Renewal (each a "Fixed Rate Renewal Term") shall, subject to the two conditions set forth in the next succeeding sentence, be a period commencing on the Renewal Term Commencement Date therefor and ending on the second annual anniversary thereof. The aggregate of the Fixed Rate Renewal Terms shall, when added to the Basic Term and any prior Renewal Term: (1) not exceed 80% of the estimated eco-

conomic useful life of the Coal Cars, measured from the Closing Date (the determination of such useful life to be made pursuant to subclause (v)(A) below), and (2) be such that, upon the expiration of all of the Fixed Rate Renewal Terms, the estimated Fair Market Sale Value of the Coal Cars at such expiration (determined pursuant to subclause (v)(A) below as of the Renewal Term Commencement Date for the first Fixed Rate Renewal Term) would be at least equal to 20% of the Lessor's Cost therefor without taking into account inflation or deflation subsequent to the Closing Date. The latest date on which the conditions set forth in the immediately preceding sentence would be met is hereinafter referred to as the "Maximum Fixed Rate Renewal Termination Date."

(B) The monthly rent for the Coal Cars during each Fixed Rate Renewal Term (hereinafter, the "Fixed Rate Renewal Rent") shall be an amount equal to 75% of the Basic Rent in effect immediately prior to the expiration of the Basic Term, payable in arrears on each Payment Date during such Fixed Rate Renewal Term and on the last day of such Fixed Rate Renewal Term (which, however, shall in all events be a Payment Date which falls within the limitations specified in subclause (A) above). Payment Dates during any Fixed Rate Renewal Term shall be monthly and shall be on the same day of the month as those applicable during the Basic Term. Casualty Value for each Coal Car for all Fixed Rate Renewals shall be calculated once on or before the beginning of the first Fixed Rate Renewal and shall be an amount equal to the greater of (x) the amount paid pursuant to Rule 107 of the AAR Rules with regard to a Casualty Event and (y) an amount which (I) on the Renewal Term Commencement Date for the first Fixed Rate Renewal shall be equal to the greater of 20% of the Lessor's Cost therefor or the Fair Market Sale Value of the Coal Cars as of such Renewal Term Commencement Date (as determined pursuant to subclause (v)(A) below), and (II) thereafter (over the first and each subsequent Fixed Rate Renewal Term) be reduced monthly on each Payment Date on a straight-line basis from the initial Casualty Value determined pursuant to this clause (y) to 20% of the Lessor's Cost therefor at the Maximum Fixed Rate Renewal Termination Date and shall be

payable in the same manner contemplated during the Basic Term.

(C) Lessee shall have the right to elect not more than three successive Fixed Rate Renewals for the Remaining Coal Cars after which all Renewals, if any, shall be Fair Market Renewals. The first Renewal Term hereunder shall be a Fixed Rate Renewal Term.

(iv) Fair Market Renewals. Any renewal pursuant to this clause (iv) shall be referred to as a "Fair Market Renewal" and shall be made on the following terms and conditions:

(A) The period of any Fair Market Renewal for the Coal Cars shall, subject to the two conditions set forth in the next succeeding sentence, be the period commencing on the Renewal Term Commencement Date therefor and ending on the last day specified by the Lessee or the Permitted Designee, as the case may be, in the notice delivered pursuant to clause (i) of this paragraph (b) (the "Fair Market Renewal Term"), which Fair Market Renewal Term shall be in increments of one or more periods of twelve calendar months. Notwithstanding the foregoing, in no event shall any Fair Market Renewal Term extend beyond the earlier of the following dates: (1) the last date on which the period from the applicable Renewal Term Commencement Date to such date would be equal to 80% of the then remaining economic useful life of the Coal Cars and (2) the last date on which the then estimated Fair Market Sale Value of the Coal Cars (determined as of the applicable Renewal Term Commencement Date) would be at least equal to 20% of the Fair Market Sales Value therefor without taking into account inflation or deflation subsequent to the Renewal Term Commencement Date (all determined pursuant to the provisions of subclause (v) (A) below).

(B) The monthly rent for the Coal Cars during the Fair Market Renewal Term (hereinafter the "Fair Market Renewal Rent") shall be determined pursuant to the provisions of subclause (v) (A) below and shall be payable in arrears on each Payment Date during the Fair Market Renewal Term and on the last day of the Fair Market Renewal

Term (which, however, shall in all events be a Payment Date which falls within the limitations specified in subclause (A) above). Payment Dates during any Fair Market Renewal Term shall be monthly and shall be on the same day of the month as those applicable during the Basic Term. During any Fair Market Renewal Term, the Casualty Value for a Coal Car shall be an amount equal to the greater of (x) the amount paid pursuant to Rule 107 of the AAR Rules with regard to a Casualty Event and (y) an amount which (I) on the Renewal Term Commencement Date therefor, shall be equal to the greater of 20% of the Lessor's Cost therefor or the Fair Market Sale Value of a Remaining Coal Car as of such Fair Market Renewal Term Commencement Date (as determined pursuant to subclause (v)(A) below) and (II) during the remainder of such Fair Market Renewal Term, shall be reduced monthly on each Payment Date on a straight-line basis from the amount determined as of such Renewal Term Commencement Date to the estimated Fair Market Sale Value of the Coal Cars as of the last day of such Fair Market Renewal Term (as determined pursuant to subclause (v)(A) below), which in no event shall be less than 20% of the Lessor's Cost therefor, and shall be payable in the same manner contemplated during the Basic Term.

(C) Lessee shall have the right, subject to the conditions set forth in subclause (A) of this clause (iv), to elect any number of Fair Market Renewals, provided that no such Fair Market Renewal may be elected unless and until Lessee has elected all of the Fixed Rate Renewals to which it is entitled pursuant to clause (iii) of this Section 2(b).

(v) General. (A) In connection with any Renewal Term for the Coal Cars, a determination shall be made as of the Renewal Term Commencement Date for the first Fixed Rate Renewal or as of the applicable Renewal Term Commencement Date for any Fair Market Renewal (and in the case of clause (y) below, as of the last day of the final Fixed Rate Renewal Term or applicable Fair Market Renewal Term, as the case may be) by agreement of Lessor, Lessee and the Permitted Designee, as provided in clause (ii) of this Section 2(b) and, absent such agreement, pursuant to the Appraisal Procedure, of (w)

the then estimated remaining economic useful life of the Coal Cars, (x) the last date on which the then estimated Fair Market Sale Value of the Coal Cars (without regard to inflation or deflation subsequent to the Closing Date, in the case of a Fixed Rate Renewal option, or applicable Renewal Term Commencement Date, in the case of a Fair Market Renewal option) is projected to be equal to 20% of the Lessor's Cost therefor, (y) the Fair Market Sale Value of the Coal Cars as of the Renewal Term Commencement Date for the first Fixed Rate Renewal or for any Fair Market Renewal, as the case may be, and as of the last day of the final Fixed Rate Renewal Term or of any Fair Market Renewal Term, as the case may be, and (z) in the case of a Fair Market Renewal only, the Fair Market Renewal Rent for the Coal Cars for the proposed Fair Market Renewal Term. Such determination shall be made within the time periods required pursuant to clause (ii) of this Section 2(b) or, if such determination is being made pursuant to the Appraisal Procedure, then within the time periods required pursuant to the Appraisal Procedure and in any event shall be completed at least 185 days prior to the applicable Renewal Term Commencement Date.

(B) All provisions of this Lease shall be applicable during any Renewal Term, except that the Basic Rent and Casualty Values payable under this Lease during any such Renewal Term shall be those determined pursuant to this Section 2(b).

(c) Redelivery and Storage. The Lessee shall cause the Coal Cars to be assembled, and shall cause the delivery of possession thereof, in accordance with the terms of this Lease and, at the Lessee's own cost and expense, to such location or locations (the "Redelivery Locations") subject to Section 2(e) hereof, on the date of the expiration of the Lease Term, as the Lessor and the Lessee (in consultation with the Permitted Designee) shall have reasonably agreed and, absent such agreement by the date which is 30 days prior to the expiration of the Lease Term, then to a Redelivery Location chosen by the Lessee or the Permitted Designee and designated to the Lessor in writing not less than 25 days prior to the expiration of the Lease Term, which Redelivery Location shall in any event be not more than 200 miles from Chicago, Illinois and along the lines of any railroad then operating such Coal Cars. Any Coal Car delivered to such Redelivery Location (or into storage, as the Lessor may have requested as provided below) shall be deemed to be redelivered hereunder (and, subject to the next

succeeding paragraph, Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent, as the case may be, with respect to such redelivered Coal Cars shall cease to accrue with respect thereto) on the later to occur of (i) the expiration of the Lease Term, or (ii) the date on which at least one Train Set which includes such Coal Car (or such lesser number of Coal Cars which includes such Coal Car as Lessor and Lessee (in consultation with the Permitted Designee) may have agreed to be delivered to such Redelivery Location or into storage) shall have been delivered to any one such Redelivery Location or into storage. The Lessee will, at the request of Lessor, at its own cost and expense cause to be delivered to, and cause any Train Set (or such lesser number of Coal Cars as Lessor and Lessee (in consultation with the Permitted Designee) may have agreed to be stored) to be stored free of charge and at the Lessee's expense and risk on, storage tracks selected by the Lessee or the Permitted Designee and acceptable to the Lessor, such storage to be for a period commencing on the date of the delivery thereof to such storage tracks and terminating on a date not later than 30 days after the placing in storage of all of such Train Set or such lesser number as Lessor and Lessee (in consultation with the Permitted Designee) may have agreed to be stored pursuant to any one such request of the Lessor. In addition, the Lessee shall, at the request of Lessor, and at Lessor's cost and expense, cause to be delivered to, and cause any Train Set (or such lesser number of Coal Cars as Lessor and Lessee (in consultation with the Permitted Designee) may have agreed) redelivered to the Lessor to be stored on storage tracks selected by the Lessee or the Permitted Designee and acceptable to the Lessor for an additional period of 30 days (calculated as provided above) after the expiration of the free storage period referred to in the preceding sentence for a charge certified to Lessor by Lessee or the Permitted Designee as being equal to the then normal rates charged by railroads to third parties for storage of railcars of the same or similar type on their tracks and approved in writing by Lessor prior to any such storage (and until such approval the Lessee or the Permitted Designee shall not be responsible for any such storage), and such additional storage shall be at the Lessor's expense and risk. The Lessee agrees to cause the Lessor to be notified when a Train Set (or such lesser number of Coal Cars as the Lessor and Lessee (in consultation with the Permitted Designee) may have agreed to be delivered to a Redelivery Location or placed in storage, as the case may be) shall have been delivered to any one such Redelivery Location or placed in such storage.

If the Lessor or its agent shall inspect any Coal Car pursuant to Section 2(d) and shall conclude in good faith that such Coal Car is not in the condition required by Section 2(d), the Lessor may, at its option, (i) elect to cause the repair of any such Coal Car, but at the sole expense and risk of Lessee or (ii) cause the Lessee, within 30 days thereafter, at its sole expense and risk, to cause such repairs to be made and such work to be performed as shall be necessary to place such Coal Cars in the condition required by Section 2(d). In the case of clause (ii) above, the Lessee will cause the Lessor to be provided with notice when such Coal Car has been repaired so as to be in the condition required by Section 2(d) and is ready to be reinspected by the Lessor or its agent. Upon such reinspection, the Lessor or its agent shall inform the Lessee if such Coal Car is still not in the condition required by Section 2(d) (in which case the provisions of this paragraph shall continue to control). The Lessee agrees to pay, upon invoice from the Lessor, the following: (x) all costs and expenses incurred by the Lessor and its agent in connection with the inspection and reinspection of each Coal Car (other than any first time inspection costs relating to any Coal Car determined by Lessor or its agent to have been delivered in the condition required by Section 2(d)), (y) all costs and expenses, if any, reasonably incurred by the Lessor or its agent in connection with the repair of any such non-conforming Coal Car and (z) the daily equivalent of Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent (depending upon whichever shall have been in effect immediately prior to the expiration of the Lease Term) on each Coal Car not redelivered in the condition required by Section 2(d), from and including the day immediately succeeding the last day on which the Lessee paid Basic Rent, Fixed Rate Renewal Rent or Fair Market Rent, as the case may be, with respect to such Coal Car to and including the last date on which such Coal Car is made available to the Lessor or its agent for inspection and is in fact in the condition required by Section 2(d), as determined by such inspection.

(d) Return Condition. At the time of any return, the Coal Cars so being returned shall be free and clear of all liens, security interests, charges and encumbrances and rights of others (except any Owner Encumbrances and Permitted Encumbrances, it being understood that the Lessee will promptly and diligently cause any such Permitted Encumbrances to be discharged and, at the Lessor's request, the Lessee shall cause to be bonded or shall cause to be provided such other form of security for payment and discharge of such Permitted Encumbrances as the Lessor may reasonably

request) and shall be in the condition required by this Section 2(d). Each Coal Car redelivered hereunder shall be in good repair, order and condition, ordinary wear and tear excepted, suitable for use in interchange in accordance with AAR Rules and otherwise in a condition consistent with the requirements of Applicable Law. The Lessor or its agent may at any time, upon delivery of reasonable prior written notice and during business hours, inspect any Coal Car redelivered hereunder to determine whether such Coal Car is in the condition required by this Section 2(d). At such inspection, an Independent inspector satisfactory to both Lessor and Lessee (in consultation with the Permitted Designee) may be present and shall determine and state the repairs or work necessary to place such Coal Car in the condition required by this Section 2(d). The Lessee (or the Permitted Designee, as the case may be) and, except as otherwise provided in the last sentence of Section 2(c), the Lessor, shall each bear its respective costs in connection with any such inspection and one-half of the cost of any such independent inspector jointly approved.

(e) Extension of Lease Term. Upon the expiration of the Basic Term or any Renewal Term, as the case may be, the Lease Term for any Coal Car shall be extended for any period necessary for the delivery of such Coal Car to the Redelivery Locations referenced in Section 2(c); provided, that all deliveries shall in any event be made within 90 days after the expiration of the Lease Term, except for any Coal Car deemed a "wrecked car" by the Permitted Designee (or if there is no Permitted Designee, the Lessee) and certified as such to Lessor in writing by the Permitted Designee (or if there is no Permitted Designee, the Lessee), which shall in any event be delivered within 180 days after the expiration of the Lease Term. Except as otherwise provided below, the Lessee shall pay the daily equivalent of Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent (depending upon whichever shall have been in effect immediately prior to such delivery) on each Coal Car delivered to a Redelivery Location subsequent to the expiration of the Basic Term or any Renewal Term, as the case may be, from and including the day immediately succeeding the final Payment Date to and including the date of redelivery hereunder; provided, however, that any Coal Car not redelivered on or prior to the 90th day or the 180th day, as the case may be, following the expiration of the Basic Term or any Renewal Term, as the case may be, shall accrue Rent at a rate per day equal to 1.5 times the daily equivalent of the Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent, as the case may be, in effect immediately prior to such

delivery, from and including the day immediately succeeding such 90th day (or such 180th day in the case of a "wrecked car") to and including the date of delivery hereunder. Any Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent payable pursuant to this paragraph (e) shall be paid upon the date of such delivery.

(f) Purchase at Expiration of Lease Term. The Lessee shall, at its option, be entitled at the expiration of the Basic Term or any Renewal Term then in effect to purchase, or cause to be purchased by the Permitted Designee, pursuant to the following terms and conditions, at its or the Permitted Designee's option (provided, however, that with respect to this Section 2(f), so long as there is a Permitted Designee, the Lessee shall act only at the direction of such Permitted Designee), all, but not less than all, of the Coal Cars then being leased under this Lease as follows:

(i) Notice. The Lessee, or the Permitted Designee acting under and pursuant to the terms of the Coal Supply Service Agreement, may, by written request to the Lessor at any time not less than 365 days (but not more than 420 days) prior to the expiration of the Basic Term or any Renewal Term, require that a determination be made under clause (ii) of this paragraph (f) of the Fair Market Sale Value of the Coal Cars. No such request for a determination pursuant to this clause (i) shall be deemed an election by the Lessee for a purchase pursuant to the provisions of this Section 2(f). In the event that the Lessee or the Permitted Designee elects to purchase the Coal Cars, the Lessee shall cause the Lessor to be provided with a notice irrevocably making such election, under the option specified as provided above, at least 180 days prior to the expiration of the Lease Term.

(ii) Determination. Within 30 days of the receipt by Lessor of Lessee's or the Permitted Designee's request pursuant to clause (i) above, Lessor shall give Lessee and the Permitted Designee written notice of its proposed Fair Market Sale Value for the Coal Cars. If such proposal is unacceptable to Lessee and, so long as there is a Permitted Designee, such Permitted Designee, and if Lessor, Lessee and, so long as there is a Permitted Designee, such Permitted Designee are unable to reach agreement within 30 days after the receipt by Lessee and, so long as there is a Permitted Designee, such Permitted Designee of Lessor's proposal, a deter-

mination of the Fair Market Sale Value of the Coal Cars shall be made pursuant to the Appraisal Procedure (which shall be made within the time periods required by the Appraisal Procedure) and shall be completed at least 185 days prior to the expiration of the Lease Term.

(iii) The Lessee shall pay or cause to be paid to the Lessor, on the expiration of the Lease Term, an amount equal to the greater of (A) the Fair Market Sale Value for Coal Cars to be purchased pursuant to this Section 2(f) and (B) 20% of Lessor's Cost of such Coal Cars, and upon such payment and the payment by the Lessee of all Rent payable on or before such expiration date with respect to the Coal Cars (including, without limitation, the Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent, as the case may be, becoming due and payable on such expiration date), the Lessor shall transfer all its right, title and interest in and to such Coal Cars to the Lessee or the Permitted Designee, as the case may be, without any representation, recourse or warranty on the part of the Lessor except that the Lessor shall warrant to the Lessee and, so long as there is a Permitted Designee, such Permitted Designee, that such Coal Cars are free and clear of all Owner Encumbrances.

### SECTION 3. Disclaimer of Warranties.

(a) No Representation or Warranty. THE LESSEE ACKNOWLEDGES THAT (i) THE COAL CARS ARE SUITABLE FOR THE LESSEE'S PURPOSES AND (ii) NEITHER THE LESSOR NOR ANY PERSON THAT IS AN AFFILIATE OF LESSOR NOR ANY LESSOR ASSIGNEE NOR ANY PERSON THAT IS AN AFFILIATE OF ANY OF THE FOREGOING IS A MANUFACTURER OF OR DEALER IN SUCH COAL CARS (EXCEPT FOR ANY SUCH PERSON WHICH IS ACTUALLY A MANUFACTURER OF OR DEALER IN, AS THE CASE MAY BE, SUCH COAL CARS). THE LESSEE ACKNOWLEDGES THAT NEITHER THE LESSOR NOR ANY PERSON THAT IS AN AFFILIATE OF LESSOR NOR ANY LESSOR ASSIGNEE NOR ANY PERSON THAT IS AN AFFILIATE OF ANY OF THE FOREGOING MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE DESIGN, OPERATION OR CONDITION OF ANY COAL CAR OR AS TO THE TITLE, VALUE, OR MERCHANTABILITY OF ANY COAL CAR, OR AS TO THE QUALITY OF THE MATERIALS, EQUIPMENT OR WORKMANSHIP OF ANY COAL CAR OR AS TO THE FITNESS OF ANY COAL CAR FOR ANY PARTICULAR USE OR PURPOSE, OR AS TO THE ELIGIBILITY OF ANY COAL CAR FOR ANY PARTICULAR TRADE, OR, EXCEPT AS SET FORTH IN SECTION 3(b), ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY COAL CAR

AND UNDER NO CIRCUMSTANCES WHATSOEVER SHALL THE LESSOR BE LIABLE OR RESPONSIBLE TO THE LESSEE FOR ANY CONSEQUENTIAL DAMAGES.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION 3(A), THE LESSOR WARRANTS AND AGREES NOT TO WRONGFULLY INTERFERE WITH THE LESSEE'S QUIET ENJOYMENT OF THE COAL CARS, PROVIDED ONLY THAT NO EVENT OF DEFAULT SHALL HAVE OCCURRED AND BE CONTINUING UNDER THE TERMS OF THIS LEASE.

(b) Title. Notwithstanding the provisions of the foregoing paragraph (a), the Lessor represents and warrants that on the Closing Date it will have whatever title to the Coal Cars being delivered on such Date as has been conveyed to it on such date by the Permitted Designee and that such Coal Cars will be subject to no Owner Encumbrances.

SECTION 4. Use and Operation of Coal Cars. During the Lease Term, so long as no Event of Default has occurred and is continuing, the Lessee has the exclusive right to possession, control and full use of the Coal Cars leased hereunder and may use such Coal Cars in any lawful trade or commerce, provided that the Lessee shall use each Coal Car only in the manner for which it was designed and intended and that such Coal Cars shall not be used or operated in any manner contrary to any Applicable Law; provided, however, that Lessee shall have the right to contest the applicability of any such Applicable Law by means of a Permitted Contest.

The Lessee hereby certifies to the Lessor that the Coal Cars will at all times during the Lease Term be used and operated in the continental United States. If, at any time, any Coal Car is to be used or operated outside the limitations set forth above, the Lessee will cause the Lessor and any Lessor Assignee to be promptly notified of such proposed use or operation and will, at the request of Lessor or any such Lessor Assignee, cause all such filings to be duly made and recorded as may be reasonably requested by the Lessor or any such Lessor Assignee prior to such proposed use or operation.

SECTION 5. Maintenance. The Lessee, at its own expense and risk, shall, throughout the Lease Term, cause each Coal Car to be maintained and repaired so as to keep such Coal Cars in good repair, order and condition, ordinary wear and tear excepted, suitable for use in interchange in accordance with AAR Rules and otherwise in a condition consistent with the requirements of Applicable Law.

SECTION 6. Inspection. The Lessor, on behalf of itself and any Lessor Assignee, or any authorized representatives of the Lessor or any Lessor Assignee, may, upon reasonable notice and at Lessor's or such Assignee's own expense and at such reasonable times, inspect the Coal Cars and applicable maintenance and use records relating thereto, and the Lessee shall cause the foregoing to be made available to the Lessor, but neither the Lessor nor any Lessor Assignee shall have any duty to do so; provided, however, that any such inspection shall in no way interfere with any repairs or maintenance or the use and operation of the Coal Cars and shall be subject always to Lessee's and Permitted Designee's customary security and safety procedures.

SECTION 7. Improvements.

(a) Improvements. The Lessee shall, upon reasonable prior written notice to the Lessor, cause such Improvements to be made to the Coal Cars as shall be required in order to comply with Section 5 hereof. In addition, the Lessee may cause such other Improvements to the Coal Cars as the Lessee may deem desirable but only to the extent that (i) in the case of Severable Improvements, such Severable Improvements are readily removable without causing material damage to any Coal Car and without impairing its Fair Market Rent or commercial value (determined as if such Improvements had not been made), (ii) in the case of Nonseverable Improvements, such Nonseverable Improvements do not diminish, in the Lessor's good faith opinion, the Fair Market Sale Value, remaining expected useful life, productive capacity, residual value or utility of such Coal Car and (iii) in each case, the Lessee shall have first obtained the Lessor's prior written consent, which shall not be unreasonably withheld.

(b) Title; Removal of Severable Improvements. Title to each Nonseverable Improvement shall, without further act, vest in the Lessor. Title to each Severable Improvement shall, without further act, vest or remain, as the case may be, in the Lessee or the Permitted Designee, as the case may be, and, provided no Event of Default shall then have occurred and be continuing, the Lessee, or the Permitted Designee, as the case may be, at its own expense and risk shall have the right to remove any Severable Improvement to which the Lessee or the Permitted Designee as the case may be, has title from the Coal Cars at any time during or at the expiration of the Lease Term. Any Severable Improvement not so removed shall become the property of the Lessor. The Lessor shall have the right to purchase any

Severable Improvement from the Lessee or the Permitted Designee upon the expiration of the Lease Term in consideration of the payment to the Lessee or the Permitted Designee as the case may be, of the then Fair Market Sale Value of such Severable Improvement (as determined by the Lessor, on the one hand, and the Lessee or the Permitted Designee, as the case may be, on the other hand, or if such parties are unable to agree within 60 days of the making by Lessor of a request to purchase, then as determined pursuant to the Appraisal Procedure).

(c) Removal of Property; Replacements. The Lessee may, in the ordinary course of maintenance or repair of any Coal Car, cause any item of property constituting a part of such Coal Car to be removed, and unless the removal of such item is required by the terms hereof or of any other written agreement entered into by Lessee with respect to maintenance of the Coal Cars, the Lessee shall cause such item to be replaced as promptly as possible by an item of property that is free and clear of all liens, encumbrances and rights of others (other than Permitted Encumbrances) and in as good operating condition as, and with a value, utility and useful life at least equal to, the item of property being replaced. Any item of property removed from such Coal Car as provided in the preceding sentence shall remain the property of the Lessor until replaced in accordance with the terms of said sentence, but shall then, without further act, become the property of the Lessee, the Permitted Designee or the third party performing maintenance services, as the case may be. Any such replacement property shall, without further act, become the property of the Lessor and be deemed part of such Coal Car for all purposes hereof, subject to the lien of any Security Document.

(d) Identification Marks. The Lessee will (i) cause, as soon as practicable after a given Coal Car becomes subject to the terms of this Lease, such Coal Car to be kept numbered with the identifying number set forth in Schedule 1 hereto or in the applicable Lease Supplement with respect thereto, as the case may be, and (ii) keep and maintain, as soon as practicable after such Coal Car becomes subject to the terms of this Lease, plainly, distinctly, permanently and conspicuously marked on both sides of such Coal Car in letters not less than one inch in height, appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by Applicable Law in order to protect the title of the Lessor and the rights of the Lessor and any Lessor Assignee. The Lessee will not cause any such Coal Car to be placed in

operation or exercise any control or dominion over the same until the required markings shall have been so made on both sides thereof and will cause to be replaced promptly any such markings which may be removed, defaced, obliterated or destroyed. The Lessee will not permit the identifying number of any Coal Car to be changed except in accordance with a Lease Supplement, which Lease Supplement shall have been previously filed, recorded or deposited in all public offices where this Lease will have been filed, recorded and deposited. The Lessee shall have the right at its expense to cause to be displayed indicia of operation of any Coal Car by the Lessee and to cause such Coal Car to be identified with the name of Lessee.

(e) Limited Use Property. Notwithstanding any provision of this Section 7 to the contrary, the Lessee shall make no modification, alteration, change, substitution or other Improvement to any Coal Car, or any part thereof, that would cause such Coal Car to become "limited use property" within the meaning of Rev. Proc. 76-30.

#### SECTION 8. Liens.

(a) Liens. Neither the Lessee nor any other Person shall directly or indirectly have any right, power or authority to create, assume, incur or permit to exist any lien, claim, security interest or encumbrance on or with respect to any Coal Car, other than Permitted Encumbrances. The Lessee shall notify the Lessor promptly of the imposition of any such lien, claim, security interest or encumbrance and shall (except with respect to Owner Encumbrances) promptly cause the same to be discharged, dismissed or removed, and in any event within 60 days after the Lessee first knows of the existence thereof; provided, that notwithstanding the foregoing, the Lessee shall have the right to contest or to cause the contest of any such lien, claim, security interest or encumbrance by means of a Permitted Contest.

(b) Release of Liens. The Lessee agrees that it will at its own cost and expense promptly take or cause to be taken such action as may be necessary duly to discharge any liens, claims, security interests and encumbrances that are not Permitted Encumbrances or Owner Encumbrances or in the event that any Coal Car shall be attached, levied upon or taken into custody, or detained or sequestered, by virtue of any proceeding in any court or tribunal, or by any governmental or other authority on account of any such lien, claim, security interest or encumbrance, the Lessee shall

cause such Coal Car to be released and all such liens, claims, security interests and encumbrances to be promptly discharged (except to the extent that the same shall be contested by the Lessee or the Permitted Designee by means of a Permitted Contest). The Lessee shall protect, save and keep harmless the Lessor and any Lessor Assignee and their respective successors and assigns from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature that may be imposed on, incurred by or asserted against the Lessor or any Lessor Assignee in any way relating to or arising out of any such liens, claims, security interests or encumbrances that are not Permitted Encumbrances or Owner Encumbrances, but under no circumstances whatsoever shall the Lessee be liable for or responsible to the Lessor or any Lessor Assignee for any consequential damages.

#### SECTION 9. Rent.

(a) Basic Rent; Fixed Rate Renewal Rent; Fair Market Renewal Rent. Subject to any adjustments required by paragraphs (d) and (e) of this Section 9 and by the immediately following sentence, the Lessee hereby agrees to pay to the Lessor (i) on each Payment Date during the Basic Term, Basic Rent for each Coal Car, payable in arrears in 216 consecutive monthly installments, in an amount equal to the amount specified in Schedule 1 to the Lease Supplement therefor, (ii) for any Fixed Rate Renewal Term, Fixed Rate Renewal Rent, payable on such dates and in such amounts as are determined pursuant to Section 2(b), (iii) for any Fair Market Renewal Term, Fair Market Renewal Rent, payable on such dates and in such amounts as are determined pursuant to Section 2(b) and (iv) for any extension of the Lease Term contemplated by Section 2(c) or 2(e), Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent, as the case may be, payable on such dates and in such amounts as provided in such Section 2(c) or 2(e).

(b) Supplemental Rent. In addition to its obligation to pay Basic Rent, Fixed Rate Renewal Rent, if any, and Fair Market Renewal Rent, if any, hereunder, the Lessee shall pay to the Lessor or such other Person entitled thereto on demand any and all Supplemental Rent, including, without limitation, interest, to the extent permitted by Applicable Law, at a rate per annum equal to the Overdue Rate on any part of any installment of Basic Rent, Fixed Rate Renewal Rent, Fair Market Renewal Rent or Supplemental Rent

not paid when due for any period for which the same shall be overdue.

(c) Manner of Payment; Unconditional Payment.

Except as otherwise provided in any Security Document or in any other written agreement entered into with a Secured Party in connection with the transactions contemplated hereby, all Rent shall be paid by the Lessee to the Lessor. All Rent shall be payable by wire transfer of Federal or other funds current and immediately available to the Person to whom such payment is required to be made prior to 1:00 p.m., New York, New York time on the day when each such payment shall be due. Any payments not made available prior to 1:00 p.m., New York, New York time on the date when each such payment is due shall bear interest at the Overdue Rate from and including such date to but excluding the date on which payment is so made available. If any date for the payment of any Rent is not a Business Day, the payment otherwise payable on such date shall be payable on the next succeeding Business Day, and no interest shall accrue. Except as specifically provided in this Lease, the Lessee's obligation to pay Rent payable hereunder shall be absolute and unconditional under any and all circumstances and shall not be affected by any circumstances of any character. The Lessee hereby waives, to the extent permitted by Applicable Law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease except in accordance with the express terms hereof. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise except as specifically provided herein, the Lessee nonetheless agrees to pay to the Lessor an amount equal to the liquidated damages set forth in Section 15(b) or (c) hereof, as Lessor shall elect, plus all other amounts referenced therein. Except to the extent of any payment in excess of that required to be made hereunder, each payment of Rent made by the Lessee shall be final, and the Lessee will not seek to recover any part of such payment from any Lessor Assignee or the Lessor for any reason whatsoever. Nothing contained in this Lease, including, without limitation, this Section 9(c), shall prevent Lessee from exercising such other legal rights and remedies as it may have against the Lessor or any Lessor Assignee for damages suffered by Lessee as a result of a violation of its rights under this Lease by such party.

(d) Adjustments for Loss of Tax Benefits. In the event that a Loss of Tax Benefits occurs (for which the

Lessor receives indemnification under the Tax Indemnity Agreement or the Participation Agreement), then the Casualty Value and Termination Value percentages set forth in the applicable Lease Supplement shall be adjusted downward by the Lessor to maintain the Net Return.

(e) Other Adjustments. The Basic Rent, the Fixed Rate Renewal Rent, the Fair Market Renewal Rent, the Casualty Value and the Termination Value percentages referenced or set forth, as the case may be, in Section 9(a) and in the applicable Lease Supplement, and, within the constraints and subject to the provisions of Section 9(f) hereof and of any Security Document, the amortization payment structures of any Securities, shall be adjusted:

(i) downward if the Lessee shall be required to make an indemnity payment pursuant to any special tax indemnity obligation of the Lessee set forth in any written agreement entered into in connection with the transactions contemplated hereby;

(ii) upward if, Transaction Costs are submitted to the Lessor subsequent to the Closing Date in accordance with any written agreement entered into in connection with the transactions contemplated hereby; or

(iii) upward if, prior to December 31, 1991, the senior debt securities of the Permitted Designee shall be rated below investment grade by both Moody's Investor's Services, Inc. and Standard & Poor's Corporation (or the successor of either of them) and any such upward adjustment shall remain in effect until such time as both of such entities shall again rate the senior debt securities of the Permitted Designee at not less than investment grade, at which time the Basic Rent, Casualty Values and Termination Values shall be adjusted downward;

in each such case pursuant to the provisions of and subject to the limitations set forth in this Agreement and in any Security Document, which adjustments shall be calculated for all periods from and after the Closing Date, promptly after the occurrence of the event giving rise thereto, shall be effective as of such Date and shall be such as to maintain the Lessor's Net Return (after giving effect to the factors taken into account in such adjustments) but which shall, subject to such maintenance, minimize the monthly Rent payments.

Each adjustment made pursuant to this paragraph (e) shall satisfy the requirements of (i) Section 467 of the Code as in effect at the time of such recalculation or adjustment (on a prospective basis), and (ii) on a prospective basis, Rev. Procs. 75-21 and 75-28 as in effect on the Closing Date, and F.A.S.B. Statement No. 13 for treatment in respect of the Lease as a leveraged lease; provided, that any requirement identified in this paragraph shall not apply to the extent the same was not satisfied as of the Closing Date.

(f) Determination of Adjustments. Any adjustment pursuant to Section 9(d) or 9(e) shall initially be computed by the Lessor, which shall employ a computer optimization program which results in Rent and Security amortization payment structures (within the constraints and subject to the provisions set forth in any Security Document) similar to those in effect on the Closing Date. The results of such computation by the Lessor shall be delivered to the Lessee and the Permitted Designee. Within 10 Business Days after the receipt of the results of an adjustment, the Lessee and/or the Permitted Designee may request that a Verifying Expert verify, after consultation with the Lessor, the Lessee and the Permitted Designee, the accuracy of such adjustment in accordance with Section 9(d) or 9(e), and the Lessor and the Lessee hereby agree to provide the Verifying Expert with all information and materials as shall be reasonably necessary or desirable in connection therewith, provided that such Verifying Expert (i) shall not be permitted to review the documents, programs and procedures used to calculate Lessor's Net Return, (ii) shall execute a confidentiality agreement with respect to the subject matter of its review and (iii) shall be obligated to return to the Lessor and the Lessee any material of such party used by such Verifying Expert in the course of such verification. If the Verifying Expert confirms that such adjustment is in accordance with Section 9(d) or 9(e), it shall so certify to the Lessee and the Permitted Designee, and such certification shall be final, binding and conclusive on the Lessee and the Lessor. If the Verifying Expert concludes that such recalculation or adjustment is not in accordance with Section 9(d) or (e), it shall so certify to the Lessee, the Permitted Designee and the Lessor, and the Lessor shall again compute the required adjustment. Such further adjustment shall again be subject to the provisions of this Section 9(f). The final determination of any recalculation or adjustment hereunder shall be set forth in an amendment to this Lease, executed and delivered by the Lessor and the Lessee; provided, however, that failure to execute and

deliver such amendment shall not affect the validity and effectiveness of any such recalculation or adjustment. The reasonable fees of the Verifying Expert in verifying an adjustment pursuant to this Section 9(f) shall be paid by the Lessee, except that the Lessor shall pay such fees, costs and expenses if a recalculation or adjustment is required pursuant to the fifth sentence of this paragraph (f) and the monthly Rent payment as initially determined by the Lessor and reviewed by the Verifying Expert exceeds that finally approved of by the Verifying Expert by an amount equal to or greater than 5% of such finally determined monthly Rent payment.

SECTION 10. Insurance. (a) The Lessee shall at all times during the Lease Term, at its own expense, carry and maintain or cause to be carried and maintained by the Permitted Designee (i) property insurance with respect to each Coal Car subject to this Lease and (ii) public liability insurance with respect to third party personal and property damage, in each case with such deductibles, in such amounts, against such risks with such insurance companies of recognized responsibility and subject to such self-insurance, in each case as is consistent with electric utility industry practice.

(b) Each policy of insurance shall: (i) with respect to public liability insurance, name each of Lessor, Lessee and any Lessor Assignee as additional insureds as their interests may appear, (ii) with respect to property damage insurance, name Lessor and any Lessor Assignee as loss payees as their interests may appear, (iii) provide that Lessor, any Lessor Assignee and, in the case of insurance maintained by a Permitted Designee, Lessee, shall not be responsible for the representations and warranties made therein by Lessee or the Permitted Designee, as the case may be, (iv) provide for at least 60 days' prior written notice to each of Lessor, Lessee and any Lessor Assignee of the expiration, cancellation or material alteration thereof, (v) provide for prompt written notification to each of Lessor, Lessee and any Assignee of a failure to pay premium or of a decision not to renew upon expiration thereof and (vi) provide for a waiver of the insurer's right of subrogation (including in the case of self-insurance) against Lessor, any Lessor Assignee and, in the case of insurance maintained by a Permitted Designee, Lessee.

(c) The proceeds of any insurance (including any self-insurance) for damage to any Coal Car not constituting a Casualty Event shall be applied in payment for the repair

of such damage to the extent required to maintain such Coal Car in accordance with the terms hereof and of any other written agreement entered into by Lessee with respect to maintenance of the Coal Cars, if such repair shall not have already been paid for by the Lessee or the Permitted Designee, or, if already paid by the Lessee or the Permitted Designee, and upon proof satisfactory to the Lessor, to reimburse the Lessee or the Permitted Designee, as the case may be, for its payment of such repair and any balance remaining after compliance with said terms shall be paid over to, or retained by, the Lessee or the Permitted Designee, as the case may be.

(d) The Lessee agrees that it will not do any act or voluntarily suffer or permit any act to be done whereby any insurance required to be maintained hereunder shall or may be suspended or impaired and will not suffer or permit any Coal Car to be used in a manner not permitted under the insurance policies, if any, maintained hereunder without first covering such Coal Car for such use.

(e) The Lessor or any Lessor Assignee may at its own expense provide insurance on or with respect to the Coal Cars or the operation thereof unless such insurance would conflict with or otherwise limit any insurance maintained or caused to be maintained by the Lessee hereunder; provided, however, that any insurance so maintained by the Lessor or any Lessor Assignee shall provide by its terms that the insurer shall have no rights of subrogation against the Lessee with respect to claims thereunder.

(f) Lessee will cause to be delivered to Lessor and each Lessor Assignee copies of all certificates evidencing any such insurance carried on the Coal Cars. The Lessor and any Lessor Assignee may, but not more than once in any twelve month period, request from the Lessee and the Lessee shall promptly thereafter furnish to the Lessor and each Lessor Assignee, an Officer's Certificate setting forth all insurance maintained or caused to be maintained by the Lessee pursuant to this Section 10 and describing such policies, if any, including the amounts of coverage, any deductible amounts, the names of the insurance providers and a general description of each such policy's terms.

SECTION 11. Loss, Requisition or Seizure; Casualty Event; Early Termination.

(a) Loss, Requisition or Seizure. A taking of any Coal Car for use by any governmental entity shall not

terminate this Lease with respect to such Coal Car, but the Lessee shall remain liable for all its obligations hereunder with respect to such Coal Car, including, without limitation, its liability for payment of Rent, unless and until such taking becomes a Casualty Event hereunder, at which time the provisions of Section 14(b) shall apply. So long as such taking shall not have become a Casualty Event hereunder, all payments received by the Lessor or the Lessee for use of such Coal Car as a result of such taking during the Lease Term shall be paid over to, or retained by, the Lessee, except if a Default set forth in Section 14(a), (b), (e) or (f) hereof or an Event of Default shall have occurred and be continuing in which event such payments shall be payable to the Lessor, subject to an accounting between the Lessor and the Lessee at the termination of this Lease. Provided no Default set forth in Section 14(a), (b), (e) or (f) hereof or Event of Default shall have occurred and be continuing, after a Casualty Event with respect to a Coal Car, all payments received by the Lessor or the Lessee for use of such Coal Car under this paragraph (a) shall be paid over to, or retained by, the Lessee to the extent necessary to reimburse the Lessee for all amounts of Casualty Value actually paid by it to the Lessor with respect to such Coal Car; otherwise and, in any event, once the Lessee has been reimbursed in full, all such payments shall be retained by or paid over to the Lessor.

(b) Casualty Event. (i) On each Payment Date or, if such Payment Date shall fall on or prior to the fifteenth day following the date of such Casualty Event, then on the next succeeding Payment Date (but in no event later than the final Payment Date or, in the case of any Coal Car whose Lease Term has been extended pursuant to Section 2, the redelivery of such Coal Car to the Lessor hereunder), the Lessee shall pay to the Lessor, or to whomsoever shall be entitled to receive the same, the Casualty Value for any Coal Car in respect of which a Casualty Event shall have occurred and for which the Casualty Value has not theretofore been paid, computed as of such Payment Date (or in the case of a Casualty Event with respect to any Coal Car for which Casualty Value has not theretofore been paid, but with respect to which Basic Rent, Fair Market Renewal Rent or Fixed Rate Renewal Rent, as the case may be, have continued to be paid, or in the event of an extension of the Lease Term pursuant to Section 2, computed as of the final Payment Date), plus (y) if the date of the payment of the Casualty Value shall be after the final Payment Date, an amount equal to interest at the Prime Rate computed for the period from such final Payment Date to the date such

Casualty Value shall be paid, plus (z) the Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent, as the case may be, payable on such Payment Date and all other unpaid Rent due hereunder accrued to the date such payment of the Casualty Value is made. It is understood and agreed that, in the case of a Casualty Event where payment of Casualty Value is to be made after the final Payment Date in accordance with the terms of this paragraph (b), Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent, as the case may be, shall nevertheless be paid by Lessee on such final Payment Date. After the payment in full of the Casualty Value and such other amounts as are due hereunder, the Lessee's obligation to pay further Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent, as the case may be, with respect to such Coal Car shall terminate.

(ii) All payments received by the Lessor or the Lessee from any governmental authority, railroad or otherwise as compensation for a Casualty Event with respect to any Coal Car shall be applied first in reduction of the Lessee's obligation to pay the Casualty Value of such Coal Car, if not already paid by the Lessee or if already paid by the Lessee, shall be applied to reimburse the Lessee for its payment of the Casualty Value, and the balance, if any, of such payments shall be paid to Lessor.

(iii) In the event that the Lessee shall make payment as provided above, including payment by application of compensation or insurance proceeds and shall pay all other Rent then owing under this Lease, this Lease shall terminate with respect to such Coal Car, whereupon the Lessor will transfer to the Lessee, the Permitted Designee or such other Person as may be required by Rule 107 of the AAR Rules, as the case may be, all of its right, title and interest in and to such Coal Cars.

(iv) Provided no Default set forth in Section 13(a), (b), (e) or (f) hereof or Event of Default shall have occurred and be continuing, in lieu of payment of the Casualty Value (to the extent such Casualty Value is determined pursuant to the table set forth in the Lease Supplement) for any Coal Car due and owing as provided in clause (i) above, the Lessee may, on or prior to the date on which such Casualty Value would have otherwise been due, convey or cause to be conveyed to Lessor, as replacement for any such Coal Car with respect to which a Casualty Event occurred, good and marketable title to a Replacement Coal Car free and clear of all liens, claims, security interests and encumbrances other than Permitted Encumbrances and having a value

and utility at least equal to, and being in as good operating condition as, such Coal Car with respect to which a Casualty Event occurred assuming such Coal Car was in the condition and repair required by the terms hereof immediately prior to the occurrence of such Casualty Event. Prior to or at the time of any such conveyance, the Lessee, at its own expense, will furnish or cause to be furnished to the Lessor a seller bill of sale, in form and substance satisfactory to Lessor, with respect to such Replacement Coal Car and will file, or cause to be filed, a supplement hereto identifying such Replacement Coal Car as subject to this Lease in accordance with the requirements of Section 20 hereof. Upon full compliance by the Lessee with the terms of this clause (iv) and of Section 13(d) hereof, the Lessor will transfer to the Lessee or to the Permitted Designee, as the case may be, without recourse or warranty (except as to the Owner Encumbrances) and subject to a disclaimer satisfactory to the Lessor of all liabilities, including tort and negligence with respect to such Coal Car, all of the Lessor's right, title and interest, if any, in and to such replaced Coal Car with respect to which a Casualty Event occurred. For all purposes hereof, each such Replacement Coal Car shall, after such conveyance, be deemed part of the property leased hereunder and shall be deemed a "Coal Car" as defined herein. No Casualty Event with respect to a Coal Car under the circumstances contemplated by the terms of this Section 11(b)(iv) shall result in any reduction in Rent.

(c) Early Termination. (i) In the event that, at any time during the Basic Term: (X) there shall have occurred an Adverse Use Regulation Event or (Y) so long as no Default set forth in Section 13(a), (b), (e) or (f) hereof or Event of Default shall have occurred and be continuing, a Responsible Officer of the Permitted Designee or, if there is no Permitted Designee, the Lessee, shall in his reasonable judgment make a determination that it is no longer economically feasible for the Permitted Designee or, if there is no Permitted Designee, the Lessee, to burn coal at any Plant or otherwise in its business and shall have delivered to the Lessee (in the case of a determination by the Permitted Designee), the Lessor and any Lessor Assignee an Officer's Certificate to such effect; then, in any such case, the Lessee shall have the right, at its option (provided, however, that so long as there is a Permitted Designee, for purposes of this Section 11(c), the Lessee shall act only at the direction of such Permitted Designee), on at least 180 days' prior irrevocable written notice to the Lessor and to any Lessor Assignee, to terminate this

Lease with respect to all but not less than all of the Coal Cars on any Payment Date (for the purpose of this Section 11(c) called the "Termination Date") specified in such notice. On the Termination Date each Coal Car shall be in the same condition and shall have been delivered to the same location as if being returned pursuant to Sections 2(c) and 2(d) free and clear of all liens, claims, security interests and encumbrances (except such as are permitted by Section 2(d)).

(ii) During the period from the giving of such notice until the Termination Date, the Lessee or the Permitted Designee, as agent for the Lessor, shall use its best efforts to obtain cash bids for the purchase of such Coal Cars, and the Lessee or the Permitted Designee shall certify to the Lessor the amount of such bid and the name and address of the party submitting the same. On the Termination Date (or such later date as the Lessor and the Lessee or the Permitted Designee may mutually agree) the Lessor shall sell such Coal Cars for cash to the bidder who shall have submitted the highest bid prior to the Termination Date, provided, however, that the purchaser of such Coal Cars shall be a Person other than the Permitted Designee, any Affiliate of the Permitted Designee or any successor or assign of the Permitted Designee and, provided, further, that Lessor shall be entitled to participate in such bidding process. The sales price (net of costs and expenses of the Lessor reasonably incurred in such sale) realized at such sale shall be paid to the Lessor, and, in addition, on the Termination Date the Lessee shall pay to the Lessor, or to whomever shall be entitled to receive the same, the amount, if any, by which (A) the Termination Value for such Coal Cars, computed as of such Payment Date, exceeds (B) the sales price of such Coal Cars net of such reasonable costs and expenses referred to above (or, if such sale does not occur on or prior to the Termination Date, the Lessee shall pay on the Termination Date to the Lessor, or to whomever shall be entitled to receive the same, the amount specified in clause (A) above); provided, further, however, that any sale proceeds (net of the costs and expenses of the Lessor reasonably incurred in such sale) received by the Lessor after the Termination Date shall be applied, first, to reimburse the Lessee for the amount specified in clause (A) above and, second, the balance (if any) shall be paid to the Lessor. In addition, the Lessee shall pay to the Lessor or to whomever shall be entitled to receive the same, the amount of the Basic Rent payable on such Payment Date plus all other Rent then due. If no sale shall occur on the date scheduled therefor as above provided, this Lease will, at

Lessor's option, continue in full force and effect. The Lessor shall not have a duty to solicit bids (but shall have the right to do so), to inquire into the efforts of the Lessee or the Permitted Designee to obtain bids or otherwise to take any action or incur any cost or expense in connection with any sale pursuant to this Section 11(c) other than to transfer or to cause to be transferred to the purchaser named in the highest bid certified by the Lessee or the Permitted Designee to the Lessor as above provided all the Lessor's right, title and interest in and to such Coal Cars. Any sale pursuant to this Section 11(c) shall be free and clear of the Lessee's and the Permitted Designee's rights to such Coal Cars, and any Owner Encumbrances and Permitted Encumbrances but otherwise shall be made without any representation, recourse or warranty whatsoever on the part of the Lessor except that the Lessor shall warrant to the purchaser that such Coal Cars are free and clear of all Owner Encumbrances.

(iii) The foregoing provisions of Section 11(c)(ii) to the contrary notwithstanding, the Lessor may, by notice in writing given to the Lessee and the Permitted Designee on or prior to the Termination Date, elect to retain such Coal Cars, in which event the Lessor shall (i) pay, or provide for the payment of, the aggregate principal amount of any Securities Outstanding (and premium, if any) and (ii) deliver to the Lessee a release of all obligations of the Lessee to pay Basic Rent with respect to such Coal Cars on any and all Payment Dates accruing after the Termination Date, as well as of the obligation of the Lessee to pay Termination Value in respect thereof. Notwithstanding the provisions of this clause (iii), the parties hereto hereby acknowledge and agree that Lessor may not retain such Coal Cars pursuant to this clause (iii) unless and until all amounts of Termination Value have been paid by Lessor to whomever shall be entitled thereto.

SECTION 12. General Indemnity. Except as otherwise specifically provided herein or in any other written agreement entered into in connection with the transactions contemplated hereby, the Lessee hereby assumes liability for and shall indemnify, protect, defend, save and keep harmless the Lessor, the Coal Cars (including any proceeds thereof or funds received with respect thereto) any Lessor Assignee and their respective successors, assigns, directors, officers, employees, servants and agents (each an "Indemnitee") on an After-Tax Basis from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including, without

limitation, legal fees and expenses, of whatsoever kind and nature (herein collectively called "Liabilities"), imposed on, incurred by or asserted against any Indemnitee or any Coal Car in any way relating to or arising out of (i) this Lease or any other written agreement entered into in connection with the transactions contemplated hereby or thereby or the enforcement of any of the terms hereof or of any of the foregoing or (ii) the construction, manufacture, modification, acquisition, purchase, testing, acceptance, rejection, ownership, documenting, mortgaging, delivery, nondelivery, lease, sublease, possession, use, operation, maintenance, inspection, condition, sale, return or other disposition of or any other matter relating to any Coal Car or any part or portion of any thereof (including, in each case and without limitation, latent or other defects, whether or not discoverable, and any claim for patent, trademark or copyright infringement and all liabilities, obligations, losses, damages and claims in any way relating to or arising out of injury to Persons, properties or the environment or strict liability in tort or violations of any regulatory law or requirement); provided that the foregoing indemnity with regard to any particular Indemnitee shall not extend to (A) Liabilities resulting directly from (i) the willful misconduct or gross negligence of, or willful breach of this Lease or any other agreement entered into in connection with the transactions contemplated hereby by, such Indemnitee, or any directors, officers, employees or servants thereof or (ii) it having become illegal for such Indemnitee to acquire or retain its interest in this Lease (or part or portion hereof), any Coal Car or any Security, (B) so long as no Event of Default shall have occurred and be continuing, Liabilities to the extent attributable to acts or events that occur after such Coal Car is no longer subject to any Security Document or leased under the Lease or if such Coal Car remains subject to any Security Document after the expiration of the Lease Term (including any extensions thereof), from acts or events that occur after possession of such Coal Car has been delivered to the Lessor in accordance with Section 2 of the Lease, (C) Liabilities resulting from any violation by such Indemnitee of Section 5 of the Securities Act (or any successor thereto) or any other applicable law or regulation relating to any transfer of any Security, (D) Liabilities which are taxes (including any fees, liens, assessments or other like charges associated therewith), it being the intention of the parties that indemnity for taxes shall be covered in the Tax Indemnity Agreement and the Participation Agreement, (E) Liabilities resulting solely from the inaccuracy of any material representation or warranty or breach of any covenant made by any such

Indemnitee in this Lease or in any other agreement entered into in connection with the transactions contemplated hereby to which such Indemnitee is a party or (F) Liabilities resulting solely from any voluntary transfer or disposition (other than arising in connection with an Event of Default) by the Lessor of its interests in this Lease, the Coal Cars (including any proceeds thereof or funds received with respect thereto) or any other agreement entered into in connect with the transactions contemplated hereby. If any Indemnitee has knowledge of any Liability hereby indemnified against, it shall give prompt written notice thereof to the Lessee or, if the Lessee has knowledge of any Liability hereby indemnified against, it shall give prompt written notice thereof to the party entitled to be indemnified; provided, however, that the failure of such Indemnitee to give such notice to the Lessee shall not release the Lessee from any obligations under this Section 12.

The Lessee, at its sole cost and expense and in its own name, may contest or cause to be contested in good faith any Liability indemnified against under this Section 12 and may assume or cause to be assumed responsibility for and control of any judicial proceeding relating thereto; provided, however, that Lessee shall have first acknowledged and agreed in writing to its liability in respect of such Liability (without any applicable set-off, exclusion or defense) if such contest is decided adversely; and provided, further, that the Lessee shall not be entitled to contest or cause the contest of any such claim if (1) an Event of Default shall have occurred and be continuing; (2) such contest could, in the good faith opinion of Lessor or any Lessor Assignee, materially and adversely affect the rights, title or interest of Lessor or any Lessor Assignee, as the case may be; or (3) such contest could, in the good faith opinion of the Lessor or any Lessor Assignee, entail a significant risk to the Lessor or any Lessor Assignee of (i) material civil liability or (ii) any criminal liability.

In the event the Lessee assumes or causes to be assumed the defense of any such contest, any Indemnitee shall have the right to employ separate counsel in such contest and participate therein, and the reasonable fees and expenses of such counsel shall be at the expense of such Indemnitee, except that such fees and expenses shall be for the account of the Lessee if (x) the employment of such counsel has been specifically authorized by the Lessee, or (y) the named parties to such action (including any impleaded parties) include both such Indemnitee and the Lessee or the party which has assumed such defense and representa-

tion of such Indemnitee and the Lessee or such party by the same counsel would be inappropriate under applicable standards of professional conduct due to actual or potential conflicting interests between them. The Indemnitee shall supply the Lessee with such information requested by the Lessee as in the reasonable opinion of counsel to such Indemnitee is necessary or advisable for the Lessee to control or participate in any proceeding to the extent permitted by this Section 12. Unless the Lessee and its designee are excluded from control of a judicial proceeding involving an Indemnitee, such Indemnitee shall not enter into a settlement or other compromise with respect to any Liability without the prior written consent of the Lessee, unless such Indemnitee waives its right to be indemnified with respect to such Liability under this Section 12.

When and to the extent that an Indemnitee actually receives complete and full indemnification payments from the Lessee under the provisions of this Section 12, the Lessee shall be subrogated to such Indemnitee's rights with respect to the transaction or event requiring or giving rise to such indemnification; provided, however, that such subrogation rights shall not permit the Lessee to avail itself against any other Indemnitee of exclusions to its general indemnity obligations set forth in this Section 12 other than such exclusions expressly stated in such Section.

If an Indemnitee shall obtain a repayment of any Liabilities paid by the Lessee pursuant to this Section 12, such Indemnitee shall promptly pay to the Lessee (i) the amount of such repayment, together with any interest (other than interest for the period, if any, after such Liability was paid by such Indemnitee until such Liability was paid or reimbursed by the Lessee) received by such Indemnitee on account of such repayment net of reasonable expenses and (ii) the net amount of any Federal, state or local income taxes saved by the Indemnitee in respect of its payment to the Lessee of amounts referred to in clause (i) above and its payment to the Lessee of any amounts pursuant to this clause (ii). In no event shall an Indemnitee be obligated to pay to the Lessee more than the amount received by such Indemnitee.

Anything contained herein to the contrary notwithstanding, the provisions of this Section 12 shall not be construed or deemed to constitute a guaranty of payment of any Security issued pursuant to any Security Document.

SECTION 13. Assignment and Sublease.

(a) Assignment and Sublease by the Lessee. EXCEPT AS OTHERWISE CONTEMPLATED BY SECTION 13(b) OR SECTION 13(c) HEREOF, THE LESSEE SHALL NOT HAVE THE RIGHT TO ASSIGN ANY OF ITS RIGHTS AND OBLIGATIONS UNDER THIS LEASE AND ANY OTHER WRITTEN AGREEMENT ENTERED INTO IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY TO WHICH IT IS A PARTY, NOR HAVE THE RIGHT TO ENTER INTO A SUBLEASE OF OR INTERCHANGE ARRANGEMENT FOR ANY COAL CAR SUBJECT TO THE TERMS OF THIS LEASE, IN EACH CASE, WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSOR AND THE PERMITTED DESIGNEE.

(b) Coal Supply Service Agreement; Notice of Defaults. Concurrently with the execution and delivery of this Lease, the Lessee is entering into the Coal Supply Service Agreement and the Coal Supply Service Agreement Supplement No. 1 with Consumers Power Company (herein, the "Permitted Designee"). The Lessor hereby acknowledges and consents to the transactions contemplated by the Coal Supply Service Agreement and the Coal Supply Service Agreement Supplement No. 1 and the provisions contained therein.

(c) Assignment and Sublease by the Permitted Designee, as Lessee. If at any time the Permitted Designee becomes the Lessee hereunder (by assumption or otherwise) the Permitted Designee may, without the prior written consent of Lessor, assign or sublease any of its rights hereunder to any Person or enter into an interchange agreement with any Person, provided that: (i) the term of any such assignment, sublease or interchange agreement may not extend beyond the term hereof, (ii) such assignment, sublease or interchange agreement shall not relieve the Permitted Designee of any of its obligations, liabilities or duties hereunder, which shall remain those of a principal and not a guarantor, (iii) notwithstanding any such assignment, sublease or interchange agreement, the Lessor shall at all times be obligated to deal only with the Permitted Designee in the same manner and to the same extent as if no assignment had occurred and (iv) if any such assignment is for a period of more than 12 months, the obligations of such assignee or sublessee shall, at the written request of Lessor, be assigned to Lessor.

(d) Further Assurances. The Lessee covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as shall be reasonably requested by the Lessor for the purpose of fully carrying out and effectuating this Lease and the intent hereof.

(e) Security Documents. The Lessee hereby specifically consents to the mortgage, pledge and assignments effected or to be effected by any Security Document. The Lessee agrees to deliver any further consents and acknowledgments with respect to any such mortgage, pledge or assignments as the Lessor or any Assignee may request.

(f) Assignment by the Lessor. The Lessor agrees that it will not assign or transfer its right, title and interest in and to this Lease or any Coal Car, except as contemplated hereby or by any other written agreement entered into by the Lessor and the Lessee (with the consent of the Permitted Designee) in connection with the transactions contemplated hereby and except that the Lessor may prior to the end of the Lease Term agree to sell or otherwise dispose of such Coal Car effective at or after the end of the Lease Term, provided that any such agreement is stated expressly to be subject and subordinate to any Security Document, unless such Security Document is no longer in effect, and to the rights of the Lessee hereunder and of the Permitted Designee under the Coal Supply Service Agreement. Prior to executing any such assignment of its rights hereunder, the Lessor shall notify the Lessee, the Permitted Designee and any Lessor Assignee thereof.

SECTION 14. Events of Default. Each of the following events shall constitute an "Event of Default" (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) the Lessee shall fail to make any payment of Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent on the date the same shall become due and such failure shall be continuing at the end of the 5th Business Day after such payment shall become due; or

(b) the Lessee shall fail to make any payment of Supplemental Rent (or any other payment required hereunder other than Basic Rent, Fixed Rate Renewal Rent and Fair Market Renewal Rent) before the end of the 10th Business Day after the Lessee (and, if such demand is being made by a Lessor Assignee, the Lessor) shall have received written demand for such payment from the Lessor or such Lessor Assignee; or

(c) the Lessee shall fail to perform or observe in a material respect any other covenant or agreement to be performed or observed by it hereunder or under any other written agreement entered into by the Lessee in connection with the transactions contemplated hereby (other than any such covenant or agreement set forth in the Tax Indemnity Agreement or otherwise relating to any tax indemnification obligation of the Lessee contained in any other written agreement entered into by the Lessee in connection with the transactions contemplated hereby), other than any such covenant or agreement referenced in paragraph (g) below, and the Lessee shall not have diligently commenced to cure such failure (in the case of a cure that cannot be effected by the payment of money and where such failure does not entail a significant risk to Lessor, any Lessor Assignee or any of their Affiliates of criminal liability or material civil liability and is not likely to materially and adversely affect the rights, title or interest of Lessor or any such Lessor Assignee or shall not have cured such failure (in the case of a cure that can be effected by the payment of money and where such failure does entail a significant risk to Lessor, any Lessor Assignee or any of their Affiliates of criminal liability or material civil liability or is likely to materially and adversely affect the rights, title or interest of Lessor or any such Lessor Assignee), in each case on or prior to the 30th day after the Lessee (and, if such notice is being given by a Lessor Assignee, the Lessor) shall have received notice of such failure from the Lessor or from such Lessor Assignee; or

(d) any representation or warranty made by the Lessee herein or in any other written agreement entered into by the Lessee in connection with the transactions contemplated hereby (other than any such representation or warranty set forth in the Tax Indemnity Agreement or otherwise relating to any tax indemnification obligation of the Lessee contained in any other written agreement entered into by the Lessee in connection with the transactions contemplated hereby) or any document or certificate furnished by it to the Lessor in connection with the transactions contemplated hereby shall prove to be incorrect in any material respect as of the date made and, if such representation or warranty is capable of being corrected or remedied, shall not have been corrected or remedied on or prior to the 30th day after the Lessee (and, if such notice is being given by

a Lessor Assignee, the Lessor) shall have received written notice thereof from the Lessor or from such Lessor Assignee; or

(e) the Lessee shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any applicable bankruptcy or insolvency law (as now or hereafter in effect) or an answer admitting the material allegations of a petition filed against the Lessee in any such proceeding, or the Lessee shall by voluntary petition, answer or consent, seek relief under the provisions of any now existing or future bankruptcy, insolvency or other similar law providing for the liquidation, reorganization or winding-up of corporations, or providing for an agreement, composition, extension or adjustment with its creditors; or

(f) a receiver, trustee, liquidator or custodian of the Lessee or of a substantial part of its property shall be appointed by court order and such order shall remain in effect for more than 60 days; or the Lessee shall be adjudicated bankrupt or insolvent or any of its properties shall be sequestered by court order and such order shall remain in effect for more than 60 days; or a petition shall be filed against the Lessee under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and shall not be dismissed within 60 days after such filing.

SECTION 15. Action Following an Event of Default. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, the Lessor may, at its option, declare this Lease to be in default (except that no such declaration shall be required in the case of an Event of Default set forth in paragraph (e) or (f) of Section 14); and at any time thereafter, so long as the Lessee shall not have remedied all outstanding Events of Default, the Lessor may do, and the Lessee shall comply with, any one or more of the following, as the Lessor in its sole discretion shall so elect, to the extent permitted by and subject to compliance with, any mandatory requirements of Applicable Law then in effect:

(a) Redelivery and Retaking. Upon written demand, the Lessor may cause the Lessee, at the Lessee's expense, to, and the Lessee hereby agrees that

it will, promptly redeliver the Coal Cars, or cause the Coal Cars to be redelivered, to the Lessor with all reasonable dispatch and in the same manner and in the same condition as if the Coal Cars were being redelivered in accordance with all the provisions of Section 2 (except that free storage therefor shall be unlimited) and all obligations of the Lessor under said Section shall apply to such redelivery; or the Lessor or its agent, at the Lessor's option, without further notice, may, but shall be under no obligation to, retake the Coal Cars wherever found, and irrespective of whether the Lessee or any other Person is in possession of the Coal Cars or any of them, all without prior demand and without legal process, and for that purpose the Lessor or its agent may enter upon any premises, where any such Coal Car is and may take possession thereof, without the Lessor or its agent incurring any liability by reason of such retaking, whether for the restoration of damage to property caused by such retaking or for damages of any kind to any Person for or with respect to any cargo carried, or to be carried by such Coal Car or for any other reason. The exercise by the Lessor of its remedies under this paragraph (a) shall be without prejudice, and in addition, to any of the Lessor's other remedies referred to below in this Section 15.

(b) Liquidated Damages. Provided the Lessor shall not have exercised any remedies under paragraph (c) of this Section 15, the Lessor, by written notice to the Lessee specifying a payment date, may require the Lessee to pay to the Lessor, and the Lessee hereby agrees that it will pay to the Lessor on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty, and in lieu of any further Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent payments hereunder with respect to any Coal Car, all unpaid Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent for such Coal Car, payable on or before the payment date specified in such notice, plus any Supplemental Rent then due (including, without limitation, interest at the Overdue Rate on any payments of Basic Rent, Fixed Rate Renewal Rent and Fair Market Renewal Rent not paid when due in accordance with the terms of this Lease for the period from and including the Payment Date as of which such Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent was due to and including the date of actual payment), plus an amount equal to the Casualty Value for such Coal Car computed as of the Payment Date

immediately preceding the payment date specified in such notice (or as of such payment date if such payment date is a Payment Date), together with interest on such amount at the Overdue Rate for the period, if any, from the Payment Date as of which such Casualty Value shall be computed to and including the date of actual payment, and, provided, that if the Lessee shall have made the foregoing payments in full, the Lessor shall thereafter pay over to the Lessee, as and when from time to time received, the net proceeds of any sale, lease or other disposition of such Coal Car (after deducting all costs and expenses whatsoever incurred by the Lessor and any Lessor Assignee in connection therewith and all other amounts which may become payable to the Lessor with respect thereto) up to the amount of such Casualty Value actually paid.

(c) Alternate Liquidated Damages. Whether or not the Lessor shall have exercised, or shall thereafter at any time exercise, any options, rights or remedies under paragraph (a) or (d) of this Section 15, the Lessor, in lieu of exercising its rights under paragraph (b) of this Section 15, may, by notice to the Lessee specifying a Payment Date, demand that the Lessee pay to the Lessor and the Lessee shall pay to the Lessor, on such Payment Date, as liquidated damages for loss of a bargain and not as a penalty, and in lieu of any further Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent for any Coal Car due after such Payment Date, all unpaid Basic Rent, Fixed Rate Renewal Rent and Fair Market Renewal Rent, if any, for such Coal Car payable on each Payment Date occurring on or prior to such Payment Date, plus any Supplemental Rent then due (including, without limitation, interest at the Overdue Rate on any payments of Basic Rent, Fixed Rate Renewal Rent and Fair Market Renewal Rent not paid when due in accordance with the terms of this Lease for the period from and including the Payment Date as of which such Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent was due to and including the date of actual payment), plus whichever of the following amounts the Lessor, in its sole discretion, shall specify in such notice (together with interest on such amount at the Overdue Rate for the period from the Payment Date specified in such notice to the date of actual payment):

(i) an amount equal to the excess, if any, of the Casualty Value of such Coal Car computed as

of the Payment Date specified in such notice, over the Fair Market Rent thereof, determined by an Appraiser selected by the Lessor, for the remainder of the Lease Term after discounting monthly such Fair Market Rent to present worth as of such Payment Date at a rate of 10% per annum, or

(ii) an amount equal to the excess, if any, of the Casualty Value of such Coal Car computed as of the Payment Date specified in such notice, over the Fair Market Sale Value thereof as of such Payment Date, determined by an Appraiser selected by the Lessor;

provided, however, that if such Coal Car cannot be repossessed the Fair Market Rent and the Fair Market Sale Value of such Coal Car for purposes of this Section 15(c) shall be deemed to be equal to zero.

(d) Sale; Use. The Lessor or its agent may sell any Coal Car at a public or private sale, by such advertisement or publication as the Lessor may determine (with a copy of such advertisement, publication or notice to the Permitted Designee), or otherwise may dispose of, hold, use, operate, lease (whether for a period greater or less than the balance of what would have been the Lease Term in the absence of the termination of the Lessee's rights to such Coal Car) to others or keep idle such Coal Car, all on such terms and conditions and at such place or places as Lessor may determine and all free and clear of any rights of the Lessee or the Permitted Designee and of any claim of the Lessee or the Permitted Designee in equity, at law or by statute, whether for loss or damage or otherwise, and without any duty to account to the Lessee or the Permitted Designee except to the extent specifically provided in paragraph (b) above.

(e) Other Remedies. Subject to and without prejudice to any right or claim of any Lessor Assignee under any Security Document, the Lessor may exercise any other right or remedy, whether or not consistent with the foregoing, that may be available to it under Applicable Law or in equity or proceed by appropriate court action to enforce the terms of this Lease or to recover damages for the breach hereof or to rescind this Lease.

In addition, the Lessee shall be liable, on an After-Tax Basis, for any and all Supplemental Rent payable hereunder before, during or after the exercise of any of the foregoing remedies, which Supplemental Rent shall include all reasonable legal fees and other costs and expenses incurred by the Lessor and any Lessor Assignee by reason of the occurrence of any Event of Default or by reason of the exercise by the Lessor or any Lessor Assignee of any remedy hereunder, including, without limitation, any costs and expenses incurred by the Lessor or any Lessor Assignee in connection with any retaking of any Coal Car, any amounts payable by the Lessee in respect of late redelivery of the Coal Cars or, upon the redelivery or retaking of such Coal Car in accordance with this Section 15, the placing of such Coal Car in the condition required by the terms of Section 2(d).

Except as specifically provided herein, no remedy referred to in this Section 15 is intended to be exclusive, but each shall be cumulative and is in addition to, and may be exercised concurrently with, any other remedy which is referred to in this Section 15 or which may otherwise be available at law or in equity; provided, however, that liquidated damages having been agreed to by the parties hereto pursuant to paragraphs (b) and (c), above, in the event that Lessor exercises the remedy set forth in either such paragraph, the Lessor shall not be entitled to recover from the Lessee as damages for loss of Basic Rent, Fixed Rate Renewal Rent or Fair Market Renewal Rent upon the occurrence of one or more Events of Default an amount in excess of such liquidated damages plus any other Rent owing pursuant to the terms of this Lease. To the extent not required to reimburse Lessor and any Lessor Assignee for all damages suffered as a result of such Event of Default, there shall be deducted from the aggregate amount so recoverable by the Lessor the net balance, if any, remaining of any moneys held by the Lessor which would have been required by the terms hereof or any other written agreement entered into in connection with the transactions contemplated hereby to have been paid to the Lessee but for the occurrence of an Event of Default. To the extent permitted by Applicable Law, the rights of the Lessor and the obligations of the Lessee under this Section 15 shall be effective and enforceable regardless of the pendency of any proceeding which has or might have the effect of preventing the Lessor and the Lessee from complying with the terms of this Lease. No express or implied waiver by the Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any further or subsequent Event of Default.

SECTION 16. Notices. All notices, demands, declarations and other communications required under the terms and provisions hereof (herein, collectively referred to as "Notices") shall be in writing and shall be given in person or by means of telex, telecopy or other wire transmission or mailed by registered or certified mail, and shall be addressed (i) if to the Lessee, at its address at 45 Cardinal Drive, Westfield, New Jersey 07092, Attention: Grover Connell, President, Telecopy: (201) 233-1070 (with a copy to the Permitted Designee at its address at 212 West Michigan Avenue, Jackson, Michigan 49201, Attention: Director of Fossil Fuel Supply); (ii) if to the Lessor at its address at 45 Cardinal Drive, Westfield, New Jersey 07092, Attention: Grover Connell, President, Telecopy: (201) 233-1070 (with a copy to the Permitted Designee at its address at 212 West Michigan Avenue, Jackson, Michigan 49201, Attention: Director of Fossil Fuel Supply); (iii) if to any Lessor Assignee, at its respective address specified in writing to the Lessee; or (iv) if to any of the foregoing, at such other address as such Person may from time to time designate in writing to the other Persons referred to in this Section 16. All such Notices given in the manner provided above shall be effective as to the addressee thereof on the date of receipt by such addressee of such Notice upon receipt.

SECTION 17. Further Assurances; Perfection of Security Interests. The Lessee hereby agrees promptly and duly to execute and deliver to the Lessor or any Lessor Assignee such further documents and assurances and take such further action as the same may from time to time reasonably request in order more effectively to carry out the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of the Lessor and any Lessor Assignee hereunder and under any Security Document. The Lessee will at all times cause to be kept filed, and refiled any required financing and continuation statements and cause to be taken such other actions, as in the opinion of counsel are required by law in order fully to perfect, preserve and protect the security interests granted by any Security Document. The Lessee will pay or cause to be paid all taxes, fees and other charges in connection with such filing and refileing.

SECTION 18. Warranty Enforcement. For so long as no Event of Default has occurred and is continuing, the Lessor constitutes the Lessee and the Permitted Designee as the agent and attorney-in-fact of the Lessor for the purpose of exercising and enforcing, and with full right, power and

authority to exercise and to enforce, to the exclusion of the Lessor and all Persons claiming through or under the Lessor, all of the right, title and interest of the Lessor in, under and to all manufacturer's warranties in respect of the Coal Cars. The Lessor shall execute and deliver any instruments necessary to enable the Lessee or the Permitted Designee to enforce such rights.

SECTION 19. Lessor's Right to Perform for the Lessee. If the Lessee fails to make any payment of Rent required to be made by it hereunder or if the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may, on behalf of the Lessee and upon notice to the Lessee, itself make such payment or perform such agreement and such payment shall be a cure in respect of any Event of Default which has occurred as a result of the Lessee's failure to pay such Rent or to perform or comply with such agreement, as the case may be. The amount of any such payment and the amount of the reasonable expenses of the Lessor incurred in connection with such payment or performance, together with interest thereon, to the extent permitted by Applicable Law, at the Overdue Rate, shall be deemed Supplemental Rent, payable by the Lessee upon demand. This Section 19 is not, however, intended in any way as between the Lessor, on the one hand, and any Lessor Assignee, on the other hand, to expand or otherwise vary the cure rights of the Lessor set forth in any Security Document, or the limitations on exercise thereof set forth.

SECTION 20. Filings. Prior to the delivery and acceptance of any Coal Car, the Lessee will, at its sole expense, (i) cause this Lease, the Lease Assignment, the Coal Supply Service Agreement (or a memorandum thereof), the Coal Supply Service Agreement Supplement No. 1 (or a memorandum thereof), any Coal Supply Service Agreement Supplement (or a memorandum thereof) and Lease Supplement executed in connection with any such Coal Car which is a Replacement Coal Car and any Security Document to be duly filed and recorded with the ICC in accordance with 49 U.S.C. § 11303 of the Interstate Commerce Act and, (ii) cause financing statements under the Uniform Commercial Code to be filed against the Lessor, the Lessee and the Permitted Designee in all places reasonably specified by the Lessor or any Lessor Assignee as necessary or desirable to protect such party's interests hereunder and under the other Operative Documents. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister or rerecord whenever required) any and all further instruments required by law or

reasonably requested by the Lessor or any Lessor Assignee for the purpose of protecting such party's interests hereunder and under any other written agreement entered into in connection with the transactions contemplated hereby, and in connection with any such action, will deliver to the Lessor and such Assignee proof of such filings. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and rerecording or depositing and redepositing of any such instruments.

SECTION 21. Miscellaneous.

(a) Amendments. The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by the party or parties to be charged, provided that no such waiver, alteration, modification, amendment, supplement or termination shall be effective without receipt of the prior written consent thereto of the Permitted Designee.

(b) Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(c) Currency. All amounts and moneys referred to in this Lease shall be construed to mean money which at the time is lawful money of the United States of America.

(d) Descriptive Headings. The descriptive headings of the several sections and paragraphs of this Lease are inserted for convenience of reference only and do not constitute a part of this Lease.

(e) Counterparts. This Lease may be executed by the parties hereto on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute but one and the same instrument.

(f) Severability of Provisions. Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Lessee

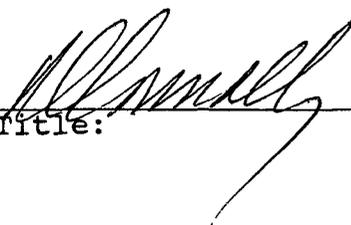
hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(g) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Lease to be duly executed and delivered by their respective officers thereunto duly authorized.

Lessor

CONNELL FINANCE COMPANY, INC.

By   
Title: \_\_\_\_\_

Lessee

COAL SUPPLY CORPORATION

By   
Title: \_\_\_\_\_

Receipt of this original counterpart of this Lease is hereby acknowledged this \_\_\_ day of \_\_\_\_\_, 1990.

\_\_\_\_\_  
as Assignee

By \_\_\_\_\_  
Title: \_\_\_\_\_





SCHEDULE 1  
to  
Lease

Quantity  
of Coal Cars

190

Car  
Numbers

CSCX 3001-3190

Lessor's  
Cost Per  
Coal Car

\$50,170.22

DEFINITIONS

"AAR Rules" shall mean the Interchange Rules and Supplements thereto of the Mechanical Division, Operations and Maintenance Department, Association of American Railroads, or any successor entity, as the same may be in effect from time to time, including, without limitation, Rule 107 thereof.

"Adverse Use Regulation Event" shall mean the issuance of any rule, regulation or other directive by any governmental authority or agency which precludes the continued economic operation of coal-fired generating stations, as evidenced by an Officer's Certificate of the Permitted Designee to such effect, which Certificate shall be reasonably satisfactory to Lessor as to both form and substance.

"Affiliate" shall mean any Person which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, another Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise.

"After-Tax Basis", when referring to an amount shall mean an amount which, after deduction of all United States Federal taxes, and state and local taxes, that are required to be paid by the recipient in respect of the receipt or accrual of such amount, based upon the maximum statutory tax rates in effect from time to time, is (after giving effect to all current deductions and credits available to the recipient with respect to the item being indemnified) equal to the amount required to be indemnified against on an "After-Tax Basis".

"Applicable Law" shall mean all applicable laws (foreign or domestic), treaties, judgments, decrees, injunctions, writs and orders of any court, governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any governmental body, instrumentality, agency or authority, including, without limitation, all

rules and regulations of the United States Department of Transportation and the ICC, or any successor entities, and the AAR Rules, in each case as the same may be in effect from time to time.

"Appraisal Procedure" shall mean the procedure specified in the succeeding sentences for determining an amount or value. If either of two parties shall give written notice to the other requesting determination of such amount or value by appraisal, such parties shall consult for the purpose of appointing a mutually acceptable qualified Independent Appraiser. If such parties shall be unable to agree on an Independent Appraiser within 20 days of the first giving of such notice (the date on which such notice is first given being hereinafter referred to as the "Appraisal Request Date"), such amount or value shall be determined by a qualified Independent Appraiser chosen jointly by a panel of two Independent Appraisers, one of whom shall be selected by one party and the other of whom shall be selected by the other party or, if such panel of Appraisers shall be unable to agree upon a qualified Independent Appraiser within 10 days of the selection date of the second of such two Appraisers, by the American Arbitration Association; provided, that if either party shall not select its Appraiser within 35 days after the Appraisal Request Date, such amount or value shall be determined solely by the Appraiser selected by the other party. The qualified Independent Appraiser appointed pursuant to the foregoing procedure shall be instructed to determine such amount or value within 45 days after its appointment pursuant hereto (or in the case of a determination to be made pursuant to the proviso to the immediately preceding sentence, then within 60 days of the Appraisal Request Date) (but in no event may such determination be made more than 110 days following the Appraisal Request Date), and such determination shall be final and binding upon the parties. Fees and expenses relating to an Appraisal Procedure shall be payable as follows:

(i) if the Appraisal Procedure is utilized in connection with the exercise of remedies upon the occurrence of an Event of Default under the Lease or in connection with the possible exercise of a renewal or purchase option pursuant to Sections 2(b) and (f), respectively, of the Lease, all such fees and expenses shall be borne by the Lessee; and

(ii) in all other instances, each party shall bear  
(A) its respective fees and expenses with respect to

any Appraisal Procedure, including those of any Independent Appraiser selected by it pursuant to the Appraisal Procedure and (B) one-half of the fees and expenses of (x) any Appraiser chosen jointly and participating in any Appraisal Procedure and (y) the American Arbitration Association.

"Appraiser" shall mean a Person of recognized professional standing engaged in the business of appraising property.

"Authorized Person" shall mean any Person authorized by or pursuant to the charter documents, the by-laws or any Board Resolution (in the case of a corporation), partnership agreement (in the case of a partnership), or trust agreement (in the case of a trust) to execute, deliver and take all other actions on behalf of such entity in respect of the Lease and any other written agreement entered into in connection with the transactions contemplated thereby.

"Basic Rent" shall mean the rent payable throughout the Basic Term pursuant to, and computed in accordance with, Section 9(a) of the Lease.

"Basic Term" with respect to any Coal Car shall mean the period beginning on the Closing Date and ending on the date which is the 18th annual anniversary of the Closing Date.

"Bill of Sale" shall mean each bill of sale of the Permitted Designee, dated the Closing Date, for the Coal Cars being delivered on the Closing Date.

"Board of Directors" shall mean, with respect to any Person, either the board of directors of such Person or any committee of said board duly authorized to deal with the matters on which it acts.

"Board Resolution" shall mean, with respect to any Person, a copy of a resolution certified by the secretary or an assistant secretary of such Person to have been duly adopted by the Board of Directors of such Person and to be in full force and effect on the date of such certification.

"Business Day" shall mean any day other than a Saturday or Sunday or other day on which the banks in the State of Connecticut, Michigan, New York or any other state designated by the parties hereto in writing are authorized or obligated to remain closed.

"Casualty Event" shall mean with respect to any Coal Car any of the following events occurring during the Lease Term: (i) such Coal Car suffers an actual or constructive total loss, (ii) such Coal Car suffers destruction or damage beyond economic repair or such Coal Car is rendered permanently unfit for commercial use by the Lessee (at the direction of the Permitted Designee so long as there is a Permitted Designee) or the Permitted Designee or for the purpose for which it was designed, as determined in good faith by the Lessee (at the direction of the Permitted Designee so long as there is a Permitted Designee) or the Permitted Designee and evidenced by a certificate of a Responsible Officer of the Lessee or the Permitted Designee to such effect, (iii) such Coal Car is taken, condemned or requisitioned for title by any governmental authority, (iv) such Coal Car is taken, condemned or requisitioned for use by any governmental authority for a period extending beyond the expiration of the Basic Term or any Renewal Term then in effect or (v) such Coal Car is lost, stolen or otherwise disappears.

"Casualty Value" with respect to any Coal Car shall mean the higher of (i) the amount determined pursuant to the table set forth as such in Schedule 2 to the Lease Supplement and (ii) the amount, if any, paid pursuant to Rule 107 of the AAR Rules with regard to a Casualty Event; provided, however, that, if, on any date on which Casualty Value is due with respect to any Coal Car, the amount referenced in clause (ii) above shall not have been paid, Lessee shall nevertheless pay on such date the amount referenced in clause (i) above and shall, upon payment, if any, of the amount referenced in clause (ii) above, be reimbursed by Lessor up to, but not exceeding, the amount it has previously paid, but only to the extent such clause (ii) amount is sufficient to cover such reimbursement (or if Lessee receives payment of such clause (ii) amount, then Lessee shall retain for itself such reimbursement subject to the foregoing limitations and remit the remainder, if any, to Lessor).

"Closing" with respect to any Coal Car shall mean the delivery of such Coal Car by the Permitted Designee to, and acceptance of the same by or on behalf of, the Lessor and the delivery of such Coal Car by the Lessor to, and acceptance of the same by, the Lessee pursuant to the Lease as provided in Section 2 of the Lease.

"Closing Date" shall mean the date, which shall be a Business Day, on which the Closing occurs, provided that

in no event shall the Closing occur later than June 30, 1990, or such other date as the parties may agree.

"Coal Car" shall mean each of the 110-Ton Aluminum/Steel BethGon Coalporter Cars purchased by Lessor pursuant to the Bill of Sale and leased to Lessee under the Lease.

"Coal Supply Service Agreement" shall mean the Coal Supply Service Agreement dated as of May 1, 1990 between Lessee and the Permitted Designee, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of any other written agreement entered into in connection with the transactions contemplated thereby.

"Coal Supply Service Agreement Supplement No. 1" shall mean the Coal Supply Service Agreement Supplement No. 1 between Lessee and the Permitted Designee, dated the Closing Date, and substantially in the form of Exhibit A to the Coal Supply Service Agreement, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of any other written agreement entered into in connection with the transactions contemplated thereby.

"Code" shall mean the Internal Revenue Code of 1986, as amended (or any successor federal income tax statute).

"Default" shall mean an event or condition which, with the giving of notice or lapse of time, or both, would constitute an Event of Default.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, or any comparable successor law and the rules issued and regulations promulgated thereunder.

"Event of Default" shall mean any of the events referred to in Section 14 of the Lease.

"Fair Market Renewal" shall have the meaning set forth in Section 2(b)(iv) of the Lease.

"Fair Market Renewal Rent" shall mean the rent payable throughout the Fair Market Renewal Term pursuant to, and computed in accordance with, Section 9(a) of the Lease.

"Fair Market Renewal Term" shall have the meaning set forth in Section 2(b)(iv)(A) of the Lease.

"Fair Market Rent" for any Coal Car shall mean, for any period, the rent for such Coal Car for such period that would be obtained for the use or lease of such Coal Car, on terms substantially similar to those set out in the Lease and the Coal Supply Service Agreement, each as supplemented, in an arm's-length transaction between an informed and willing owner or lessor under no compulsion to provide or lease such Coal Car and an informed and willing lessee or user (other than a lessee or user currently in possession or to which such Coal Car is currently provided), which determination shall be made (i) without deduction for any costs of removal of such Coal Car from the location of current use, (ii) on the assumption that such Coal Car is free and clear of all liens, claims, security interests and encumbrances (other than Owner Encumbrances) and is in the condition and repair in which it is required to be returned pursuant to Section 2 of the Lease and (iii) on the assumption that such informed and willing lessee or user would undertake the obligations of Lessee under the Operative Documents; provided, however, that the determination of Fair Market Rent for purposes of Section 14 of the Lease shall be based on the actual condition of such Coal Car at the time of such determination and shall take into account all liens, claims, security interests and encumbrances of such Coal Car (other than Owner Encumbrances and Permitted Encumbrances that will be extinguished by the exercise of rights under Section 14 of the Lease).

"Fair Market Sale Value" for any Coal Car shall mean the sale value of such Coal Car that would be obtained in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer (other than a buyer to which such Coal Car is currently provided), which determination shall be made (i) without deduction for any costs of removal of such Coal Car from the location of current use (ii) on the assumption that such Coal Car is free and clear of all liens, claims, security interests and encumbrances (other than Owner Encumbrances) and is in the condition and repair in which it is required to be returned pursuant to Section 2 of the Lease; provided, however, that the determination of Fair Market Sale Value for purposes of Section 14 of the Lease shall be based on the actual condition of such Coal Car at the time of such determination and shall take into account all liens, claims, security interests and encumbrances on such Coal Car (other than Owner Encumbrances and Permitted

Encumbrances that will be extinguished by the exercise of rights under Section 14 of the Lease).

"Federal Bankruptcy Code" shall mean the Bankruptcy Code of 1978, as amended, 11 U.S.C. §§ 101-1330.

"Fixed Rate Renewal" shall have the meaning set forth in Section 2(b)(iii) of the Lease.

"Fixed Rate Renewal Rent" shall mean the rent payable throughout the Fixed Rate Renewal Term pursuant to, and determined in accordance with, Section 9(a) of the Lease.

"Fixed Rate Renewal Term" shall have the meaning set forth in Section 2(b)(iii)(A) of the Lease.

"ICC" shall mean the Interstate Commerce Commission and any agency or instrumentality of the United States government succeeding to its functions.

"Improvement" shall mean an improvement, structural change, modification or addition to any Coal Car made after the Closing Date.

"Indemnitee" shall have the meaning set forth in Section 12 of the Lease.

"Independent" shall mean, when used with respect to any specified Person, such a Person who (1) is in fact independent, (2) does not have any direct financial interest or any material indirect financial interest in any Lessor Assignee, the Lessor, the Lessee or the Permitted Designee (or any assignee or successor of any of the foregoing) or in any Affiliate of any of them and (3) is not connected with any Lessor Assignee, the Lessor, the Lessee or, the Permitted Designee (or any assignee or successor of any of the foregoing) or any Affiliate of any of them as an officer, employee, promoter, underwriter, trustee, partner, director or Person performing similar functions or in any other way whatsoever. Whenever it is provided that any Independent Person's opinion or certificate shall be furnished such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning thereof.

"Institutional Investor" shall mean any of the following Persons existing under the laws of the United States or any state thereof or of Canada or any province

thereof: (a) any bank, savings institution, trust company or national banking association, (b) any insurance company or fraternal benefits society, (c) any pension, retirement or profit sharing trust or fund for which any bank, trust company, national banking association or investment advisor registered under the Investment Advisors Act of 1940, as amended, is acting as trustee or agent, (d) any finance company or leasing company, or (e) any Affiliate of any of the foregoing.

"Lease" shall mean the Lease Agreement dated as of May 1, 1990 between the Lessee and the Lessor, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of any other written agreement entered into in connection with the transactions contemplated thereby.

"Lease Assignment" shall mean the Lease Assignment dated as of May 1, 1990 between Lessor and the Secured Party.

"Lease Supplement" shall mean the Lease Supplement between the Lessor and the Lessee, dated the Closing Date, and substantially in the form of Exhibit A to the Lease, as the same may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of any other written agreement entered into in connection with the transactions contemplated thereby.

"Lease Term" shall mean the Basic Term plus any Renewal Terms.

"Lessee" shall mean Coal Supply Corporation, a New Jersey corporation, and its permitted successors and assigns.

"Lessor" shall mean Connell Finance Company, Inc., a New Jersey corporation, and its permitted successors and assigns.

"Lessor Assignee" shall mean any Person or Persons to whom the Lease and the rights of the Lessor thereunder have been assigned, whether any such Person has accepted such assignment directly in its capacity as an Institutional Investor or in trust for the benefit of any Institutional Investors and any Person claiming by, through or under such trust, including all of such Institutional Investors. Any reference in the Lease to the successors and assigns of the

Lessor shall be deemed to include any such Lessor Assignee to the extent of the applicable assignment.

"Lessor's Cost" for a Coal Car shall be that amount set forth as such in Schedule 1 to the Lease.

"Liabilities" shall have the meaning set forth in Section 12 of the Lease.

"Maximum Fixed Rate Renewal Term" shall have the meaning set forth in Section 2(b)(iii)(A) of the Lease.

"Net Return" shall mean the Lessor's aggregate periodic net after-tax cash flows and net after-tax yield, all calculated using the same assumptions and methods utilized by the Lessor in computing Basic Rent as set forth in Section 9(a) of the Lease and the schedule of percentages used to calculate Casualty Value and Termination Value, as set forth in Schedules 2 and 3, respectively, to the Lease Supplement as in effect on the Closing Date (or if such amounts are adjusted pursuant to Section 9(d) or (e) of the Lease, in computing such adjusted amounts).

"Nonseverable Improvement" shall mean, at any time, an Improvement that shall not be "readily removable without causing material damage to the leased property" within the meaning of Revenue Procedure 75-21 promulgated by the Internal Revenue Service or other similar law, regulation or procedure then in effect or any Improvement required by Applicable Law.

"Officer's Certificate" shall mean with respect to any Person, a certificate signed by a Responsible Officer of such Person and, in the case of any such certificate signed by an authorized designee who qualifies as a responsible officer, such certificate shall be countersigned by or accompanied by a certificate of an officer who shall certify as to the authority and capacity of such authorized designee.

"Opinion of Counsel" shall mean a written opinion of counsel, who shall be acceptable to the Lessor Assignee (or such other Person to whom such opinion is to be addressed pursuant to the Lease or any other written agreement entered into in connection with the transactions contemplated thereby).

"Overdue Rate" shall mean with respect to any amount, a rate per annum equal to 12.04%.

"Owner Encumbrances" shall mean any liens, claims, security interests or encumbrances (other than Permitted Encumbrances) against any part of the Coal Cars, the Lease or any other Collateral (as such term is defined in any Security Document) that result from acts of, or any failure to act by, or as a result of claims (including any taxes) against the Lessor, excluding liens, claims, security interests and encumbrances arising from any tax for which the Lessee is obligated to indemnify under the Lease or any other written agreement entered into in connection with the transactions contemplated thereby, other than any such tax for which the Lessee has already made full indemnification pursuant to such agreements.

"Participation Agreement" shall mean the agreement among the Lessee, the Lessor, the Secured Party and the parties providing financing for the acquisition of the Coal Cars by the Lessor.

"Payment Date" shall mean the twentieth day of each month of each year occurring during the Basic Term (other than the Closing Date) and any Renewal Term, provided that if any such date shall not be a Business Day, then "Payment Date" shall mean the next succeeding Business Day.

"Permitted Contest" shall mean, so long as no Event of Default (in the case of a contest by the Lessee) or event of default under Section 6(a) of the Coal Supply Service Agreement (in the case of a contest by the Permitted Designee) or an event of default under any Security Document (in the case of a contest by Lessor) shall have occurred and be continuing, a contest (other than a contest relating to the imposition of federal, state or local taxes) in good faith by appropriate proceedings diligently prosecuted or appealed in a manner which will not, in the good faith opinion of Lessor and/or any Lessor Assignee, as the case may be, either entail a significant risk to Lessor or such Lessor Assignee of material civil liability or any criminal liability, or materially and adversely affect its respective title, interest or rights under the Lease or under any other written agreement entered into in connection with the transactions contemplated thereby and which shall have effectively stayed any enforcement proceedings.

"Permitted Designee" shall have the meaning set forth in Section 13 of the Lease.

"Permitted Encumbrances" shall mean (a) the rights of the Secured Party under any Security Document, (b) the

rights of the Lessee and the Permitted Designee under the Lease, (c) the rights of the Permitted Designee under the terms of the Coal Supply Service Agreement and the rights of its permitted assignees pursuant to Section 8(a) thereof (including, but not limited to the rights of the Permitted Designee and its permitted assignees with respect to Permitted Encumbrances (as defined therein)), (d) liens for taxes, assessments, levies, fees or other governmental charges either not yet due or being contested by the Lessee or the Permitted Designee by a Permitted Contest and (e) undetermined or inchoate materialmen's, mechanic's, workmen's, repairmen's or employees' liens or other like liens arising in the ordinary course of business and security obligations which are not delinquent or which shall have been bonded or the enforcement of which shall have been suspended or which are being contested by the Lessee or the Permitted Designee by a Permitted Contest.

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Plants" shall mean those coal-fired generating stations owned by the Lessee or the Permitted Designee, as the case may be.

"Prime Rate" shall mean the rate of interest publicly announced from time to time by Citibank, N.A. in New York as its "base rate".

"Redelivery Locations" shall have the meaning set forth in Section 2(c) of the Lease.

"Remaining Coal Cars" shall have the meaning set forth in Sections 2(b) and (f) of the Lease.

"Renewal Term" shall mean a Fair Market Renewal Term and/or a Fixed Rate Renewal Term, as the context may require.

"Renewal Term Commencement Date" shall have the meaning set forth in Section 2(b) of the Lease.

"Rent" shall mean the Basic Rent, Fixed Rate Renewal Rent, Fair Market Renewal Rent and Supplemental Rent, collectively.

"Replacement Coal Car" shall mean a coal car of the type and substantially similar in material and dimension to the Coal Car with respect to which a Casualty Event has occurred and which is being replaced pursuant to Section 11(b)(iv) of the Lease.

"Responsible Officer" shall mean the President, any Vice President, any Assistant Vice President, the Treasurer, any Assistant Treasurer or any other officer or authorized designee of any of the foregoing who in the normal performance of his or her operational responsibility would have knowledge of the matters in respect of which such officer is delivering a certificate.

"Secured Party" shall mean the secured party under any Security Document.

"Securities" shall mean any debt instruments issued under and pursuant to a Security Document.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Security Document" shall mean any indenture, security agreement or similar agreement entered into by the Lessor with a Lessor Assignee in connection with the financing of any portion of Lessor's Cost of the Coal Cars which does not grant rights that are incompatible with the rights granted under the Lease to the Lessee.

"Severable Improvements" shall mean Improvements other than Nonseverable Improvements.

"Supplemental Rent" shall mean any and all amounts (other than Basic Rent, Fixed Rate Renewal Rent and Fair Market Renewal Rent), that the Lessee, subject to the terms of the Lease, assumes the obligation to pay or agrees to pay under the Lease, the Participation Agreement or any other written agreement entered into in connection with the transactions contemplated hereby to the Lessor or any Lessor Assignee, including, without limitation, amounts payable as indemnity payments, payments of Casualty Value or Termination Value under the Lease, overdue interest and all amounts payable by the Lessee pursuant to Section 9 of the Lease.

"Tax Indemnity Agreement" shall mean the Tax Indemnity Agreement dated as of May 1, 1990 among Lessor, Lessee and the Permitted Designee, as the same may be

amended, modified or supplemented from time to time in accordance with the provisions thereof.

"Termination Date" shall have the meaning assigned in Section 12(c) of the Lease.

"Termination Value" with respect to any Coal Car as of any Payment Date shall mean an amount determined by multiplying Lessor's Cost for such Coal Car by the percentage specified in Schedule 3A to the Lease Supplement (in the case of a termination pursuant to Section 11(c)(i)(X) of the Lease) or Schedule 3B to the Lease Supplement (in the case of a termination pursuant to Section 11(c)(i)(Y) of the Lease), in each case opposite such Payment Date, plus, in the case of an early termination pursuant to Section 11(c)(i)(y) of the Lease, the amount of any premium payable pursuant to any Security Document.

"Train Set" shall mean each of two separate groups of Coal Cars, one of which shall be comprised of at least 90 Coal Cars and the other of which shall be comprised of the remainder of Coal Cars then subject to the terms of the Lease. When used with respect to "Redelivery" as provided in Section 2(c) of the Lease, "Train Set" shall be deemed to refer first to the larger of such Train Sets to be redelivered or stored and then to the remaining Train Set.

"Transaction Costs" shall have the meaning as defined in the Participation Agreement.

"Verifying Expert" shall mean and Independent third party having leveraged leasing pricing expertise, selected by the Lessor and reasonably acceptable to the Lessee.

EXHIBIT A

LEASE SUPPLEMENT NO. \_\_\_\_

Dated \_\_\_\_\_, 1990

between

CONNELL FINANCE COMPANY, INC.,  
as Lessor

and

COAL SUPPLY CORPORATION,  
as Lessee

110-TON ALUMINUM/STEEL BETHGON COALPORTER CARS

THIS LEASE SUPPLEMENT NO. \_\_\_\_, dated \_\_\_\_\_, 1990, between CONNELL FINANCE COMPANY, INC., a New Jersey corporation ("Lessor") and COAL SUPPLY CORPORATION, a New Jersey corporation ("Lessee").

W I T N E S S E T H :

WHEREAS, Lessor and Lessee have heretofore entered into a Lease Agreement (the "Lease"), dated as of May 1, 1990 (capitalized terms used herein without definitions having the respective meanings set forth in Schedule X to the Lease);

WHEREAS, the Lease provides that on the Closing Date the Permitted Designee shall deliver to Lessor a Bill of Sale or Bills of Sale dated such Date by which the Permitted Designee bargains, conveys, assigns, sets over, sells and delivers to Lessor, and Lessor purchases and accepts from the Permitted Designee, the Coal Cars to be conveyed on the Closing Date, and said Bill of Sale or Bills of Sale have been delivered by the Permitted Designee and accepted by Lessor on this Closing Date;

WHEREAS, the Lease provides for the execution of a Lease Supplement substantially in the form hereof for the purposes of accepting and leasing the Coal Cars under the Lease as and when delivered by Lessor to Lessee in accordance with the terms thereof;

NOW, THEREFORE, in consideration of the premises and for good and sufficient consideration, Lessor and Lessee hereby agree as follows:

1. Lessor hereby delivers and leases to Lessee, and Lessee hereby accepts and leases from Lessor, under the Lease as hereby supplemented, the Coal Cars listed on Schedule 1 to the Lease.

2. Lessee hereby confirms to Lessor that Lessee has accepted such Coal Cars for all purposes hereof and of the Lease.

3. The aggregate Lessor's Cost of the Coal Cars leased hereunder is \_\_\_\_\_.

4. Lessee hereby confirms its agreement, in accordance with the Lease as supplemented by this Lease Supplement No. \_\_, on each Payment Date to pay Basic Rent, Fixed Rate Renewal Rent and Fair Market Renewal Rent, if any, to Lessor for each Coal Car leased hereunder as provided for in the Lease and to pay, as and when due, any and all Supplemental Rent as provided for in the Lease.

5. All of the provisions of the Lease are hereby incorporated by reference in this Lease Supplement No. \_\_ to the same extent as if fully set forth herein.

6. This Lease Supplement No. \_\_ may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

7. This Lease Supplement No. \_\_ is being delivered in the State of New York and shall in all respects be governed by, and construed in accordance with, the laws of the State of New York, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement No. \_\_\_ to be duly executed on the date and year set forth in the opening paragraph hereof.

Lessor

CONNELL FINANCE COMPANY,  
INC.

By \_\_\_\_\_  
Title:

Lessee

COAL SUPPLY CORPORATION

By \_\_\_\_\_  
Title:

Receipt of this original counterpart  
of this Lease Supplement  
No. \_\_\_ is hereby acknowledged this  
\_\_ day of \_\_\_\_\_, 1990

\_\_\_\_\_  
as Assignee

By \_\_\_\_\_  
Title:

SCHEDULE 1  
to  
Lease Supplement No.

BASIC RENT

SCHEDULE 2  
to  
Lease Supplement No.

CASUALTY VALUE

Casualty Value in respect of any Coal Car suffering a Casualty Event shall be the higher of (i) the amount paid pursuant to Rule 107 of the AAR Rules with regard to such Casualty Event and (ii) an amount determined by multiplying the percentage set forth below opposite the relevant Payment Date by Lessor's Cost for such Coal Car.

Payment Date

Percentage of  
Lessor's Cost

SCHEDULE 3A  
to  
Lease Supplement No.

TERMINATION VALUE  
(Section 11(c)(i)(X))

Termination Value in respect of each Coal Car shall be an amount determined by multiplying the percentage set forth below opposite the relevant Payment Date by Lessor's Cost for such Coal Car.

Payment Date

Percentage of  
Lessor's Cost

SCHEDULE 3B  
to  
Lease Supplement No.

TERMINATION VALUE  
(Section 11(c)(i)(Y))

Termination Value in respect of each Coal Car shall be an amount determined by multiplying the percentage set forth below opposite the relevant Payment Date by Lessor's Cost for such Coal Car, plus the amount of any premium payable pursuant to any Security Document.

Payment Date

Percentage of  
Lessor's Cost